

## **REGULATORY AND PLANNING COMMITTEE AGENDA**

**TUESDAY 5 MAY 2009**

**AT 12 NOON**

**IN THE NO 3 COMMITTEE ROOM, CIVIC OFFICES**

**Committee:** Councillor Sue Wells (Chairperson),  
Councillors Helen Broughton, Sally Buck, Ngaire Button, Yani Johanson, Claudia Reid,  
Bob Shearing, Mike Wall, and Chrissie Williams.

**Principal Adviser**  
Mike Theelen  
Telephone: 941 8281

**Committee Adviser**  
Sean Rainey  
Telephone: 941 8536

**PART A - MATTERS REQUIRING A COUNCIL DECISION**  
**PART B - REPORTS FOR INFORMATION**  
**PART C - DELEGATED DECISIONS**

### **INDEX**

- PART C 1. APOLOGIES**
- PART B 2. DEPUTATIONS BY APPOINTMENT**
- PART B 3. PROGRESS REPORT ON CITY PLAN PROGRAMME 2008-2009**
- PART B 4. PLANNING ADMINISTRATION MONTHLY REPORT (SEPTEMBER 2008 TO MARCH 2009)**
- PART B 5. PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC AND PARKING BYLAW**

1. APOLOGIES
2. DEPUTATIONS BY APPOINTMENT
3. PROGRESS REPORT ON CITY PLAN PROGRAMME 2008-2009

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941 8281
<b>Officer responsible:</b>	Team Leader City Plan
<b>Author:</b>	David Mountfort

#### PURPOSE OF REPORT

1. The purpose of this report is to provide a report on progress against the City Plan work programme.

#### EXECUTIVE SUMMARY

2. This report reviews progress on the City Plan programme approved by the Council last year. The report briefly describes the more significant matters that have been worked on in the last year and provides a detailed schedule of the entire programme. A separate report will follow in June which will address the proposed 2009/10 programme. At present the work programme is being reviewed as part of the Strategy and Planning Group's wider Service Delivery Plan process. **The June report will recommend a revised programme for Council adoption.**

#### FINANCIAL AND LEGAL CONSIDERATIONS

3. Programme is being delivered in terms of the budget. Legal implications are meeting Environment Court requirements for progressing cases before the Court, and meeting the requirements of the Resource Management Act for the preparation and processing of changes and variations to the City Plan.

#### STAFF RECOMMENDATIONS

It is recommended that the Regulatory and Planning Committee receive this report.

3 Cont'd

**BACKGROUND**

4. In 2008 the Council adopted a programme of work for the City Plan Team to carry out to progress the reviews of the Christchurch City and Banks Peninsula District Plans. Of necessity this is a rolling programme looking ahead several years and is to be reviewed annually, with progress to be reported to the Council periodically. This was the third such programme since the Council adopted this arrangement.
5. A copy of the schedule presented in 2008 is **attached**. This has been annotated to include comments on progress on each project during 2007-08. The most significant items on the programme are briefly outlined below. Comments and additions to the programme are shown as tracked changes format for ease of comparison. A number of private plan changes received during the year have been added to the programme

**MAIN FEATURES OF 2008-2009 PROGRESS**

**Greater Christchurch Urban Development Strategy (UDS)**

6. There has been significant involvement by City Plan staff in the UDS, particularly with drafting variations to the Regional Policy Statement Change 1 relating to revised airport noise contours, preparation of the ECan officers' report, and preparation of evidence for the forthcoming hearings. Several City Plan changes are under preparation to implement the UDS, notably zoning changes for Awatea and Wigram, the Living 3 & 4 zones review, the Central City/Business 2 zone urban design review, the Belfast section 293 case and a number of private plan changes.

**Area Plans**

7. City Plan staff are regularly involved commenting on proposals, attending workshops and liaising with landowners in the two Area Plans under development. These will also be required as part of the implementation of the UDS. Timing of development in these areas will depend on the timing of upgrades to the roading, sewer and stormwater networks.

