1. APOLOGIES

2. DEPUTATIONS BY APPOINTMENT

3. APPOINTMENT OF ENFORCEMENT OFFICERS UNDER LOCAL GOVT ACT 2002: ESU STAFF

Officer responsible	**Author**
Environmental Services Manager	David Rolls, Solicitor, DDI 941-8892

The purpose of this report is to recommend that the Council appoint and warrant a further two officers of the Council's Environmental Services Unit as enforcement officers under the Local Government Act 2002 and to confer upon them and delegate to them certain powers.

APPOINTMENT OF ENFORCEMENT OFFICERS

Section 177(1) of the Local Government Act 2002 authorises local authorities to appoint persons as enforcement officers in relation to any offences against that Act and against bylaws made under that Act. Section 177(2) requires local authorities to issue written warrants to persons it appoints as enforcement officers under section 177(1). Clause 32(1) of the Seventh Schedule to the Act prohibits the Council from delegating its power to warrant such enforcement officers.

The Act confers upon enforcement officers powers to seize and impound property which is involved in the commission of an offence (sections 164 and 165), powers to enter upon land for enforcement purposes (section 172) and the power to require any person that the officer believes is committing or has committed an offence to provide certain information (section 178).

The two officers of the Council's Environmental Services Unit, named in recommendation 1 below, are responsible for detecting offences against:

(a) The Christchurch City Animals (Other Than Dogs) Bylaw 2000;
(b) The Christchurch City Fires Bylaw 1991;
(c) Parts I to IV (inclusive) and clause 51 of the Christchurch City Public Places and Signs Bylaw 2003;
(d) Section 224 of the Act (relating to water wastage);
(e) Section 230 of the Act (relating to offences by occupiers of premises);
(f) Section 231 of the Act (failure to comply with a notice to remove a fire hazard);
(g) Section 232 of the Act (relating to damage to Council works or property); and
(h) Section 238 of the Act in relation to notices issued under section 459 of the Local Government Act 1974 (these concern the construction, alteration, cleansing and repair of private drains).

Each of the abovementioned bylaws were made under the Local Government Act 1974. However, section 293(1) of the Local Government Act 2002 deems each of those bylaws to be bylaws validly made under the latter Act.

CHECKING OF UTILITY SERVICES

The officers will be responsible for checking utilities services on any land or any building in terms of section 182(1) of the Act. This is for the purpose of ascertaining whether or not water is being wasted, drainage works are being misused or any appliance or equipment associated with a local authority utility service is in a condition that makes it dangerous to life or property.

Section 182(2)(b) of the Local Government Act 2002 provides that before an enforcement officer may enter any land or building for any of the purposes specified in s182(1) the local authority must have given reasonable notice to the occupier of the land or building of the intention to exercise that power.

In the interests of efficiency it is recommended that the Council delegate to the enforcement officers it appoints under that Act the power to give such notice.

REMOVAL OF FIRE HAZARDS

The officers will also be responsible for inspecting properties for the purpose of ascertaining whether fire hazards exist on those properties in terms of section 183 of the Act and for exercising the Council's powers in relation to the removal of any such hazards. That section empowers the Council to require the occupier or owner of land to remove from that land anything which is likely to become a source of danger from fire. In the event of default the Council is authorised to carry out the work itself. For these purposes the Council will need to delegate to the officers its powers under this section together with its powers of entry on to land under section 171 (including the power to give notice of intended entry) and under section 173. This latter section provides for power of entry in emergency situations.

REMOVAL OF WORKS IN BREACH OF BYLAWS

Section 163 of the Local Government Act 2002 provides that if it is authorised by a bylaw a local authority may remove or alter a work or thing that is, or has been constructed, in breach of any bylaw.

Clause 14 of the Christchurch City General Bylaw 1990 empowers the Council to remove or alter a work or thing that is, or has been constructed, in breach of any of the Council's bylaws. Where the work or thing is situated upon private land clause 14(a) empowers the Council to serve a notice on the owner or occupier of that land requiring its removal. If the notice is not complied with then the Council may itself effect the removal at the expense of the owner or occupier. Where the work or thing is on, over, or above a road, public place, or reserve, clause 14(b) empowers the Council to remove it without notice and at the cost of the person who placed it there.

