

REGULATORY AND PLANNING COMMITTEE AGENDA

3 SEPTEMBER 2009

AT 9AM

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.

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3. 9. 2009

- 1. APOLOGIES**

- 2. DEPUTATIONS BY APPOINTMENT**

3. VARIATION 96 AND PLAN CHANGE 46 – WIGRAM AIRFIELD

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Team Leader, District Planning
Author:	Andrew Long, Senior Planner, District Planning

PURPOSE OF REPORT

1. This report describes a Council initiated variation and change (“the change”) to the City Plan and seeks a decision from the Council whether or not to notify the change. The change seeks to delete or amend provisions relating to the former Wigram Airfield.

EXECUTIVE SUMMARY

2. The purpose of the variation and change is to delete or amend City Plan provisions which protected the functionality of the former Wigram Airfield (**Attachment 1**) and sought to mitigate the adverse effects of airfield operation. The change relates largely to aircraft noise contours and airport approach slopes, with numerous minor amendments deleting reference to the airfield. The airfield closed on 1 March 2009, and there is no discernible reason for retaining the provisions relating to flying activities.
3. It is proposed that the City Plan provisions at (**Attachment 2**) be deleted or amended as indicated. Amendments to operative parts of the Plan are referred to as Plan Change 46, and amendments to part of the Plan not yet operative are referred to as Variation 96. The City Plan is not operative in relation to existing variations 48 (flood plains), 93 (Clearwater) and Section 293 appeal on the notified plan relating to land at Belfast (to rezone land to Living G). Variation 86 is now beyond challenge, but yet to be formally made operative in the Plan. Variation 96 (this variation) proposes to amend clauses the subject of variations 86 and 93.
4. The Section 32 assessment (**Attachment 3**) prepared by the Council finds that the proposed amendments are efficient and effective in achieving the objectives of the City Plan. Some aviation related activity may continue within the 35 hectare area containing the Air Force Museum, which is still owned by the New Zealand Defence Force (NZDF). This 35 hectare area is that gifted by Sir Henry Wigram. The provisions proposed to be amended or deleted do not protect aviation activities on the museum site. NZDF will need to initiate its own plan change or amend its existing designation to protect such uses.
5. The change is part of a larger project to rezone the airfield for business and residential use (Private Plan Change 24). Wigram Aerodrome Limited (via Ngai Tahu Property Group Ltd) has requested that this change be promoted independently of their Plan Change 24 to facilitate redevelopment of the former airfield land sooner. The Council is undertaking this to separate the formalising of the closure of the airfield in the City Plan from the redevelopment of the former airfield, and because the Change affects provisions that apply to land outside the former airfield. Owners of adjoining land would also potentially benefit from removal of development restriction as proposed by this change. While the cost of Variation 96/Plan Change 46 will be met by the Council because of its wider impact, the actual rezoning of the airfield (Change 24) will be met by Ngai Tahu.
6. NZDF has recently removed that part of the designation which encompassed the former airfield. The museum site still owned by NZDF retains the designation.

CONSULTATION

7. The Council has discussed the matter with the current landowner and with NZDF. The matter will be presented to the Riccarton/Wigram Community Board for its comment.

FINANCIAL IMPLICATIONS

8. The proposed plan change and variation are of a minor technical nature, and have no significant policy risks or implications. It is anticipated that costs will be in the order of \$25,000 and will be within the existing City Plan budget.

3 Cont'd

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. Yes.

LEGAL CONSIDERATIONS

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

10. The process set out in the RMA must be followed. It includes public notification, submissions, reporting, hearings, decisions and possible appeals.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

11. The proposal is part of the district planning levels of service in the LTCCP.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

12. The Greater Christchurch Urban Development Strategy seeks greater intensification and development in and around existing urban centres and this change would enable intensification in the Wigram area. The site is within the urban limits proposed by Proposed Change 1 to the Regional Policy Statement and is also identified as a greenfield urban development area, for business and residential uses.