**Airport Noise Contours**

8. A new set of draft airport noise contours has been produced. This arose out of Environment Court hearings on the Selwyn District Plan. Experts representing a wide range of parties, from CIAL, landowners and councils met following the hearing and agreed upon a new set of inputs for modelling the contours. These were then mapped and have resulted in a set of contours that is different from the previous version in the three district plans. Broadly speaking the new contours are shorter and wider than the existing version, freeing up land at Rolleston, but affecting new areas at Kaiapoi and along a strip of Christchurch from Belfast to Templeton. Approximately 2,000 of the households anticipated in the UDS in this strip have been reallocated elsewhere. CIAL has commenced the statutory process to have these new contours included in the RMA plans, starting with the Regional Policy Statement. Because of the broad range of expertise, and the range of parties represented, it is considered that these new contours will be very authoritative and difficult to challenge technically. What will be able to be challenged, however, is the policy response, in particular whether the threshold for land use restrictions should be on the 50 or the 55 dBA contour. Although this was settled by the Environment Court recently for the Christchurch Plan, it appears that some parties will be attempting to re-litigate this issue. As the issue has become caught up in the Regional Policy Statement it is inevitable that the Council will have to become involved in it again. Following the Regional Policy Statement Change 1 hearings, it is recommended that a plan change be introduced to the City Plan.

3 Cont'd

**Belfast Urban Growth Case**

9. This is a 93 ha site and is proposed to be developed to achieve high quality development at a higher than traditional density, in the manner required by the RPS Change 1. The major issue at Belfast has been the effect on the traffic network, with Main North Road and Johns Road already severely congested. The solution developed between the major landowners, Transit NZ (now NZTA), Council and Environment Canterbury, has been for the major landowners to build an interim Western Belfast bypass, and for this Council to collect financial contributions from later developers to fund their share of this work, which will be refunded to the original developers. This arrangement was approved by the Environment Court in an interim decision, but then referred back to the Environment Court for reconsideration by the High Court. Many details of the zoning package remain to be worked out, and there is major disagreement between the Council and the principal developers over issues such as density and yield, surface water and roading layouts.

**Awatea Plan Change**

10. A draft plan change has been prepared by consultants. This is going through internal review. However there are several serious issues that need to be resolved. These include:
- o Whether or not the Carrs Road Raceway is able to be relocated. Investigations are going on at present into a new site that offers real potential. If the raceway can be relocated, land in the vicinity can be zoned Living, in compliance with RPS Change 1. If it is not relocated, the land would have to be industrial or business, which is considered to be a less desirable outcome and non-compliance with RPS Change 1 would have to be resolved.
  - o The clean-up of the "Owaka Pit" site. This site is in breach of resource consents, is creating numerous adverse effects including the proposed Living zoning adjacent. Discussions have been held between the new landowners of the site, local residents and the Council about a way forward to resolve the resource consent breaches and return the site to a satisfactory state of amenity, but no resolution has yet been reached.
  - o How to secure achievement of the spine roading requirements of the Outline Development Plan which cross a number of properties.

**Wigram Airfield Plan Change**

11. Staff are working with Ngāi Tahu Properties (NTP) to prepare a plan change to allow for the redevelopment of Wigram Airfield as an urban growth area. The development complies with the UDS and Regional Policy Statement Change 1. The bulk of the work has been done by NTP with input from Council staff through a working party. To date it has been expected that the Council would adopt the plan change as its own. Currently there are disagreements over a number of details that are being worked through. Simultaneously, NTP has requested the Council to prepare a separate plan change to delete the now-redundant provisions of the City Plan such as air noise contours and height restrictions, as these impact on other lands surrounding the airfield. While not currently on the City Plan work programme this change is nevertheless, an important, if minor amendment to the plan. A proposed change has been drafted and is separately being reported to the Committee and the Council for adoption.

**Floodplains Variation 48 & City Plan References on Floodplains**

12. The Council decision on Variation 48 was issued in 2006/07 and appeals were lodged. Discussions have taken place with appellants. Additional computer modelling work has been carried out, the results analysed, and Environment Court evidence prepared. A hearing in the Environment Court of part of Variation 48 has taken place, but there has been a lengthy delay in the decision being issued. Progress has been made on modelling and data acquisition on flood levels to enable the variation to be brought into effect once the Environment Court's decision is received. Progress has been made on a further variation to deal with the land between the Waimakariri primary and secondary stopbanks. This is the subject of a further part of the appeals which has been adjourned.

