

19. 12. 2008

**REGULATORY AND PLANNING COMMITTEE  
4 DECEMBER 2008**

**A meeting of the Regulatory and Planning Committee  
was held on Thursday 4 December 2008 at 9am**

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

**APOLOGIES:** An apology for absence was received and accepted from Councillor Wall.

Apologies for lateness were received and accepted from Councillors Williams and Johanson, who were absent until 9.04am.

An apology for lateness was received and accepted from Councillor Broughton, who was absent until 10.05am and was not present for clause 1 and part of clause 3.

The Committee reports that:

**PART A - MATTERS REQUIRING A COUNCIL DECISION**

**1. GAMBLING CONSENT APPLICATION – SUMNER RSA**

<b>General Manager responsible:</b>	General Manager Regulation and Democracy Services, DDI 941-8462
<b>Officer responsible:</b>	Legal Services Manager
<b>Author:</b>	Judith Cheyne, Solicitor

**PURPOSE OF REPORT**

1. The purpose of this report is to advise the Council on an application by the Sumner-Redcliffs RSA (Inc.) (the RSA) for territorial authority consent under the Gambling Act 2003, for four gaming machines at their venue in Wakefield Avenue, Sumner, and to recommend that it be accepted.

**EXECUTIVE SUMMARY/BACKGROUND**

2. The RSA applied for territorial authority consent from the Council in December 2005 for four gaming machines, and it was granted by Council staff in January 2006. However, Council staff did not realise that in December 2005 the RSA's gambling licence from the Department of Internal Affairs (DIA) had been surrendered for more than 6 months. This meant that, in accordance with the Council's Gambling Policy applicable at that time, the consent should not have been granted.
3. Council staff had sought advice from DIA (for the purposes of the consent application) about the number of machines operating at the RSA venue in September 2003. DIA gave this information (confirming that it was four machines) but did not tell the Council that the venue did not have a current licence. The Council's application form had a section requiring the applicant to provide documentation relating to "DIA venue approval verification". The RSA provided a copy of their previous licence with their application, but that licence had expired on 30 September 2003. Staff did not seek further information from the applicant as to whether it held a current licence.

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4. The RSA needed the consent from the Council so it could apply for a new licence from DIA for the same number of machines as it had previously operated. DIA granted the licence even though it should have been aware that the territorial authority consent was not the correct one for the licence that it granted<sup>1</sup>. The consent was granted under section 98(d) of the Gambling Act 2003 but the RSA actually needed a section 98(c) consent.
5. In July 2007 New Zealand Community Trust (NZCT) emailed the Council questioning the issue of the consent to the RSA. The Council's response to NZCT was also copied to DIA, and it noted that if NZCT were correct, and the RSA had not held a licence for over 6 months, then the Council should not have issued the consent, but neither should DIA have issued the licence. The Council considered that it was an issue for DIA to resolve. This was because the Gambling Act 2003 allows for DIA to cancel or suspend licences, but does not provide for a Council to take any similar actions in relation to consents it has issued.
6. At a meeting in September 2007 at the RSA's premises, Council staff advised the RSA of the situation as it stood at that time: that it appeared the Council should not have issued the consent, and that DIA would be advised and would likely follow the matter up with the RSA. (The RSA are correct in their application when they say copies of the correspondence with NZCT and DIA were not provided at that time, but that does not mean they were not aware of the issue about their consent.)
7. Despite DIA advising the Council in November 2007 that it would be contacting the Caversham Foundation (who was the holder of the licence), it appears it did not, and only took action to cancel the licence in the middle of 2008 (as a result of another application being made to them concerning the RSA premises). In order for the RSA to keep operating its four gaming machines the RSA needs to obtain a new licence from the DIA, and in order to apply for that licence they need a new territorial authority consent under the Gambling Act 2003.
8. The Council's current (2006) Gambling Policy does not provide for territorial authority consent to be granted in this situation under section 98(c). However, last year under similar circumstances, the Council granted the Christchurch Working Men's Club (CWMC) a territorial authority consent, by applying section 80 of the Local Government Act 2002, and making a decision that was inconsistent with the policy.
9. The RSA asks the Council to deal with its application on the same basis as the CWMC application and sets out the reasons why the RSA considers the consent should be granted (see **Attachment 1**). In summary, the RSA contends that the Council's aims and policies are still being achieved if a new consent is granted to them, because in the Sumner area the number of machines and sites in total has reduced. Allowing the RSA to continue with four machines still means a total reduction of 22 machines in the Sumner area. They also point out that they have operated and will continue to operate their machines in a responsible manner, and that there is a positive impact for the community in the RSA having the machines because of the grants the RSA is able to make to local groups such as the Surf Life Saving Club and Life Boat Institution. The RSA application also points out that the RSA has a mature membership, and they are the primary users of the machines, and are strongly in favour of keeping them. The RSA has a strong commitment to the welfare of its members, and the Sumner-Redcliffs RSA Welfare Trust Inc. is a separate body established for this purpose.
10. It should also be noted that, although not referred to in the application, the RSA representatives who met staff in September 2008, advised that the reason the RSA had not held a licence for a time in 2004/2005 was that due to a number of different factors members attending the RSA had declined. When it came to the end of the year the disbursement of grants was below what DIA required, and the RSA had to surrender their licence. From 2005, the RSA had a change of management, the premises were rebuilt/refurbished, and the numbers of members and finances improved. The RSA decided it was worthwhile to reinstate its four gaming machines, not realising that because their licence had been given up that meant they were in a different position than if the licence had continued from 2003.