STAFF RECOMMENDATION

That the Regulatory and Planning Committee **recommend** to the Council that it:

- (a) Adopt the section 32 assessment for Variation 96 and Plan Change 46.
- (b) Agree to publicly notify Variation 96 and Plan Change 46 pursuant to Schedule 1 of the Resource Management Act 1991.

3 Cont'd

BACKGROUND AND DISCUSSION

13. The NZDF has operated from the site since 1917, largely for flight training purposes. The military use effectively ceased in 1995, with the airfield permanently closed on 1 March 2009. NZDF sold part of the site including the airfield, but retains the 35 hectare museum site, which was land gifted by Sir Henry Wigram in 1932.
14. The variation and plan change relate to the provisions in the City Plan protecting the functionality of the former Wigram Airfield and mitigating adverse effects on adjoining land. The related provisions are no longer required. All proposed deletions and amendments are included in **Attachment 2**.
15. The amendments relate specifically to airfield protection surfaces, building setbacks and limitations, height control within protection surfaces, aircraft noise, air safety, development of the airfield, airport services and activities and transport.
16. The change was previously part of Plan Change 24, which seeks to rezone the former airfield for residential and business uses. Plan Change 24 does not seek to rezone the parcel of land still owned by NZDF containing the Air Force Museum. NZDF disposed of the bulk of the land, retaining only the area encompassing the museum.
17. This proposed change seeks to remove impediments to development in advance of Plan Change 24 by deleting or amending provisions relating to the former airfield. Plan Change 24 is a private plan change but the Council is preparing the change (via an external consultancy). This is a change that the Council is likely to have promoted independently of Plan Change 24, had that change not arisen. The proponent of Plan Change 24 and others have requested this change be separated from Plan Change 24 and made a priority, and Council staff have agreed to promote the change. The change would therefore be at the Council's cost.
18. The attached Section 32 assessment finds that the proposed amendments are the best way to achieve the objectives of the City Plan. The site is within the urban limit proposed by Proposed Change 1 to the Regional Policy Statement, and the former airfield site (excluding the museum area) is identified as a greenfield outline plan development area. The proposed removal of provisions relating to the former airfield will facilitate the development of these greenfield areas.
19. The Council's Greater Christchurch Urban Development Strategy promotes intensification and the type of development likely to result from this change at and adjacent to the former airfield site is considered to be in accordance with this.
20. NZDF has recently amended its designation at the site to remove that part of the designation over the airfield. The museum site still owned by NZDF retains the designation. NZDF may make a submission on the change (if the decision on this report is to notify), outlining its requirements, if any.

OPTIONS

21. The Council may:
 - (1) Adopt the Section 32 Assessment for Variation 96 and Plan Change 46, and agree to publicly notify Variation 96 and Plan Change 46 pursuant to Clause 16a of Schedule 1 to the Resource Management Act 1991.

OR

- (2) Not proceed with the variation and plan change and retain the City Plan provisions relating to the former Wigram Airfield in the Plan.

PREFERRED OPTION

22. Option One.

3. 9. 2009

4. CHRISTCHURCH CITY AND BANKS PENINSULA PROPOSED SPEED LIMITS BYLAW CHANGES AND NEW SPEED LIMITS

To be separately circulated.

5. AKAROA HARBOUR BASIN SETTLEMENTS STUDY

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager Healthy Environment
Author:	Carolyn Bonis, Senior Planner

PURPOSE OF REPORT

1. The Akaroa Harbour Basin Settlements Study has been completed, with the production of two documents: an 'Issues and Prospective Projects' document (**Attachment 1**) and its accompanying Implementation Plan (**Attachment 2**). The purpose of this report is to seek the Council's endorsement of these documents as guides to assist future operational decision-making.

EXECUTIVE SUMMARY**Study Scope**

2. The Akaroa Harbour Basin Settlements Study (the Study) was initiated in early 2007. The Study identifies the strategic issues facing the eight rural settlements of the Akaroa Harbour Basin, with the aim of achieving strong and sustainable communities and settlements over the next 20-30 years. The eight settlements are listed below and the attached reports include a map showing their associated study areas.