To facilitate the effective and efficient administration of the abovementioned bylaws it is recommended that the Council delegate its powers under clauses 14(a) and 14(b) of the Christchurch City General Bylaw 1990 to every person it appoints as enforcement officers in respect of those bylaws. The Council did, in 1994, delegate such powers to every bylaw inspector appointed clause 9 of the General Bylaw. It is not suggested that this earlier delegation be revoked.

GENERAL POWERS OF ENFORCEMENT

The enforcement officers should also be authorised to exercise all of the powers of enforcement officers under the Local Government Act 2002 in relation to all of the offences specified above and to carry out any other function or power of an enforcement officer under that Act. The powers of enforcement officers under the Act include the power to seize property in accordance with sections 164, 165 and 166 and the power to require any person the officer believes is committing or has committed an offence to provide certain information.

COMPLIANCE WITH DECISION MAKING REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 2002

It is considered that the decisions sought from the Council in relation to this report concern matters of a minor administrative nature only. Consequently it is suggested that no specific action need be taken in respect of the requirements of sections 77 and 78 of the Local Government Act 2002.

Staff Recommendation: That the Committee recommend that the Council:

1. Appoint and warrant as enforcement officers pursuant to Section 177 of the Local Government Act 2002 -

   (a) Peter William Watson

   (b) Eric James Watson

   for the purposes of -

   (i) detecting offences against the abovementioned sections of that Act and the abovementioned bylaws;

   (ii) checking utility services under section 182(1) of that Act -

   and for these purposes authorise them to exercise all of the powers of enforcement officers under that Act;

2. Delegate, pursuant to clause 7(1) of the Christchurch City General Bylaw 1990, to each of the persons named in recommendation (1) (severally) its powers under clauses 14(a) and 14(b) of that bylaw for the purpose of enforcing the Christchurch City Animals (Other Than Dogs) Bylaw 2000, Christchurch City Fires Bylaw 1991 and Parts I to IV (inclusive) and clause 51 of the Christchurch Public Places and Signs Bylaw 2003;

3. Delegate, pursuant to Clause 32(1) of the Seventh Schedule to the Local Government Act 2002, to each of the persons named in recommendation (1) (severally) -

   (a) all of its powers under section 183; and

   (b) all of its powers under sections 171 and 173 for the purposes of section 183; and

   (b) its power to give notice under section 182(2)(b).

Chairman's Recommendation: That the above recommendations be adopted.

4. REVIEW OF POLICY ON SPEAKING RIGHTS - DISTRICT SCHEME CHANGES

Officer responsible	**Author**
General Manager Regulation and Democracy Services	Jane Donaldson, Environmental Services Manager, DDI 941-8651

The purpose of this report is to review the Council's policy on speaking rights in respect to District Scheme Changes, as requested by the Council on 26 February 2004.

At that meeting the Council resolved to ask staff to report to the Regulatory and Consents Committee with a review of the Council's policy that speaking rights not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed variation or plan change which is being considered for formal recommendation to or adoption by the Council.

The policy adopted in 1990 was:

"1. That it be the Council's policy that speaking rights not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed District Scheme Change or Variation which is being considered for formal recommendation to or adoption by the Council.

2. That in the case of a formal request by a party to initiate a particular Scheme Change, that speaking rights be granted to that party, but only at the District Scheme Sub-Committee."

An opinion on this matter from Aidan Prebble, Solicitor, is attached. Mr Prebble has concluded for a number of reasons that there is merit in a policy discouraging speaking rights on Council variations and plan changes. However, he believes the Council needs to be mindful that it must consider any request for speaking rights on its merits, notwithstanding the policy. Blind adherence to a policy breaches a principle of administrative law in that it amounts to a fetter of discretion.

It is therefore recommended that the current policy be updated by adding the word "generally" so that it is no longer stated in absolute terms, and by deleting the phrase "District Scheme Changes" and substituting the phrase "Plan Change".