3 Cont'd

**Retail Distribution Variation 86**

13. The great majority of the appeals against Variation 86 were settled by consent, including all appeals against the framework of objectives and policies, and the rules. In the end the Environment Court hearing was confined to cases involving zoning at two sites in Ferrymead and one at Moorhouse Avenue. The Environment Court decision largely favoured the appellants, leaving considerable concerns about the traffic impacts, and a concern about height limits at Ferrymead, where the decision has negated the recent plan change introducing height limits. These aspects were appealed to the High Court. The Environment Court's decision was upheld by the High Court, and subsequently the Council has been required to pay costs to the Ferrymead applicants, of \$35,000. Variation 86 is now at an end, unless there are appeals against the costs award, which was considerably less than claimed by the appellants.

**Heritage Protection – Review of City Plan Provisions**

14. A consultant is assisting staff with the preparation of this plan change for Council consideration. Mapping and descriptions of buildings to be listed is required before this plan change can be presented to the Council. In December 2008 the Council resolved that this plan change should proceed in concert with the heritage policy review currently being undertaken by the Council.

**Higher Density Living zones (Living 3 and 4) – Review Development Controls**

15. A plan change and accompanying technical assessment has been prepared and presented to the Council, and has been considered at a series of workshops. Legal and planning peer reviews were also obtained. The plan change is currently being redrafted in preparation for presentation to the Committee for adoption.

**Review of Elderly Person's Housing Provisions**

16. A preliminary report on this has been received from consultants, reviewed by staff and a contract will now be let to complete the drafting of this plan change, which will be presented to the Committee later in 2009.

**Special Amenity Areas**

17. Investigations and discussions with interested parties have been carried out. A Council seminar was conducted in mid 2007. Currently the Heritage Team is carrying out investigations into the possibility of establishing Residential Conservation Areas – a method of group protection for heritage buildings. The SAMs review has been put on hold until this study is carried out.

**Banks Peninsula District Plan**

18. The Environment Court issued its final decisions on the landscape provisions, but this has been appealed to the High Court on a single aspect of whether the minimum lot size for the Rural Amenity landscape, which covers most of the Peninsula, should be 4 or 10 hectares. At the time of writing it is not known how this will be resolved. The Council received an award of \$35,000 in costs against Environment Canterbury for the Environment Court proceedings. Other outstanding issues on the BP District Plan include financial contributions, designations, and Variation 6 which related to helicopter operations in the district. . These are all being investigated by consultants, with reports to be completed in May and June. It will be necessary to conduct further hearings, and probably to introduce a further variation to finalise these matters. It is anticipated that the Banks Peninsula District Plan should be able to be made operative, at least in part by mid 2010, which represents a very significant piece of work since amalgamation.

## 3 Cont'd

**Private Plan Changes**

19. Nineteen private plan changes are at various stages, with one completed and made operative. Several others are at the final stages, unless appeals are lodged. Private plan changes range from single lot rezonings, through to major new urban growth areas for residential or business purposes. A process document has been prepared to guide staff and consultants about how to process these applications. On legal advice, applications are being very thoroughly assessed prior to being publicly notified, because the Council's powers to modify a private plan change are more limited after notification. The first cases have been valuable to fine tune this process. Recently, most applications received have been contracted out to consultants for processing and reporting. This assists in freeing up staff, but consultants must still be managed and given feedback and assistance, particularly on the major applications which have considerable strategic significance

**Council Plan Changes**

20. Three plan changes have been publicly notified during the current financial year. Change 8 alters the zoning of land at Wigram (the Musgrove's Recycling site). Change 25 alters the zoning of a number of private schools. Change 6 introduces rules about cluster housing in the Living Hills zones. A number of other plan changes are in preparation and will be reported to the Council separately.

**Miscellaneous Minor Changes**

21. This is a database of approximately 500 items which has been accumulated since the City Plan was first notified. These are mostly low priority, anything of higher priority has already been included in the schedule of major projects. The database has been sorted and a process developed for addressing it, and a number of minor changes are now under preparation, with the assistance of planners from the Consents Teams.