Akaroa	Barrys Bay
Takamatua	French Farm
Robinsons Bay	Tikao Bay
Duvauchelle	Wainui

Study Process and Findings

3. The Study entailed a comprehensive planning exercise, involving information-gathering, mapping, identification of issues, evaluation of options, cross-Council discussion and community consultation. A large number of issues (ranging from locality-specific to harbour-wide) were identified and are listed in Part II of Attachment 1. These issues cover:
 - (a) Natural Environment (including coastal issues, landscapes, freshwater resources, climate change, slope stability)
 - (b) Social Environment (including historic character, population, community facilities)
 - (c) Physical Environment (including water, wastewater, stormwater, transport)
 - (d) Economic Environment (including housing affordability, business growth, tourism)
 - (e) Subdivision, Land Use, Managing Urban Change (including settlement patterns, capacity for urban growth).
4. The preferred options to address the issues have now been identified as 'prospective projects' in the attached documents. Some projects are multi-disciplinary (for example, 'Detailed Planning Studies', 'Akaroa Places and Spaces Plan') but most are more confined in their scope. These projects are listed in Part III of Attachment 1, under 18 topic areas. The relative timing for each of these is identified by a symbol in Attachment 1 and in more detail in **Attachment 2**. The majority of projects are shown for commencement in 2012 or beyond, although work will begin on the following funded projects this financial year:
 - B Akaroa Places and Spaces Plan
 - Q.2 Cruise Ship Protocol
 - R.1 Project Implementation and Monitoring
5. The identification of prospective projects within the attached documents does not commit the Council to commencing each project. Projects that are identified as commencing in 2012 or later will be contestable as part of the review of the Long Term Council Community Plan (LTCCP).

5 Cont'd

On-going monitoring

6. Although the Study has been completed, ongoing work will be undertaken to oversee implementation of the programme and to monitor trends and impacts of development.

FINANCIAL IMPLICATIONS

7. The principal financial implication is for operational budgets in future years. There is scope within projected immediate budgets for commencing some of the projects, as identified in **Attachment 2** and paragraph four above.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

8. This Study was identified as a project in the current LTCCP and its outcomes aim to inform the development of future LTCCP budgets. The Settlements Study and Implementation Plan provide a framework to guide future actions, and to ensure the opportunities, priorities, linkages and dependencies are identified and managed. The timing and funding of all or any projects in the Implementation Plan is dependent on decisions made as part of the current and future Long Term Council Community Plan.

LEGAL CONSIDERATIONS

9. The Study takes into consideration the requirements of the Local Government Act 2002 (LGA 2002) and the Resource Management Act 1991 (RMA 1991) through the development and use of evaluation criteria. These criteria were used to assess the desirability or otherwise of the project options and included the degree to which a project met legal requirements. This process has ensured that higher scoring and therefore higher priority projects are in accordance with legal requirements.

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

10. Yes, as above. As the Council gives effect to the higher priority projects there will be additional legal implications, particularly in relation to any District Plan changes under the RMA 1991. The work already undertaken to gather and analyse relevant information will go some way toward satisfying future Section 32 requirements.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. Where existing Activity Management Plans address issues identified in the Study, this has been noted in background technical documents. The projects identified in the two attachments will likely inform future Activity Management Plans across various Council units.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

12. This Study was identified as a service in the 2009-19 LTCCP and its outcomes will inform the development of future LTCCP budgets.

ALIGNMENT WITH STRATEGIES

13. Assessment of the project options against various evaluation criteria has ensured alignment of the projects with strategies applying to Banks Peninsula (e.g. Biodiversity Strategy, Social Housing Strategy, and Sustainable Energy Strategy). As a result, the projects listed in the two attachments do not conflict with existing strategies and their associated implementation plans.

Do the recommendations align with the Council's strategies?

14. Yes, as above.

5 Cont'd

CONSULTATION FULFILMENT

15. Two public consultation exercises were conducted during the course of the study. The first was in November 2007 to assist with issue identification for the eight settlements of the harbour basin. The second was in March-April of this year and enabled prioritisation and fine-tuning of the project options. Separate meetings were also held with the two local rūnanga, via Mahaanui Kurataiao Ltd (MKT).