Clause 2 of the 1990 Policy can be rescinded as the Council does not have a District Scheme Subcommittee. It will be necessary to authorise the Chairperson of the Regulatory and Consents Committee to make decisions under the Policy as part of the Chairpersons role of granting or declining speaking rights.

Staff Recommendation:

1. That clause 1 of the policy adopted by the Council on 23 October 1990 be updated as follows:

   "That it be the Council's policy that speaking rights generally not be granted by any Community Board, Committee or Council meeting when the matter for consideration is a report which includes a draft of a proposed Plan Change or Variation which is being considered for formal recommendation to or adoption by the Council."

2. That Clause 2 of the 1990 Policy be rescinded.

3. That the Chairperson of the Regulatory and Consents Committee and the General Manager Regulation and Democracy Services jointly, be authorised to make decisions under the Policy.

Chairman's Recommendation: That the above recommendation be adopted.

5. REVIEW OF POLICY ON PRIVATELY REQUESTED VARIATIONS TO THE CITY PLAN

Officer responsible	**Author**
Environmental Services Manager	David Mountfort, City Plan Team Leader, DDI 941-8669

The purpose of this report is to review the policy on privately requested variations to the City Plan.

In June 2003 the Council adopted a policy on privately requested variations to the City Plan. This was to enable developers to put forward proposals to the Council that needed a change to the Plan, in recognition of the fact that the process of making the City Plan operative has been protracted. Once the plan is operative, then people have the right to apply for changes to the Plan. The Council adopted a number of criteria for privately requested variations, which are set out in the attached extract from the Council minutes attached.

To date three proposals are in preparation, but none of these has as yet been publicly notified. They are:

- Stonehurst Accommodation, Worcester Street, scheduling of four additional sites for transient accommodation. This has been prepared but is awaiting a Council review of its policy on speaking rights at Committee meetings where Plan changes and variations are being considered.
- Cashmere Lakes, a proposed rezoning of 4 ha of rural land to Living 1, adjacent to Westmoreland in Cashmere Road. This is close to completion in draft form. As yet there has been no public consultation.
- Clearwater and Isaac Wildlife Trust, a proposal to allow for the development of a regional park and further development of Clearwater. A draft variation has been prepared and commented on Council officers. It is currently being revised by the developers.

A fourth case has recently emerged, but is at a very early stage. The owner is aware that time may not permit this to be completed as a variation before the plan is made operative in part.

To date therefore there has not been much uptake of the private variations policy. The three existing cases are all keen to proceed if possible. The main reason for introducing the policy was to enable people to put forward proposals for consideration in view of the extended time required to make the City Plan operative. Once the plan is operative, the Resource Management Act allows people to make application for plan changes, which in most cases the Council is obliged to consider and publicly notify.

PRIVATELY REQUESTED VARIATIONS VS PRIVATE PLAN CHANGES

Before a Plan is operative, amendments are referred to as variations. After it is operative they are called changes. Privately requested variations before a plan is operative differ from privately requested plan changes after the plan is operative. In effect, with a privately requested variation, the Council becomes the initiator of the variation. It has complete control of the process. It is not obliged to introduce any variation, and it may withdraw one during the process, and there is no right of appeal against such decisions. Council variations are processed under Part 1 of the 1st Schedule to the Resource Management Act. Private plan changes are processed under Part 2. One of the major differences between the two parts appears to be in the area of consultation. There is a limited duty of consultation with variations, but Council may consult anyone it wishes to. With private plan changes, there appears to be no obligation to consult at all prior to public notification. Prior consultation is generally regarded as good practice and has been required to date with the privately requested variations being developed. Another major difference is in the control of the variation.

EFFECT OF THE PRIVATE VARIATIONS POLICY ON MAKING THE CITY PLAN OPERATIVE IN PART

In order to make the City Plan operative in part, the Council must apply to the Environment Court. It will be necessary at that time to specify which parts of the plan are not to be made operative. An application is currently being prepared and is expected to be put before the Court in June 2004. It will not be possible to accept any more privately requested variations under the policy after the application is made to the Court unless they are anticipated and allowed for in the application. Those matters which are known about can be included in the matters not to be made operative, even though the variation itself has not been completed and notified.