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<sup>1</sup> The DIA fact sheet on class 4 gambling notes that the "*Department will refuse to consider an application for a licence or an amendment unless the relevant territorial authority consent has been granted and said consent is proper and lawful in all respects."*

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11. If the Council decides to grant the consent in accordance with section 80 then it needs to clearly identify the inconsistency, the reasons for the inconsistency and also identify any intention to amend the policy to accommodate the decision. Further information on these requirements is set out in the legal considerations section below. Other relevant considerations for the Council in determining whether or not to grant the application in this case are outlined in the following paragraphs.
12. In the Gambling Act 2003, clubs (which are by definition bodies that are “not for pecuniary gain”) are treated differently from other corporate societies, by being given “special” treatment in sections 95 and 96, which allow for clubs to have a larger number of gaming machines at their venues than other “non-club” venues, whether as a result of a merger of clubs or not.
13. A review of the other consents issued by the Council under section 98(d) of the Gambling Act 2003 has been carried out and it appears there is only one other consent that the Council has issued in respect of a club (besides the RSA and CWMC consents). That was for the Hoon Hay Club (consent was granted in January 2005) but that club is now no longer in operation. All the other consents were issued in respect of licensed premises which were not clubs, and were all issued in 2004.
14. This means that the same type of situation, where the Council granted consent to a club under its former Gambling Policy, and it may have been under the wrong provision of the Gambling Act, giving rise to problems for the club with DIA, cannot occur again. Since November 2006, the new policy has been in force and it does not provide for the Council to grant any consents except where there is a merger of clubs under section 95, so there should also not be any similar problems arising in relation to the current Gambling Policy.
15. Although the RSA situation is not exactly the same as the CWMC situation, so the advice from Buddle Findlay (received at the time of the CWMC matter) is not exactly on point,<sup>2</sup> it does provide the basis for the Council to act in a similar way in this case, if the Council chooses to do so. If the Council does, then it will need to note that the reason for the inconsistency is that this situation was also not a matter which was directly contemplated by the Council in developing its policy. If the Council were to grant this consent, then in relation to the “sinking lid” approach which the Gambling Policy provides for (by only allowing for new consents in very limited circumstances) there would, technically, be an increase in machines. But allowing the RSA to have four gaming machines at this venue means this is the same number at that venue as when the Gambling Act 2003 came into force and the Council adopted its first policy. So in this sense there is no increase in gaming machines and it can therefore be regarded as being in accordance with the spirit of the policy.
16. The Council really only has two practicable options in this case: to approve or decline the application. Deferring the application (until say the Policy is reviewed next year) would only leave the RSA in limbo for that time, and may not change the ultimate result. When the CWMC application was deferred, DIA allowed them to keep operating their machines during the intervening period. The RSA are not able to do so in this case because DIA has cancelled its licence.
17. The recommendation is that the Council approve the RSA’s application, under section 98(c) and 100 of the Gambling Act 2003, and by applying section 80 of the Local Government Act 2002, for all of the following reasons (and as detailed above):
  - this venue is a not for profit club;
  - the Council will not be faced with this exact situation again
  - the application is only for four gaming machines (which is the same number that was at this venue in September 2003), and
  - for the other reasons outlined in the RSA application (summarised in paragraph 9 above).