Akaroa/Wairewa Community Board response

16. The Akaroa/Wairewa Community Board discussed the final reports at its 12 August meeting. The staff recommendation was that the Community Board:
- (a) Support the approach taken in preparing the two documents: 'Issues and Prospective Projects' and its accompanying Implementation Plan.
 - (b) Recommend that the Council endorse the documents as guides to assist future operational decision-making.
17. The Board adopted the staff recommendation but made the following suggestions:
- Add a comment to the Implementation Plan explaining that partners to projects:
 - (a) Have been provisionally identified where they have statutory responsibilities, noting that other stakeholders will be involved in the course of the project.
 - (b) Have been informed of their potential involvement in the project.
 - (c) Will be further involved as projects are commenced.
 - Bring forward the timing of projects K.3 (Walkway routes) and M.2 (Water intakes on private land).
18. Staff views are as follows:
- It is preferable for the Walkway routes project (K.3) to await completion and adoption of the Christchurch Public Open Space Strategy.
 - Water intakes on private land are not causing any immediate issues but if they do cause problems then this can be brought forward as necessary, given that the Implementation Plan is a living document.
19. Therefore staff would recommend that the additional text regarding partners be added to the Implementation Plan but that the timing of projects remains as currently indicated.

STAFF RECOMMENDATION

That the Regulatory and Planning Committee recommends to the Council that it:

- (a) Endorse the two documents ('Issues and Prospective Projects' and its accompanying Implementation Plan) as guides to assist future operational decision-making,
- (b) Incorporate the following amendment to the Implementation Plan, as recommended by the Akaroa/Wairewa Community Board:

Add a comment to the Implementation Plan explaining that the identified partners have statutory responsibilities, have been informed of their potential involvement in the project and will be further involved as projects are commenced.

6. CHRISTCHURCH CITY STRATEGIC INTENSIFICATION REVIEW – WORK PROGRAMME

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager Liveable City
Author:	Carolyn Ingles

PURPOSE OF REPORT

1. The purpose of this report is to establish a process with the Regulatory and Planning Committee to provide advice and input into the Strategic Intensification Review. The Strategic Intensification Review is to be adopted by the Council in June 2010.

EXECUTIVE SUMMARY

2. The Greater Christchurch Urban Development Strategy (UDS), and subsequently the Regional Policy Statement Change No.1 (PC1), sets the overall future growth pattern for Christchurch to 2041. A key component of this future pattern is the move towards more compact residential development (intensification). However, the UDS and PC1 contain only high level direction for Christchurch. There is now a requirement for the Council to put more specific programmes and processes in place to enable successful intensification to occur.
3. To achieve this, a work programme has been developed in order to ensure the Council is examining the actions it can take in order to achieve UDS and PC1 intensification objectives. These actions will be within the Council's key areas of influence which are developing and implementing a vision, creating and enforcing regulation, advocacy, providing capital investment and potentially working as a developer or development partner.
4. The intensification programme has distinct, but interlinked work streams that set the foundations for the Council to deliver on the UDS and PC1 objectives. One of the five work streams, the Strategic Intensification Review (SIR), has been under investigation by staff and now requires regular input and advice from Councillors before the completion deadline in mid 2010.
5. The primary objectives for Strategic Intensification Review are to:
 - (a) Identify future areas of change
 - (b) Identify areas of character protection
 - (c) Recommend possible tools to stimulate successful intensification, and
 - (d) Determine which area of change will be the first examined through an Urban Intensification Plan.
6. Ultimately, the Strategic Intensification Review will guide the location of detailed planning through the production of Intensification Plans for each of the areas identified and shape future policy direction including possible changes to the City Plan. The Strategic Intensification Review will also provide strategic direction around future funding decisions as made through LTCCP's.