The reason this might be done is that there is likely to be a further gap between applying to the Court and actually making the Plan operative in part. This is to allow for receiving the decision of the Court, and preparing and publishing the final version of the Plan. At this stage it is anticipated that if application is made to the Court by the end of May 2004, it may be possible to make the Plan operative in part by December 2004. The Council elections may also affect the timing.

Because the application to the Court is imminent, there is very little possibility of any more privately requested variations that are not already known about to be introduced. However, there is no need to cancel the policy immediately as to do so would be unfair to existing applicants who have been involved with the process for some time and are relying on it.

Staff Recommendation: That the policy on privately requested variations to the City Plan be revoked from the date on which the Council applies to the Environment Court to make the City Plan operative in part.

Chairman's Recommendation: That the above recommendation be adopted.

6. PUBLIC DISCLOSURE OF FOOD PREMISES CLOSURES

Officer responsible Environmental Health Policy Leader	**Author** Terence Moody, Environmental Health Policy Leader, DDI 941-8834 and Willis Heney, Environmental Monitoring Team Leader, DDI 941-8732

The purpose of this report is to consider the development of a Council policy on publicly advertising the names and addresses of food premises that close for hygiene purposes.

INTRODUCTION

At the Council meeting held on the 26 February 2004 Councillor Alister James asked the following question of Councillor Sue Wells:

"*Given that the Christchurch City Council has an officer practice rather than a Council policy on the issue of public disclosure or lack thereof, of food premises which are subject to closure action and given recent public debate on the issue and the Manukau City Council policy for disclosure, will she request officers to report to the Regulatory and Consents Committee at the earliest opportunity, so the Council can develop a policy on the issue?"*

In reply, Councillor Wells advised that she would request officers to report to the Regulatory and Consents Committee on this issue, at the earliest opportunity.

BACKGROUND

The specific power for local authorities to deal with food premises rests with the provisions of the Food Hygiene Regulations 1974. These require the local authority to enforce the provisions of the regulations within its district including the regular inspection of all registered premises in the area. It requires the registration of food premises in the district except for those which are exempt from the provisions where they are operating an approved food safety programme under the provisions of the Food Act 1981. Approval of such food safety programmes rests with the Director-General of Health. Such premises are not under the control of the local authority for the purpose of food hygiene matters.

To date there are 1,864 food premises registered with the Council under the Food Hygiene Regulations 1974 and 107 premises operating approved Food Safety Programmes which are not required to be registered by the Council.

The Council does not have the power to close food premises, whether registered or not, under the legislation relating to food premises.

The power to require closure of registered food premises is contained in regulation 82 of the Food Hygiene Regulations 1974 and this power rests with designated officers[1] under the regulations. Such designated officers are appointed by the Director-General of Health and consist of officers employed by the Ministry of Health or through Public Health Units such as Community and Public Health in this area. In this area it includes the Medical Officer of Health and some other officers employed by that body. No City Council officers are appointed as 'designated officers'.

The provisions of regulation 82 allow for three options in cases where it is considered premises are by reason of their situation, construction, disrepair in such a condition that food may be exposed to contamination or taint, or deteriorate or become dirty. The designated officer may serve a notice on the occupier requiring either;

(a) To clean, reconstruct, or repair the premises in a manner to be specified in the notice, within a period (not being less than 7 days) to be specified in the notice; or

(b) To clean, reconstruct, or repair the premises in a manner to be specified in the notice, and to cease to use the premises as food premises until the cleaning, reconstruction or repair has been completed to the satisfaction of a [designated officer]; or

[1] Designated officer
(a) means a person who is-
(i) an officer within the meaning of the Food Act 1981; and
(ii) for the time being designated by the Director-General for the purposes of that provision, any provision or provisions of which it forms part, or these regulations; and
(b) includes the Director within the meaning of the Food Act 1981] Food Hygiene Regulations 1974.

(c) To cease to use the premises as food premises, and not to subsequently resume the use of the premises as food premises.