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<sup>2</sup> Which emphasised the fact that the CWMC needed the section 98(c) consent for the purposes of section 96 of the Act (a club seeking approval for 18 machines), but that the Council had never directly contemplated section 96 in developing its policy, and that allowing for a consent for 18 machines would still ultimately be acting in accordance with the spirit of the policy because there was no increase in machines in Christchurch.

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**FINANCIAL IMPLICATIONS**

18. There are no financial implications in relation to granting this consent.

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

19. Not relevant to this matter.

**LEGAL CONSIDERATIONS**

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

20. Section 100 of the Gambling Act 2003 requires that a Council must "*consider an application for a Territorial Authority Consent in accordance with its class 4 venue policy*". The Council's Gambling Venue And Totalisator Agency Board (TAB) Venue Policy adopted on 23 November 2006 provides:

- "1. *The Christchurch City Council will not grant consent under section 98 of the Gambling Act 2003 to allow any increase in class 4 gaming venues or class 4 machine numbers except in the circumstance set out below.*
2. *The Christchurch City Council will grant a consent where two or more corporate societies are merging and require Ministerial approval to operate up to the statutory limit in accordance with section 95(4) of the Gambling Act 2003. The total number of machines that may operate at the venue **must not** exceed 18 machines.*
7. *If the Council amends or replaces this policy, it is required to do so in accordance with the special consultative procedure outlined in the Local Government Act 2002.*
8. *In accordance with the Gambling Act 2003, the Council will complete a review of the policy within three years of its adoption and then every three years thereafter."*

21. The only consent the Council can grant is where two or more corporate societies are merging and seeking Ministerial approval under section 95, and the resulting number of machines will not exceed 18. The Gambling Policy does not provide for, or discuss in any way at all, the situation in which the RSA finds itself. This is similar to the CWMC situation, for which the Council granted territorial authority consent last year, after receiving external advice from Buddle Findlay (see report to Council on 4 October 2007:

<http://www.ccc.govt.nz/Council/proceedings/2007/October/CnclCover4th/SuppDeferredApplicationCWMC.pdf>

22. In the legal advice obtained in relation to the CWMC situation Buddle Findlay advised:

21. To grant a consent in terms of section 98(c), and 100, of the 03 Act to this Club in the expectation that it will use that consent to make application to the Minister for consent to run 18 machines under section 96 of the Act (absent any merger) would be clearly inconsistent with clause 1 and significantly inconsistent in my view with clause 2 of the 2006 Class 4 venue policy. On the other hand in relation to the spirit and intention of the 2006 policy, to grant such a consent under section 80 of the 02 Act would be consistent with the big picture and fundamental principle evident from clause 1 of the 2006 policy albeit not the current wording of the 2006 class 4 venue policy. So long as the Council was prepared to resolve **now** to review and amend in future the Class 4 venue policy to accommodate the decision it proposes now to consider making, in terms of section 80 of the 02 Act, making such an inconsistent decision now is a legal possibility.

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23. It is clear from this advice the Council is able to make a decision that is inconsistent with its Gambling Policy provided it complies with section 80 of the Local Government Act 2002:

*“(1) If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify —*

- (a) the inconsistency; and*
- (b) the reasons for the inconsistency; and*
- (c) any intention of the local authority to amend the policy or plan to accommodate the decision.*

*(2) Subsection (1) does not derogate from any other provision of this Act or of any other enactment.”*

24. The section 80 factors which the Council must clearly identify in making its decision are as follows:

- The inconsistency – it is clear from the express wording in the Gambling Policy that it does not provide for a consent to be granted in these circumstances.
- The reasons for the inconsistency – the Buddle Findlay advice relating to the CWMC application discusses the matters the Council considered and rejected in relation to the 2006 Gambling Policy:

18. I appreciate that in 2006 the Council's Hearing Panel (and then the Council) considered, and rejected, proposed amendments to the 2004 Class 4 venue policy concerning the possible transfer of gaming machines from one venue to another. However, as stated, I do not understand that that was the consideration and rejection of circumstances relevant to clubs caught by section 98(c) and wanting to use section 96 to obtain Ministerial approval. To be fair to Council officers who have given advice to date concerning the Club's present predicament after the adoption of the 2006 Class 4 venue policy, no one seems to have focussed (recently) on the unique and particular circumstances Parliament has specified and provided for in section 96 of the 03 Act. The 2006 Class 4 venue policy deals with section 95 circumstances which have been addressed. The 2006 propositions considered and rejected by Council involved as I understand matters, totally different circumstances. For example:

- the 2006 discussion applied to **all** Class 4 venues (not just clubs);
- the maximum machine numbers were **9** (not 18 as per section 96);
- section 96 was **not referred to** at all;
- there were severe specific geographical/location details;
- the concern and a significant reason for the rejection of these proposals was a **fear<sup>1</sup> of commercial tradeability** in venue/operation entitlements (completely inapplicable to not-for-profit clubs with rights under section 96).