THE PROCESS

7. Early input and advice is desired to ensure that the Strategic Intensification Review is developed in a manner consistent with Councillor expectations and aspirations. It is proposed that the Regulatory and Planning Committee would act as a sounding board for staff in the development of the Strategic Intensification Review. The Committee would also provide a vehicle for information sharing between Councillors and staff. It is proposed that a series of workshops are held, utilising the existing Committee workshop schedule, following the timeframe and topics listed below:
 - October 2009 – Project Context and background including capacity studies.
 - November 2009 – Proposed outcomes and outputs from SIR (what should be adopted in 2010).
 - February 2010 – Background Projects including Urban Character Study, Brownfield Land Study, Natural Hazards and Infrastructure.
 - March 2010 – Intensification Toolbox.
 - May 2010 – Review workshop (outcomes, outputs and next steps).

6 Cont'd

FINANCIAL IMPLICATIONS

8. There are no financial implications in establishing this process with the Regulatory and Planning Committee.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

9. Yes, funding for the development of the intensification programme is budgeted for within the 2009-19 LTCCP.

LEGAL CONSIDERATIONS

10. There are no legal implications resulting from establishing this process. Any legal implications of the Strategic Intensification Review will be addressed as part of its development and implementation.

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

11. Yes.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Yes, this activity aligns with the "city planning and development" activity.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

13. Yes. In the "City planning and development" activity there is the following levels of service:
- *The Strategic Intensification Review (SIR) is completed and adopted by Council by end of June 2010.*
 - *First Intensification Plan started by end of December 2010.*

ALIGNMENT WITH STRATEGIES

14. Development of the Strategic Intensification Review aligns with the intent of the Greater Christchurch Urban Development Strategy, the Regional Policy Statement Change No.1 and the Central City Revitalisation Strategy.

Do the recommendations align with the Council's strategies?

15. Yes, see above.

CONSULTATION FULFILMENT

16. There is no consultation requirement to establish this process.

STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee recommend to the Council that is **adopt** the proposed process as the basis for Committee input into the development of the Strategic Intensification Review.

7. **ADOPTION OF ANNUAL REPORT TO THE LIQUOR LICENSING AUTHORITY FOR THE PERIOD ENDING 30 JUNE 2009**

General Manager responsible:	General Manager Regulatory and Democracy Group, DDI 941-8462
Officer responsible:	Inspections and Enforcement Unit Manager
Author:	Paul Rogers, Liquor Licensing Team Leader

PURPOSE OF REPORT

1. The Sale of Liquor Act 1989 (the Act), section 105, requires every District Licensing Agency (DLA) to prepare and send to the Liquor Licensing Authority (LLA) a report of its proceedings and operations during the year no later than three months after the end of every financial year.
2. The LLA advises the DLA of the annual report format and the information required in the report. The annual report attached and marked **Appendix 1** has followed the required report format.

EXECUTIVE SUMMARY

3. This report is required to be submitted to cover the year July 2008 to June 2009. This has proved to be a year in which the community and the media have focused a great deal of attention on alcohol, both from a licensing perspective and from a liquor abuse perspective.

FINANCIAL IMPLICATIONS

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

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

LEGAL CONSIDERATIONS

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

5. Yes. Pursuant to the Sale of Liquor Act 1989, section 105(1), requires every DLA to prepare and send to the LLA a report of its proceedings and operations during the year no later than three months after the end of every financial year.
6. Subsection (2) of section 105 requires the DLA to supply a copy of each such report to any person who requests it on payment of such reasonable fee as the Authority or Agency may prescribe.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

7. Yes. The Annual Report supports Council's Regulatory Services activities, which includes the protection of public health and safety (page 94 of the LTCCP, level of service under Regulatory Services).

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

8. Yes the recommendations links to the Council's Safer Christchurch Strategy's aim of alcohol becoming a less significant cause of crime and injury.

CONSULTATION FULFILMENT

9. No external consultation has been carried out, but internal consultation between the Inspections and Enforcement Unit, Strategy and Planning Unit, Legal Services and the Alcohol Policy and Liquor Control Bylaw Subcommittee, has taken place.

STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee recommend to the Council that it **adopt** the attached 2008/09 Annual Report to the Liquor Licensing Authority, pursuant to Section 105 of the Sale of Liquor Act 1989.