While appeal provisions exist against such notices the regulations state that a notice shall have effect despite the time for filing an appeal (14 days) has not expired or the appeal has not been determined. Appeals against such closures, as contained in subclauses (b) and (c) above may be made to the Director-General of Health, and if an occupier does not accept that decision on the appeal to the District Court the notice remains in effect. It is understood that not more than three premises were closed under the above provisions in the last year.

Food Premises may close temporarily for a variety of reasons. In a limited number of cases they may be requested to voluntarily close by a Council Environmental Health Officer. In general this would be for largely matters that are somewhat less significant than an immediate risk to health. These may include the need to thoroughly cleanse the premises without risk of contamination of food under preparation, to avoid the risk of contamination or taint of food by chemicals being used in other parts of the building (eg a food court in a shopping mall), the loss of refrigeration capacity or means of heating water, the need to fumigate the premises for insect or rodent control. Indeed in some cases voluntary closures may occur without any reference to, or input from, a Council officer. Such voluntary closures are undertaken by the occupiers acting responsibly, and accepting the need to undertake maintenance or cleaning, or in a few cases, to avoid more formal action either under regulation 82 or prosecution under other provisions of the regulations. As reported less than six cases occurred in the last year of requested voluntary closure.

In more serious cases, where it is considered significant risks to health could exist from continued operation of the premises the Council officers would request the Medical Officer of Health, or his staff who are designated officers, to use their powers under regulation 82 of the Food Hygiene Regulations 1974.

DISCUSSION

The purpose of licensing food premises and setting standards for the premises and food handlers behaviour is to protect, to the extent that is appropriate or possible, members of the public who consume food from such premises. In either case of the two types of closure that may occur, whether formally under regulation 82 by a designated officer or voluntarily by the occupier on request, the fact that the premises are closed precludes the possibility that members of the public are exposed to any risk of food poisoning from such operations. That does not mean that they may not be so exposed from other food sources, including poor food handling practices at homes. Voluntary closure means that the premises are quickly brought up to standard without the need to take legal action for breaches of the regulations, which has proved to be a lengthy and expensive process in the past.

It should be noted that there are no restrictions on who may own or operate any food premises, nor requirements for the holding of qualifications or having training to operate such premises. To this extent there may be, in some cases, no better knowledge of food hygiene amongst staff than exists in the general public where poor food handling practices in homes are a significant source of food borne illness.

This is one of the reasons the Ministry of Health have introduced, under the Food Act 1981, the concept of "food safety programmes" based on HACCP[2] principles for commercial food producers. This is considered one of the better ways of ensuring that food premises produce safe food. This is defined by the Food Act 1981 (as amended in 1996) as *"a programme designed to identify and control food safety risk factors in order to establish and maintain food safety."* In essence, the food safety programme (FSP) identifies the hazards involved in the preparation of food at the premises concerned and sets out how those hazards will be eliminated, reduced or controlled. In addition there must be appropriate record-keeping provisions and a regular audit by an approved auditor to verify the provisions of the FSP are being adhered to. Premises with an approved FSP are exempt from any requirements to be registered with a local authority.

The New Zealand Food Safety Authority is promoting the implementation of FSPs and has indicated their belief that local authorities have a considerable role to play in this area. It explicitly requires that each of the persons operating in the food area are knowledgeable about the critical points at which contamination may occur and how to avoid such problems.

[2] HACCP means Hazard Analysis Critical Control Point.

It is unclear to what degree the publishing of the names of closed food premises, either by the Medical Officer of Health under regulation 82 or voluntarily by the occupier on request by the Council would assist in reducing the risk to the public of food poisoning if that is the purpose of such publication. In the case of those closed under the provisions of regulation 82 it would be up to the designated officer, in this area normally an officer of Community and Public Health to determine whether such premises should be named. Dr Mel Brieseman, Medical Officer of Health for Community and Public Health does not consider such "naming and shaming" would serve any useful purpose and agrees with the approach adopted by Council staff. He has stated to one of the officers at the time this matter was raised in The Press;

"The important issue is for the public not to be at risk. And if the issue is resolved then that is the end of the matter. To name one premise that has a temporary problem also allows the assumption that all the others are 100% OK. Which you and I know is not the case. If a problem is not resolved or becomes prolonged, that is a different issue. I expressed my views to the Press and was sorry to see they did not include it - presumably because it wasn't the view they wanted!"