**1 Cont'd**

While the CWMC application related to section 96, it is also clear from these factors that the Council never considered the type of situation the RSA finds itself in – a not for profit club needing a section 98(c) consent to allow it to reinstate machines that were below the maximum allowable, and that were in operation at the premises when the Council adopted its first policy/when the Gambling Act first came into effect, and

- Any intention to amend the policy to accommodate the decision – under section 102 of the Gambling Act 2003 the Council is required to review its Gambling Policy every 3 years. This means that the Gambling policy must be reviewed again next year, by November 2009. It is recommended that the Council identify that its intention is not to amend the policy at this time to accommodate its decision (if it decides to grant the application, but that during the upcoming review of the Policy the matter of section 98(c) consents being granted in this type of situation, and consents for the purposes of section 96 (as well as section 95) be considered as part of that review.

**Alignment with LTCCP and Activity Management Plans**

25. Page 113 of the LTCCP, level of service under democracy and governance.

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

26. As above.

**ALIGNMENT WITH STRATEGIES**

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

27. Declining the application will align with some of the principles in the Council's Strong Communities strategy, but possibly not others, particularly if declining the application means the RSA will no longer be able to make grants to community groups in its area.

**CONSULTATION FULFILMENT**

28. The Council has an idea of community views generally in relation to gambling, although not in relation to this specific matter, as a result of submissions on the Gambling Policy in late 2006. In relation to internal consultation there has been liaison with the Inspections and Enforcement unit who administer consents under the Gambling policy.

**STAFF RECOMMENDATION**

That the Council grant the Sumner-Redcliffs RSA (Inc.) territorial authority consent application under section 98(c) of the Gambling Act 2003 and that the Council resolve (in order to comply with section 80 of the Local Government Act 2003) that:

- (a) A territorial authority consent is granted to the Sumner-Redcliffs RSA (Inc.) under sections 98(c) and 100 of the Gambling Act 2003 and by applying section 80 of the Local Government Act 2002, for the Sumner-Redcliffs RSA (Inc.) to operate four gaming machines from its premises at 34 Wakefield Avenue, Sumner, Christchurch.
- (b) This decision is made in the knowledge that it is inconsistent with the Council's Gambling Venue and Totalisator Agency Board Venue Policy.

**1 Cont'd**

- (c) The reasons for the inconsistency are that when the Council adopted the Gambling Venue and Totalisator Agency Board Venue Policy in 2006 the situation which the Sumner-Redcliffs RSA (Inc) is in, was not a matter that was directly contemplated by the Council in developing the Policy. That is, where a not-for-profit club needs a section 98(c) consent to allow it to recommence operation of the same number of machines that were in operation at the premises when the Council adopted its first Gambling policy, because, although the Department of Internal Affairs granted a licence to the club on the basis of a section 98(d) consent issued by the Council it then cancelled the licence, so the club has no other options that would allow it to continue to operate its machines.
- (d) The Council does not intend to amend the Gambling Venue and Totalisator Agency Board Venue Policy to accommodate the decision at this time, however, when the Council reviews the Policy in 2009, the matter of section 98(c) consents for clubs, and for the purposes of section 96 (in addition to section 95), will be considered as part of that review.

**COMMITTEE RECOMMENDATION**

That the staff recommendation be adopted.

**2. TERMS OF REFERENCE FOR STRATEGIC REVIEW OF HERITAGE POLICY**

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8281
<b>Officer responsible:</b>	Programme Manager Liveable City
<b>Author:</b>	Ingrid Gunby, Strategy Advisor

**PURPOSE OF REPORT**

1. The purpose of this report is for the Council to approve the Terms of Reference for a strategic review of the Council's approach to heritage protection.