**Summary of progress on the City plan Programme 2007-2008**

Items	Completed	Substantial Progress	Not Progressed	Total
Priority 1	6	48	23	77
Priority 2	0	9	6	15
Priority 3	0	1	3	4
<b>Total</b>	6	58	32	96

4. **PLANNING ADMINISTRATION MONTHLY REPORT (SEPTEMBER 2008 TO MARCH 2009)**

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	Environmental Policy and Approvals Manager
<b>Author:</b>	John Gibson, Planning Administration Manager

**PURPOSE OF REPORT**

1. This is the sixth report to the Regulatory and Planning Committee providing information about resource consent applications received and processed by the Planning Administration and Subdivision teams. It contains information for the seven months from September 2008 to March 2009.
2. The report contains the following information:
  - The number of applications processed for the review period and the year to date (**Appendix 1**).
  - Notified and limited notified applications which went to a hearing for a Section 104 decision during the review period (**Appendix 2**).
  - Applications which went to a Hearings Panel for a Section 93/94 decision during the review period (**Appendix 3**).
  - Current appeals (**Appendix 4**).

**EXECUTIVE SUMMARY**

3. This report is designed to keep the Regulatory and Planning Committee and Community Boards apprised of Resource Management Act matters and issues actioned by the Environmental Policy and Approvals Unit.
4. It identifies notified and limited notified applications which went to hearing in the months under review, as well as current appeals against decisions made.
5. Feedback on what is included and what the Committee would like to see contained in further reports is welcomed.

**FINANCIAL IMPLICATIONS**

6. Not applicable.

**Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?**

7. Not applicable.

**LEGAL CONSIDERATIONS**

8. The information provided in this report is held as public information. It is readily accessible and not legally privileged.

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

9. Not applicable.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

10. Not applicable.

**Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

11. Not applicable.

**4 Cont'd**

**ALIGNMENT WITH STRATEGIES**

12. This report aligns with the Environmental Policy and Approvals Communication Strategy.

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

13. Not applicable.

**CONSULTATION FULFILMENT**

14. Not applicable.

**STAFF RECOMMENDATION**

It is recommended that the Regulatory and Planning Committee receive the report for information.



## 5. PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC AND PARKING BYLAW

<b>General Manager responsible:</b>	General Manager Regulatory & Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	Inspections & Enforcement Unit Manager
<b>Author:</b>	Clive Morris, Parking Administration Team Leader

### PURPOSE OF REPORT

1. The purpose of this report is to update the Regulatory and Planning Committee following a Council resolution of 19 June 2008:
  - (a) Requesting staff to review how adequate the Parking Enforcement current data collection system is in meeting the requirements to demonstrate nuisance issues when the Council reviews or considers making new bylaws. At the Regulatory and Planning Committee meeting held on 2 March 2009, the Committee directed that this issue be included in the report to the Regulatory and Planning Committee on 6 August 2009.
  - (b) Requesting staff to report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.

### EXECUTIVE SUMMARY

2. **Quarterly Report on the Implementation and Enforcement of the Traffic and Parking Bylaw**
  - (a) This is the third quarterly report to the Regulatory and Planning Committee for consideration. The timing of the quarterly reports will be as close to the months of October, January, April and July as the Regulatory and Planning Committee agenda allow. This report serves as the quarterly report for March 2009.
  - (b) At the Regulatory and Planning Committee meeting held on 2 March 2009, it was raised by the Committee that there was no data explaining where complaints were resolved informally in relation to complaints detailed in Part 5, of Appendix 1. An additional column titled "informally resolved" has been added to Appendix 1. Such resolutions include situations where compliance has been achieved after verbally speaking with the vehicle owner or where upon arrival at the scene there is no offence.
  - (b) The **attached** schedule of complaints (see Appendix 1) details the number of complaints received and enforcement action taken in relation to Clauses 9, 10, 19, 20, 21, 22 and 23 of the Traffic and Parking Bylaw 2008 for the period 1 January 2009 through to 31 March 2009.
  - (c) In relation to clauses 9 and 10, the **attached** schedule identifies the areas/streets where a number of complaints have been received in the reporting period. The most prevalent complaint (12 complaints) over this reporting period related to parking on the grass verge on the west side of Cranmer Square. This issue has been resolved after consultation with the Parks Contracts Manager (Transport & Greenspace) through installing waratahs and tape preventing vehicle access onto the grass verge. Parking wardens are monitoring this on a daily basis.
  - (d) Unless signage is installed clauses 9 and 10 of the new bylaw currently remain unenforceable as an offence. Signage is required to enforce clauses 9 and 10 pursuant to Traffic Control Devices Rule 2004.
  - (e) The Parking Enforcement Team, however, is pro-actively enforcing parking on grass berms and verges by other means. This is achieved through installing and enforcing no-stopping signs in areas, such as around Hagley Park on Riccarton Avenue and Moorhouse Avenue. No-stopping signage has also been erected in Travis Road and Northcote Road for the purposes of protecting grassed areas.