In the case of voluntary closures for maintenance or cleaning purposes, there is considered to be no value in naming the premises as, in most cases, by the time the premises had been identified the problem would have been resolved and the premises would have re-opened and be operating in a safe and hygienic manner. It is extremely rare for a premises that has been closed to re-offend and if it did then legal action would be considered which would result in them being identified in the court in normal circumstances. At that stage the occupier would have the ability to argue his or her case in regard to guilt and the appropriate penalty. If convicted it is possible that the Council could publish the name of the premises through its website as has occurred in the case of Manukau City. It should be noted that Manukau City, and Wellington City, have bylaw requirements in relation to powers to require closure so there are legal powers available to them for this purpose but only Manukau publishes such closures. It should be noted that this usually occurs after the premises have re-opened and are presumably then compliant with the standards.

The Council has delegated to the Environmental Services Manager the powers to issue certificates of registration for food premises under the Food Hygiene Regulations 1974 and the Health (Registration of Premises) Regulations 1966, all the powers of the Council under regulations 4 and 5 of the Health (Registration of Premises) Regulations 1966, and the power of the Council to institute prosecutions under the provisions of the Health Act 1956 or any regulations made under that Act administered by the Environmental Services Unit. Prosecution taken for failing to comply with the conduct provisions of the Food Hygiene Regulations 1974 has not been the preferred option for dealing with failures as it takes a long time to get cases prepared and into the Courts and the co-operation of premises occupiers in undertaking the required works can normally be gained for early fixing of the problems.

CONCLUSIONS

The Council has, for a number of years, delegated the operational decisions regarding the control of food premises, including registration and the power to take prosecutions for breaches of the regulations to professional officers on the grounds that they have the expertise and training for that purpose. Decisions regarding the release of individual details of premises operations are made in the context of the amount of proof that may be available to support legal action for breaches of the regulations. Where premises are voluntarily closed for deferred maintenance or cleaning purposes, as noted above, they do not at that time create any risk to the public and notification of such closure would seem to serve no purpose whatever. If the purpose of publicly notifying such closures is to reduce the opportunity for the premises to trade, by suggesting they are not suitable food handlers, it is considered the opportunity should exist for the matter to be tested in a legal manner. The power exists in the Health (Registration of Premises) Regulations 1966 where the occupier can be required to show cause why registration of the premises should not be revoked.

From the information officers have been able to obtain the publication of names of food premises that have been required or requested to close for a period for maintenance or cleaning purposes appears to be limited to the few Councils that have bylaw provisions allowing for required closures. Only one of these, Manukau, publishes such closures without formal Court action. It has not been considered in the past that the Council should cover matters through bylaws that were adequately covered by statute or regulations. The adding of an additional layer of bureaucracy would seem to be unnecessary, and in the context of this matter (publicising the names of food premises that have closed for maintenance) adds nothing to the argument.

Councillors are able to be involved in the operational aspects of food premises control provisions through the provisions contained in the Health (Registration of Premises) Regulations 1966 which permit the revocation of a certificate of registration if the holder has been convicted of an offence against any regulations and fined an amount exceeding $20 exclusive of costs, or there is a failure to comply with a notice requiring remedial work. In such cases the Council may call upon the person to show cause why the certificate of registration should not be revoked and if the explanation is not satisfactory to the Council may revoke the certificate and decline to issue a new certificate to that person for a period of two years from the date of his conviction. Such a decision is subject to appeal to the Court. In such cases the evidence of failure to comply with the regulation standards has been tested in an appropriate forum and the principles of natural justice largely satisfied. These powers are currently delegated to the Council Hearings Panel. There has been only one such case since 1993.