**EXECUTIVE SUMMARY**

2. The Council resolved at its meeting on 29 May 2008 that the Council should "give urgent priority to developing a strategy for the retention of heritage buildings in our city". This resolution reflects concerns about the ongoing threats to the city's heritage and a desire to respond to these threats more actively and effectively.
3. The importance of preserving the city's built heritage is recognised in a number of Council policies and strategies, and in the Christchurch City and Banks Peninsula District Plan. The Council currently uses a variety of tools to help protect and manage that heritage—including incentive grants for conservation and maintenance, line-item funding for specific heritage projects, covenants, and the provision of specialist advice, as well as regulation (see Attachment 2). The Council, however, has not clearly defined either its strategic heritage objectives, or the scope of its role in heritage protection and management.
4. The listings in the City and District Plan do identify around 900 significant buildings and other items, but regulation through the Plan cannot provide effective protection for heritage buildings in the absence of a viable economic use being found for them. Continued use of -and finding new uses for- these buildings is made more challenging by maintenance costs, and in particular by the cost of, and complex regulatory processes associated with, upgrading buildings to meet Building Code requirements, especially those relating to seismic strengthening. Furthermore, an approach focused on listing and regulating activities relating to individual heritage items will not address community concerns about the loss of historic character, or capitalise on this character as the city, and surrounding settlements, develop.

**2 Cont'd**

5. Success in retaining the city's built heritage will ultimately depend on the systematic integration of heritage management into the Council's wider approach to the city's development, and in particular on facilitating the adaptive reuse of both listed heritage and character buildings. As the Greater Christchurch Urban Development Strategy (UDS) is translated into programmes for central city revitalisation and urban intensification, the Council's approach to heritage needs to be aligned with this work
6. An agreed, integrated approach is needed, that:
  - (a) Defines the Council's strategic heritage objectives, and the Council's role in achieving these;
  - (b) Identifies the most effective "toolkit" of regulations, incentives and other approaches to achieve these objectives and priorities; and
  - (c) Integrates the management of heritage with the achievement of the Council's wider strategic objectives for urban development, intensification, and central city revitalisation.

Terms of Reference are attached (Attachment 1) for a strategic review of the Council's heritage policy and approaches, that will lead to a recommended package of changes to heritage policies, incentive schemes, District Plan provisions and regulatory processes. This review would not focus on identifying new items for regulatory protection, but rather on the value of our heritage and how best to achieve good heritage outcomes. It would be carried out between December 2008 and December 2009, with a final report to the Regulatory and Planning Committee and then to the Council in November-December 2009.

7. A number of related projects are currently underway or proposed, including the Heritage Plan Change, Central City Revitalisation, the Strategic Intensification Review, the Incentives Policy investigation, and the review by 2010 of the Earthquake Prone Buildings Policy. Attachment 1 also shows the relationship between the Heritage Review and these other projects.

**FINANCIAL IMPLICATIONS**

8. The review can be undertaken within existing budgets.

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

9. Yes.

**LEGAL CONSIDERATIONS**

10. The decision to undertake a policy review has no legal implications.

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

11. See above.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

12. The review aligns with the 2006-16 and draft 2009-19 Activity Management Plan for Heritage Protection, in that it would establish the overall framework within which to pursue the initiatives identified in the Plans. Some performance targets in the 2009-19 Plan might need to be revisited in the light of the review's recommendations, however.

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

13. See above.



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**ALIGNMENT WITH STRATEGIES**

14. The policy review would ensure that the Council's approach to heritage management is internally consistent, and aligned with other Council strategies such as the Greater Christchurch Urban Development Strategy and the Central City Revitalisation Strategy.

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

15. See above.

**CONSULTATION FULFILMENT**

16. No consultation is required at this stage, but given the considerable public and stakeholder interest in heritage issues, it is proposed that there be two phases of consultation during the review. The first, focussed on identifying the issues and options, would involve key stakeholders, including Community Boards, selected property owners and developers, and heritage interest groups. This would take place in February-March 2009. The second, wider, phase of consultation would be undertaken in August-September 2009 once the draft priorities and approaches have been identified. A communications plan is currently being prepared.

**STAFF RECOMMENDATION**

That the Council approve the attached Terms of Reference for a review of the Council's strategic heritage objectives and its approaches to heritage protection and management, to be undertaken between December 2008 and December 2009.

**COMMITTEE RECOMMENDATION**

The Committee **recommends** to Council that it:

- (a) Support the strategic review.
- (b) Resolve that the heritage plan change currently being prepared proceed in concert with this review.