8. INSPECTIONS AND ENFORCEMENT UNIT: PROSECUTION UPDATE

General Manager responsible:	General Manager Regulation and Democracy Services, DDI: 941-8462
Officer responsible:	Inspections and Enforcement Manager
Author:	Gary Lennan

PURPOSE OF REPORT

1. The purpose of this report is to advise the Council through the Regulatory and Planning Committee, of the recent outcome of a prosecution undertaken by the Council's Inspections and Enforcement Unit.
2. The report also seeks the Regulatory and Planning Committee to receive this report advising of the Council's successful conviction for illegal building work and breach of the City Plan.

EXECUTIVE SUMMARY

3. In late 2007, the defendant in this case, Mr Chou, applied for building consent for a garage/workshop and a two-bedroom sleep-out at 26 Karamu Street, Riccarton. During this process it was identified at the Project Information Memorandum (PIM) stage that the initially proposed work would require resource consent. The defendant then resubmitted plans along with a letter advising the Council that he did not intend to use the premises for commercial purposes and he would not carry out the work initially indicated on the plans to convert the garage into two separate rooms.
4. On this basis the plans were approved and a resource consent was not required. The building work was completed as required and a Code Compliance Certificate was issued.
5. In September 2008, the Council received anonymous information that further building work had been completed on the site.
6. A site inspection revealed a further room had been added for a kitchen between the consented buildings. A dividing wall had been added to the garage and new walls had been constructed in the sleep-out, turning the consented two bedrooms into four.
7. A workman who was in the process of lining the garage at the time of inspection was advised to stop work.
8. The defendant was interviewed by Council officers a few days later and admitted to deliberately deceiving the Council.
9. Charges were laid under Section 40 of the Building Act 2004 and Section 338 of the Resource Management Act (RMA) 2009 for building work without a consent and a breach of the City Plan.
10. The defendant entered a guilty plea at the first hearing, and at the time of sentencing the defendant had already obtained a demolition consent and restored the property to the originally consented plans.
11. In sentencing, Judge Borthwick took into account the various aggravating and mitigating factors including the defendant's ability to pay a fine. He was duly convicted and sentenced to pay \$5,000 for the Building Act offence and 75 hours community service for the RMA offence, he was also ordered to pay solicitor fees of \$113 on each charge and \$130 court costs.

FINANCIAL IMPLICATIONS

12. Enforcement activity is rate-payer funded, with legal and prosecution costs being met out of the Inspections and Enforcement Unit budget. Section 389 of the Building Act 2004 provides for the Council to receive 90 per cent of any fine imposed by the Court upon conviction (90 per cent of \$5,000 is \$4,500). Total legal costs for this prosecution amounted to \$6,170.95, so the net cost to the Council for the legal advice is \$1,670.95.

8 Cont'd

LEGAL CONSIDERATIONS

13. All prosecutions are approved by the Inspections and Enforcement Manager, after consideration of evidence available to substantiate the charge/s and the public interest factors justifying the intervention of the law. All approved prosecutions are then reviewed by Council legal staff prior to charges being laid.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. This investigation and subsequent prosecution aligns with the Council's Regulatory Services activities.

ALIGNMENT WITH STRATEGIES

15. Not applicable.

CONSULTATION FULFILMENT

16. Not applicable.

STAFF RECOMMENDATION

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

9. **PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC AND PARKING BYLAW**

General Manager responsible:	General Manager Regulation and Democracy Services, DDI: 941-8462
Officer responsible:	Inspections and Enforcement Unit Manager
Author:	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 report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.
 - (b) 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 held on 2 March 2009, the Committee redirected that this be included in the report to the Regulatory and Planning Committee on 6 August 2009.
 - (c) Requesting staff to begin work on developing a Memorandum of Understanding with the New Zealand Police.