It is not considered any useful purpose would be served by media attention to premises that may be subject to requested voluntary closure for the purposes of undertaking deferred maintenance or cleaning. If the Council decided to publicise the names of premises that do not comply with the regulation standards it is considered criteria should be clearly stated for such punishment to apply and all cases should be publicised to avoid the possibility of bias. A number of premises fail to comply with food hygiene requirements at some time during a year and are issued with notices requiring action to bring these up to standard. The question could be asked whether these should be named in addition to those closing to undertake remedial work. That would also require the Council to advertise such cases rather than relying on the whims of the media picking up such matters at their will. It is likely that the extent of voluntary closures would decline if such advertising occurred and occupiers of premises may possibly wait for legal action to occur before undertaking required deferred maintenance and cleaning. It is not considered this would necessarily serve any useful purpose in improving food hygiene in either the short or long term.

Staff Recommendations:

1. That the Council note that it does not have the power to close food premises under the provisions of the legislation relating to their control.

2. That the Council note that designated officers, such as the Medical Officer of Health employed by Community and Public Health, do have such a power in certain circumstances but have declined to name those they close under those provisions.

3. That the Council confirms the current practice of Council officers not naming food premises that have been requested by the Council to voluntarily close for cleaning or maintenance purposes.

Chairman's Recommendation: That the above recommendation be adopted.

7. DOG CONTROL WORKING PARTY

Officer responsible Environmental Health Policy Leader	**Author** Terence Moody, Environmental Health Policy Leader, DDI 941-8834 and Mark Vincent, Animal Control Team Leader, DDI 941-7041

The purpose of this report is to advise on a meeting held at the Brooklands Community Centre to discuss dog control issues in and around the Brooklands Lagoon area in the context of the Council's Dog Control Policy.

BACKGROUND

In 2003 the Council undertook a review of its dog control policy made under the Dog Control Act 1996 and introduced some additional areas in which dogs were prohibited, largely to protect ecological values and bird life, as well as some other minor changes to improve matters of safety to the public.

These areas around or adjacent to the Brooklands area, Styx River mouth, Brooklands Lagoon and Seafield Park were advised to be an area with wilderness qualities which is important both regionally and nationally as a wintering and feeding site for migratory birds such as the Godwit, and for swamp birds such as the globally endangered Australasian Bittern. The lagoon also supports a healthy breeding population of wetland birds and provides feeding and roosting habitats for numerous herons, waders, waterfowl, and swamp birds. Advice was provided that uncontrolled dogs could affect the birds, roosting, moulting, and feeding when nesting in all these areas. The presence of these birds requires minimal levels of disturbance and predation for continued occupation of the area. On this basis the Dog Control Working Party indicated that the areas would be designated as "prohibited" except for some leased dog areas on some walking tracks.

Some submissions objected to these areas being designated as "prohibited" on a number of grounds. These included questioning the need for such controls on the grounds that there was little evidence that dogs were any more of a problem in regard to killing birds than other predators. Given the submissions received on these proposals it was considered that a number of options for the policy could be considered. These were; adopt the above prohibition in the policy but undertake further education of the need for the ban over the whole area rather than immediately place bylaw controls on the area; place a prohibition on a more limited part of the area immediately with an extension of the leashed area to protect wildlife; and merely undertake education regarding the need to control dogs in particular areas or at particular times. It was decided that the Shirley/Papanui Community Board should be requested to host a meeting at Brooklands for the Dog Control Working Party to determine the views of the community regarding this matter. The implementation of this prohibition would be dependant on the further consultation with the local community as referred to above.

THE COMMUNITY CONSULTATION

A meeting was held at the Brooklands Community Centre on the 7 April 2004 at which the meeting discussed the matters following a presentation by Andrew Crossland, an ornithologist from the Regional Parks Team of the Parks and Waterways Unit.

While there was some disagreement as to the extent of effects of dogs on the birds present in the area a wider concern was on the restriction of opportunities for free ranging exercise areas for dogs close to the settlement if the prohibitions were enforced. The point was made that the Council had a responsibility under the Dog Control Act 1996 to take into account the exercise and recreational needs of dogs and their owners in developing policies under section 10 of the Act. If the currently proposed prohibitions were implemented the only place for leash-free exercising was some distance from the settlement and would require travel by vehicle in most cases. While this was the reality for dog owners in other parts of the City at some distance from the beaches some of the residents in the Brooklands area considered they had moved to this area for its closeness to the water.