**BACKGROUND (THE ISSUES)**

17. The Council resolved at its meeting on 29 May 2008 that the Council should "give urgent priority to developing a strategy for the retention of heritage buildings in our city". The immediate impetus for the resolution was the decision that Council would retain Grubb Cottage, and fund the conservation, stabilisation and future maintenance of the building, rather than continuing to pursue the transfer of the property to another owner as was envisaged when it was purchased using the Historic Places Fund in 2006.
18. The Grubb Cottage process highlighted a number of issues with the Council's current approach to managing the City's heritage. In particular, it raised questions about:
- (a) Processes for identifying and prioritising heritage buildings (and other items) for protection, including the need for a realistic assessment of the economic viability of different protection options; and
  - (b) How best to use the available resources, and policy mechanisms, to achieve not just the protection of individual properties, but the Council's overall heritage objectives.

These heritage objectives need to be considered in the light of its wider social, cultural and city development objectives, including the need to retain and enhance the historic character—which is mostly not listed—of the central city, suburbs and smaller settlements as they grow and redevelop.

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**Legislative Context**

19. The Resource Management Act 1991 (RMA) requires territorial authorities to recognise and provide for the protection of historic heritage from inappropriate subdivision, use, and development, as a matter of national importance, and defines "historic heritage" as including historic sites, structures, places and areas; archaeological sites; sites of significance to Maori, including wahi tapu; and surroundings associated with these.
20. The RMA does not require the blanket protection of historic heritage, but rather its protection from *inappropriate* subdivision, use, and development. Thus, local authorities need to determine:
  - (a) The nature of the heritage resource in their area,
  - (b) What would constitute sustainable management of the resource: that is, what use or development is and is not appropriate, and
  - (c) The most efficient and effective ways of achieving those sustainable management objectives.

The RMA does not assume that regulation through a district plan will be the sole—or even the primary—tool for managing heritage. Rather, it envisages a range of non-regulatory methods—for example, education to increase public awareness of the value of heritage; the direct provision of services, such as the ownership and management of some heritage properties; and incentives for property owners—being used alongside regulation to achieve the sustainable management of heritage.

21. What counts as "heritage", and what use or development of it is appropriate, are to some extent subjective judgements. Processes for public input into district plan processes offer one opportunity for the community to express its views on heritage issues and priorities. The Community Outcomes process under the Local Government Act 2002 (LGA) is another way in which the community could identify the heritage outcomes that it considers important, although to date Community Outcomes across New Zealand have tended not to be sufficiently detailed to provide much guidance on community views of heritage issues.
22. The Councils' approach to heritage management must also take into account (1) the fact that resources (both public and private) are limited, and (2) the need to distribute the costs and benefits of heritage protection fairly between property owners and the wider community. There is relatively little scope to protect most heritage properties in the absence of a viable economic use being found for them. Furthermore, Building Code requirements, especially those relating to seismic strengthening, can impose high costs on heritage property owners, and so reduce the economic viability of these buildings. Although the Building Act 1991 allows councils to waive some code requirements where full compliance would result in a major and unacceptable loss of heritage value, the Christchurch City Council's policy is that heritage buildings should be as close as practicable to full code compliance (66% or, occasionally, 50%).

**Issues for Christchurch City Council**

*Identification of the historic heritage resource*

23. In Christchurch, what counts as historic heritage is defined, in effect, through inclusion in the Christchurch and Banks Peninsula District Plan's list or inventory of heritage buildings, places and objects. There are just under 600 items listed in Christchurch, and around 300 on Banks Peninsula, and they are grouped according to their heritage significance, establishing de facto priorities for heritage protection efforts.

2 Cont'd

24. The listings have shortcomings. They reflect somewhat ad hoc processes of identification of items over a number of years, and they were not prepared on a consistent basis across Christchurch and Banks Peninsula. As a consequence, some aspects of our history are much more heavily represented in the listings than others: churches and large homesteads, for example, feature much more prominently than industrial heritage and workers' accommodation. Archaeological and Maori sites may also not be appropriately represented in the listings. Furthermore, the listings are largely of single items, so do not address either settings or the wider issue of heritage areas.