5 Cont'd

The Committee should note the draft amendment to the Land Transport Road User Rule (no. 61001/4), on which the Council made a submission. The New Zealand Transport Agency is proposing that the amendments will come into force on 1 July 2009. The rule includes a proposal for a new clause which will deal with parking of vehicles off the roadway. It will mean that people will be prohibited from parking on a grassed area or other cultivation forming part of a road that is within an urban traffic area, and the Council will only have to erect signs or markings if it wants to **allow** a person to park in those places. An urban traffic area is an area which is subject to a speed limit of 50km/h. The Council's submission approved of this rule amendment but suggested that the speed limit for an urban traffic area be raised to 60km/h. As at 15 April 2008 information from the NZTA website indicates that this rule is currently in the "white phase" and that the analysis of submissions is underway. (There are four phases in total for a rule amendment - blue phase (policy development), yellow phase (being prepared or out for public consultation), white phase (post consultation) and the final signed rule.)

Appendix 1 details the number of infringements issued for parking in these no-stopping areas, the total YTD being 10. Please note that any disparity between the number of complaints received and the number of infringements issued is either due to the offending vehicle no longer being present at the time the officer attends to the complaint, or because as there is no signage and the matter cannot be enforced.

- (f) Complaints relating to "heavy vehicles parked in residential areas" where a restriction in regards to this is not already in place, (clause 10) is being monitored by Parking Enforcement. As the Regulatory and Planning Committee have now adopted the operational policy, complainants are advised of the process laid out in the policy and requested to write to the Council outlining issues they believe warrant a restriction being installed. Any such requests are considered by Transport and Greenspace Unit, which are then forwarded to the appropriate Community Board for determination.
- (g) Enforcement action as it relates to clauses 19, 20, 21, 22 and 23 can only be pursued by way of prosecution. This is because those clauses contained in Part 5 of the Traffic and Parking Bylaw 2008 were made pursuant to the Local Government Act 2002. There is no infringement (ticket) regime currently in place for bylaw offences created pursuant to the Local Government Act 2002. A submission seeking an infringement regime has been prepared by Legal Services and was forwarded to the Minister of Local Government in March 2009. Receipt of the submission has been acknowledged by the Minister's office. A timeframe for a decision is unknown at this juncture.
- (h) Where prosecution is the Council's only option, such action is determined with reference to the Solicitor-General's guidelines on prosecution. Those guidelines demand that before matters are pursued by way of prosecution, consideration must be given to the evidence available to substantiate the charge and whether, in each individual case, it is in the public interest to pursue the matter through the criminal courts. The general duty placed on enforcement agencies pursuant to the Solicitor-General's guidelines demands a consideration of whether the individual matter warrants the intervention of the criminal law. Given the relatively low level nature of the offences created under the bylaw as compared with general criminal matters it is implied through the Solicitor-General's guidelines that wherever appropriate, warnings should be given to offenders prior to enforcement agencies resorting to the criminal courts for resolution. As such and in response to the fact that clauses made under Part 5 of the Traffic and Parking Bylaw 2008 do not carry the option currently to issue an infringement notice, Parking Enforcement have started to collate data on warnings issued for breaches of those offences. The authority to take prosecution action currently rests solely with the Inspections and Enforcement Unit Manager. Operational instructions issued by the Inspections and Enforcement Manager to the Parking Enforcement Team require any individual who has been issued with two warnings in relation to clauses 19, 20, 21, 22 and 23 be brought to the Team Leader's attention for consideration as to whether it is in the public interest to pursue a prosecution.

**5 Cont'd**

**FINANCIAL IMPLICATIONS**

3. There are no financial implications arising out of this report.

**Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?**

4. Not applicable.

**LEGAL CONSIDERATIONS**

5. There are no legal considerations arising out of this report.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

6. Not applicable.

**ALIGNMENT WITH STRATEGIES**

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

7. Not applicable.

**CONSULTATION FULFILMENT**

8. No public consultation has been undertaken in relation to this report. However the matter has been consulted internally with the Transport and Greenspace Unit.

**STAFF RECOMMENDATION**

It is recommended that the Regulatory and Planning Committee receive the quarterly report for information.