EXECUTIVE SUMMARY

Quarterly Report on the Implementation and Enforcement of the Traffic and Parking Bylaw:

2. This is the fourth quarterly report tendered 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 allows. This report serves as the quarterly report for June 2009.
3. At the Regulatory and Planning Committee meeting of 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.
4. 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 April 2009 to 30 June 2009.
5. 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. **Appendix 2** details that for the 2008/09 year the most prevalent complaint (14 complaints) related to parking on the grass verge on the west side of Cranmer Square. As reported in the May quarterly report the Parks Contracts Manager (Transport and Greenspace) has now installed waratahs and tape to prevent vehicle access onto the grass verge. Parking wardens are monitoring this on a daily basis. The Parks Contracts Manager has advised that a number of options have been identified to permanently restrict vehicle access to these berms, however, for budget reasons, permanent barriers to restrict vehicle access to these areas are unlikely to be put in place this financial year (2009/10).
6. 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.

9 Cont'd

7. The Parking Enforcement Team, however, is proactively enforcing parking on grass berms and verges through 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. Appendix 2 details the number of infringements issued for parking in these no-stopping areas, the total being 10 for 2008/09. 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, the matter cannot be enforced.
8. The Committee should also 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 is likely to come into effect in 2009/10. 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 50 kilometres per hour. The Council's submission approved of this rule amendment but suggested that the speed limit for an urban traffic area be raised to 60 kilometres per hour. As at the date of this report, 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.)
9. 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 the Transport and Greenspace Unit, which are then forwarded to the appropriate Community Board for determination.
10. 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 which 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.

9 Cont'd

11. 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 staff 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 Leaders' attention for consideration as to whether it is in the public interest to pursue a prosecution.
12. **Appendix 2** is a summary of the data for all four quarters reported to the Regulatory and Planning Committee.

Adequacy of Parking Enforcement Data Collection as it relates to Parking Nuisances:

13. At the Regulatory and Planning Committee meeting on 4 December 2008, staff were directed to report annually on parking related complaints that are currently not enforceable under the Traffic and Parking Bylaw 2008.
14. The number of complaints/nuisances received by Parking Enforcement that fall outside either current legislation or bylaw offences is minimal. **Appendix 3** details 30 complaints that were received for the year 2008/09. Note the data represents nine months of the year, as the process to capture this data was put in place with the Council Call Centre starting 1 October 2008. Appendix 3 also details that only three categories of unenforceable complaints were received: Advertising signs on vehicles; persons sleeping in vehicles (cars and campervans in public places), and motor scooters/motorcycles parked in pushbike stand areas.
15. At the Regulatory and Planning Committee meeting on 2 March 2009, staff were asked to report back on all complaints received by the Council relating to sleeping in vehicles in public places, and any complaints regarding defecating/urinating in public places linked to persons sleeping in vehicles. Appendix 3 details that the Council has received a total of 14 complaints in regards to persons sleeping in vehicles. No complaint data is captured by the Council in regards to defecating/urinating in public places, as these complaints are referred to Police.
16. At the Regulatory and Planning Committee meeting on 2 March 2009, the Committee sought clarification as to how the call centre dealt with multiple calls in relation to the same complaint. The Call Centre either create a separate Customer Service Request (CSR) for each new complaint received or a note is made on an existing CSR relating to the same issue that a further complaint has been received in relation to the matter. All CSRs relating to the data contained in the attached Appendices, have been manually checked to ensure all complaints received have been reported.

9 Cont'd

Memorandum of Understanding - Development with Police:

17. On 19 June 2008 the Council passed a resolution directing staff to "begin work on developing a Memorandum of Understanding with the NZ Police". A draft Memorandum of Understanding has been forwarded to Police for review. Further meetings with Police are scheduled over the next few months with the view to reaching agreement on the contents of the memorandum.

FINANCIAL IMPLICATIONS

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

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

19. Not applicable.

LEGAL CONSIDERATIONS

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

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

21. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

22. Not applicable.

CONSULTATION FULFILMENT

23. 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 this quarterly report for information.

10. PLANNING ADMINISTRATION MONTHLY REPORT (DECEMBER 2008 TO JULY 2009)

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

PURPOSE OF REPORT

1. This is the tenth 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 eight months from December 2008 to July 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**).
 - Monthly decision of interest (**Appendix 5**) - Retrospective consent to operate a campervan and motorhome rental depot from the site at 125 Hussey Road.