*The Council's heritage objectives and priorities*

25. Before deciding what, if any, changes should be made to the heritage listings, it is necessary to consider (1) what heritage means for the City and Banks Peninsula, (2) what objectives we should have for the management of our heritage, and (3) whether regulation via listing and Plan rules is the most effective way to achieve these objectives.
26. The Christchurch Community Outcomes express a desire to protect our heritage for future generations. To date, however, the Council has defined its heritage objectives in only the most general terms:
- The Christchurch City Plan has only one heritage objective: "the conservation and restoration of heritage items and values" (4.3). This objective is to be achieved primarily through policy 4.3.1, which seeks "to identify and provide for the protection of heritage items having regard to their significance", and secondarily by increasing awareness of heritage values (4.3.4) and providing assistance to owners of heritage buildings (4.3.5). The outcomes anticipated are broadly described as the "identification and protection" of heritage items, public awareness of their value, and "the responsibility of owners in their protection".
  - The Banks Peninsula section of the plan also has very broad cultural heritage objectives and policies, although it does single out areas of significance to local runanga, waahi tapu, and the preservation of the historical character and streetscape of the Akaroa township, and (in the Residential Conservation Zone chapter) of the Lyttelton and Akaroa residential areas, as of particular importance.
  - The Heritage Conservation Policy (1998; partially updated 2007), sets out broad heritage management "policies" but many are no more than high level goals, such as "to research Christchurch's heritage buildings, places and objects".
  - The *Heritage Values + Vision + Mission* statement, endorsed by the Council in 2004, is a high-level statement of why we value our tangible and intangible cultural heritage, and of the ideal heritage management approach to which we might aspire.
  - The Greater Christchurch Urban Development Strategy (2007) identifies maintaining and protecting the heritage values of established suburbs, rural towns and settlements, as an aspect of the enhanced sense of place it seeks to promote for its communities. The UDS recognises that development can mean the loss of individual heritage items, original settlement patterns, and archaeological sites, but also sees opportunities, through carefully managed change, to enhance heritage townscapes.
27. The approach indicated in the UDS recognises that historic character is an asset: effective management of it promotes cultural and social wellbeing, as well as delivering economic benefits. The protection of significant heritage buildings and other items and places is important in itself, but it is also part of a wider set of strategic objectives. For example, capitalising on historic character is a key element of the Council's strategy for the central city, and it is likely to be an important factor in the success of urban intensification and in the future development of Lyttelton and the communities of the Akaroa Harbour Basin.

2 Cont'd

28. Between 1995 and 2007, 21 listed heritage buildings and other items were demolished or removed from the Christchurch City Plan register for other reasons. None were Group 1—the most significant category—and most were from Group 3 or 4. An average of less than two losses per year from a total of nearly 600 items might—or might not—be considered acceptable, but it should be remembered that the listings do not necessarily reflect any clear strategic objectives, and that this period has also seen incremental change in older areas of the city, through suburban infill, intensification in the inner city and inner suburbs, and the redevelopment of commercial and residential sites. A focus only on individually-listed heritage properties is unlikely either to address ongoing community concerns about the loss of the city's heritage, or to capitalise on Christchurch's unique character.

*The Council's current approach to heritage management*

29. As is the case with many other local authorities, the cornerstone of the Council's approach to heritage management at present is listing and regulation through the City and District Plan, and its efforts to improve the effectiveness of heritage protection have accordingly focused on improving the Plan objectives, policies, and rules. In 2005, in response to a range of concerns about the current heritage provisions in the Christchurch City Plan, the Council released an Issues and Options paper discussing possible changes to these provisions. The primary aim of the recommended Plan Change was to make the Plan's heritage objectives and policies more detailed, specific and directive; it also introduced GIS mapping of all properties, included a more comprehensive list of heritage items, simplified the grouping of listed heritage items, and refined regulatory control of activities, particularly "partial demolition" and "alteration" of buildings. It deliberately did not address issues of areas of historic significance, or archaeological or Maori sites.
30. While the proposed Change would address many problems with the existing Plan provisions (although at present only for Christchurch), it would not address the wider questions of what Council's heritage objectives and priorities are, how these relate to its overall vision for the Christchurch and Banks Peninsula, and how it can use the range of methods at its disposal, in a co-ordinated way, to achieve them.
31. Christchurch City Council currently uses a large number of non-regulatory methods to help retain and preserve heritage buildings and other items (see Attachment 2). These include incentive grants for conservation and maintenance, a revolving fund for the purchase and on-sale of threatened buildings, line-item funding for specific heritage projects, covenants, reimbursement of some fees, research, education and advice. The Council also owns a number of heritage properties, which are used for a range of purposes.
32. These non-regulatory measures have evolved in a somewhat piecemeal fashion over time, and like the City Plan regulations they largely focus on the protection of individual listed items—although the Council does also have grants available to assist with the external maintenance of character houses. They have tended to be largely reactive, and the total package of measures—both regulatory and non-regulatory—has not been assessed as a whole in the light of how the Council is aiming to balance protection, re-use and development, or in relation to its overall strategic objectives—for example, central city revitalisation and urban intensification. The draft 2009-19 Heritage Protection Activity Management Plan signals an intention to become involved in more active partnerships with owners of listed buildings—such as the High Street and New Regent Street initiatives—although at present only one such initiative is expected to be completed every eight years.