It was agreed that further discussion should take place with the community once a more specific plan of the area had been produced, in draft, along the lines of a Brooklands lagoon concept management plan. Initially the plan would be in map form and would highlight issues relating to:

- Dog free run areas,
- Dog restrained areas,
- Dog prohibited areas,
- The existing use of walking tracks, shoulders, buffer zones and embankments by dogs and owners
- Existing bird nesting, breeding and roosting sites in relation to population numbers and extremes (major significance - minimum significance etc),

- High tide/low tide usage options,
- General disturbance,
- Bird sanctuary areas.

The matter of signage providing further information on the importance of the area for wildlife and the effective use of signs sending correct messages, on walk ways, embankments, was seen to be a significant issue. This could be used to clearly indicate the appropriate directions people could access areas with dogs to minimise disturbance or damage to wildlife or the environment. The difficulty of maintaining signage was mentioned by the Coastal Parks Area Head Ranger, Rodney Chambers, as many signs had to be replaced because they were damaged or taken.

The matter of bird shooting, erratic vehicle usage, over population of Canada geese, and activities of speedboats, wet bikes, and jet boats in the lagoon were raised as additional problems in the area. The area is within the Coastal Marine area controlled by Environment Canterbury but the Waimakariri District Council, through it is understood the Kaiapoi Community Board, is the Harbour authority for the area controlling the use of vessels on the water.

CONCLUSIONS

It was agreed that officers from the Animal Control section of the Environmental Services Unit together with those from the Regional Parks section of the Parks and Waterways Unit should develop an initial map of the area as referred to above for further discussion at another meeting of the community.

It was clear to the Working Party that some consideration should be given to developing a management plan for the Brooklands Lagoon area in conjunction with Environment Canterbury who have some responsibility for controlling activities on the water in the area. The development of the "Christchurch Naturally: The Biodiversity Strategy" as proposed indicates the need for further consideration of the bird life and other ecological matters in the area. These are an indication that any changes for the purposes of providing for dog exercise areas must take into account any such issues.

Staff Recommendation:

1. That the joint Animal Control Section and Regional Parks Team prepare a map that identifies the various uses of the area in the context of the controls suggested by the Dog Control Policy within the Brooklands area for presentation and discussion with the Brooklands residents.

2. That a joint seminar of the Regulatory and Consents and Parks, Gardens and Waterways Committees be held to consider the development of a management plan, in conjunction with Environment Canterbury and the Waimakariri District Council, for the Brooklands Lagoon area.

Chairman's Recommendation: That the above recommendation be adopted.

8. PROHIBITED DOG AREA (CATHEDRAL SQUARE) DISPENSATION

Officer responsible	**Author**
Environmental Services Manager	Mark Vincent, Team Leader Animal Control, DDI 941-7041

The purpose of this report is to consider a request from the RSPCA for a dispensation from the Christchurch City Dog Control Bylaw 1997.

The dispensation is sought to allow an animal parade in Cathedral Square as part of "World Animal Week", during which many events will be celebrated around the world. A parade is planned for Sunday 3 October 2004, in conjunction with a service and blessing by the Dean of Christchurch to celebrate Saint Francis of Assisi, the patron saint of animals. Approximately 60 dogs as well as other animals and their owners will participate in the parade.

The Christchurch City Dog Control Bylaw 1997 prohibits dogs from entering or remaining upon any part of a prohibited dog area except as authorised by the Council by resolution. Cathedral Square is one of the prohibited dog areas. Clause 16(1) of the Christchurch City General Bylaw 1990 provides that the Council may grant a dispensation from any bylaw to any person.

Staff Recommendation:

1. That the Canterbury Branch of the RSPCA be given dispensation in accordance with clause 16 (1) of the Christchurch City General Bylaw 1990 to allow dogs to enter and remain in the prohibited area of Cathedral Square.

2. That the dispensation apply only on Sunday 3 October 2004 from 2pm until 3.30pm.

3. That dogs entering the prohibited area be under control by restraint of a leash at all times and each participant be given appropriate 'doggy do' bags and required to remove all dog faeces forthwith to ensure the area is kept clean.

Chairman's Recommendation: That the above recommendation be adopted.