EXECUTIVE SUMMARY

3. This report is designed to keep the Regulatory and Planning Committee and Community Boards appraised 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 a 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 welcome.

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.

10 Cont'd

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

11. Not applicable.

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 this report for information.

11. REQUEST FOR PUBLIC PLACES POLICY WORKING PARTY TO REPORT DIRECTLY TO THE COUNCIL RE TIMELINES FOR THE REVIEW

General Manager responsible:	General Manager Strategy and Planning Group, DDI: 941 8281
Officer responsible:	Programme Manager Strong Communities
Author:	Teena Caygill, Senior Policy Analyst

PURPOSE OF REPORT

1. To seek the approval of the Regulatory and Planning Committee that the Public Places Policy Working Party report directly to the Council on the matter of timelines; and that the Regulatory and Planning Committee resolve to add Councillor Claudia Reid to the membership of the Working Party.

EXECUTIVE SUMMARY

2. On 2 February 2009, the Regulatory and Planning Committee agreed to appoint a working party with the following terms of reference:

To work with staff to discuss the new operational policy relating to matters covered by the Public Places Bylaw and to make recommendations to the Regulatory and Planning Committee to that effect.

3. The operational policy is to be developed from a review of 12 existing policies. The policies all relate to the clauses in the Bylaw that regulate commercial activities and obstructions in public places (clauses 6 and 7). The 12 policies that need to be reviewed can be broadly grouped into four subject areas: structures on roads; signboards; market stalls; and busking.

Request to report directly to the Council

4. At its recent meeting (24 August 2009), the Working Party asked staff to prepare a timetable for the review of the 12 policies that sit under the Public Places Bylaw 2008, including restructuring the grouping of the reviews, and to present this information directly to the Council at its September meeting.
5. The terms of reference for the Working Party would normally require such a report to go to the Regulatory and Planning Committee before being referred to the Council. In this case, the timeframes are very tight, and so the Working Party has asked that approval be sought to go to Council directly.
6. The Working Party and staff have been working on the reviews for more than six months, but progress has been slow. The Working Party wishes to expedite things at this stage in order to set out an agreed process and timeline that will allow relevant parts of the reviews to be completed within the current Council term, and to ensure that the Council as a whole is satisfied with this approach.

Request to add to the membership of the Working Party

7. At its 2 February meeting, the Regulatory and Planning Committee also agreed that the membership of the Public Places Policy Working Party consist of Councillors Johanson, Shearing, Wall, and Wells, and that Councillor Wells be appointed as Chairperson.
8. Councillor Claudia Reid has expressed an interest in being on the Working Party. The Working Party agreed at its recent meeting to seek a resolution from the Regulatory and Planning Committee to add Councillor Reid to its membership.

FINANCIAL IMPLICATIONS

9. None applicable.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. Not applicable.

11 Cont'd

LEGAL CONSIDERATIONS

11. Not applicable.

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

12. Not applicable.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

13. Not applicable.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

14. Not applicable.

ALIGNMENT WITH STRATEGIES

15. Not applicable.

Do the recommendations align with the Council's strategies?

16. Not applicable.

CONSULTATION FULFILMENT

17. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee agree that:

- (a) A report setting out a timeline for the reviews can go directly to the Council, without first being considered by the Regulatory and Planning Committee.
- (b) Councillor Claudia Reid be appointed to the Public Places Policy Working Party.

12. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

3. 9. 2009

REGULATORY AND PLANNING COMMITTEE

RESOLUTION TO EXCLUDE THE PUBLIC

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

I move that the public be excluded from the following parts of the proceedings of this meeting, namely item 13.

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

	GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
PART A	13. DRAFT BELFAST AREA PLAN) GOOD REASON TO) WITHHOLD EXISTS) UNDER SECTION 7	SECTION 48(1)(a)

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

Item 13 Conduct of negotiations (Section 7(2)(i))

Chairman's Recommendation: That the foregoing motion be adopted.

Note

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

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

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