*Risks of current approach*

33. Under the Council's current approach, there are risks that:
- (a) The Council may not have identified what is important, and why—not just as heritage buildings, places and other items in and of themselves, but as part of a vision for the city's development;

**2 Cont'd**

- (b) There will continue to be inconsistencies between approaches and outcomes in Christchurch and Banks Peninsula;
- (c) We may fail to capitalise on our heritage assets—for example, where there is incremental erosion of strategically significant historic *areas* of the city and smaller settlements;
- (d) The Council may be expected, by some sections of the community, to protect everything that has been identified as part of the heritage resource, as well as many “character” but non-listed buildings and other items;
- (e) Both the Council and the community may have underestimated the resources required to meet these community expectations;
- (f) The Council’s resources may not be used in the most efficient and effective way to protect the heritage items and values that matter most.

**THE OBJECTIVES**

34. The Council needs to:

- (a) Determine its strategic heritage objectives and priorities, and its own role in achieving these;
- (b) Identify the most effective package of regulations, incentives and other approaches to achieve these objectives and priorities; and
- (c) Integrate its management of heritage with the achievement of its wider strategic objectives for urban development, intensification, and central city revitalisation.

**RECOMMENDED APPROACH**

35. To achieve the objectives in paragraph 34, staff recommend a review of the Council’s heritage policy and approaches be undertaken, that would:

- (a) Identify current significant heritage issues in Christchurch and Banks Peninsula, in the context of the Council’s wider strategic objectives;
- (b) Identify key risks and opportunities—again, in the context of the Council’s wider strategic objectives;
- (c) Review how other councils around the country are addressing similar heritage issues;
- (d) Assess how the Council’s current approach to heritage protection and management could be improved, in the light of the issues, risks and opportunities;
- (e) Recommend a package of changes to policies, services provided directly by Council, incentive schemes, City and District Plan provisions and regulatory processes as required; and
- (f) Identify key pieces of further work as needed.

This review—Terms of Reference for which are attached (Attachment 1)—would be focused on the key risks and strategic opportunities for the Council, and on its role and resources. It would be undertaken from December 2008 to December 2009, and could be completed within existing budgets.

36. The Heritage Plan Change that has been prepared (see paragraph 29) is currently around six months away from being notified. Although some elements of the Plan Change are strictly technical—in particular, the introduction of GIS mapping of listed items—it is difficult to separate the technical from the more policy-related provisions. Staff therefore recommend that the Plan Change should not proceed until the heritage review is complete and the Council’s overall approach to heritage protection and management, both through the Plan and outside it, is resolved.

**PART B - REPORTS FOR INFORMATION**

**3. AKAROA HARBOUR BASIN SETTLEMENTS STUDY – PREFERRED OPTIONS FOR CONSULTATION**

This report was forwarded to the Council meeting of 11 December 2008 meeting at Onuku Marae, Akaroa.

**4. PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC & PARKING BYLAW**

The Committee received a report in relation to the Council's resolution of 19 June 2008, 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.
- Report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.

The Committee **decided** to:

- (a) Receive this report for information.
- (b) Approve the format and content of this report for future reporting on a quarterly basis.
- (c) Direct staff to report annually on parking-related complaints that are currently not enforceable under the Traffic and Parking Bylaw.

**5. PLANNING ADMINISTRATION MONTHLY REPORT FOR OCTOBER 2008**

The Committee received a monthly report to provide information about resource consent applications received and processed by the Planning Administration and Subdivision teams. It contains information for six months, May to October 2008.

The Committee **decided** to:

- (a) Receive this report for information.
- (b) Direct staff to distinguish in future reports to the Committee limited notification applications and publicly notified applications.

**6. DEPUTATIONS BY APPOINTMENT**

**GAMBLING CONSENT APPLICATION - SUMNER-REDCLIFFS RSA (INC)**

Mr Mark Tranter, Secretary, Sumner-Redcliffs RSA (Inc) was granted speaking rights in regard to clause 1.

Mr Tranter provided the Committee with background information and answered Committee questions. The Sumner RSA concurred with the staff report.

The meeting concluded at 11.40am

**CONSIDERED THIS 19TH DAY OF DECEMBER 2008**

**MAYOR**