

25. 9. 2008

**REGULATORY AND PLANNING COMMITTEE  
4 SEPTEMBER 2008**

**A meeting of the Regulatory and Planning Committee  
was held on Thursday 4 September 2008 at 9.30am**

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

**IN ATTENDANCE:** Councillor Norm Withers.

**APOLOGIES:** Apologies for lateness were received and accepted from  
Councillors Sally Buck and Yani Johanson.

Councillor Yani Johanson arrived at 9.35am and was not present  
for part of clause 4.

Councillor Sally Buck arrived at 9.37am and was not present for  
part of clause 4.

Councillor Mike Wall departed at 11.30am and was not present for  
clause 8 and part of clause 3.

Councillor Bob Shearing departed at 11.55am and was absent for  
part of clause 8.

The Committee reports that:

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

**1. ADOPTION OF REPORT ANNUAL REPORT TO LIQUOR LICENSING AUTHORITY**

<b>General Manager responsible:</b>	General Manager Regulatory & Democracy Services, DDI 941-8549
<b>Officer responsible:</b>	Gary Lennan, Inspections & Enforcement Unit Manager
<b>Author:</b>	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 the District Licensing Agency's proceedings and operations during the year, no later than three months after the end of every financial year. The LLA advises the DLA of the annual report format and the information required in the report. The annual report (**attached**) has followed the required report format.

**EXECUTIVE SUMMARY**

2. This report is required to be submitted to cover the year July 2007 to June 2008. 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.
3. As a result, in the latter part of the year and in particular immediately following the period that this report covers, it has been announced by the Government that there may be significant changes to the Act and accordingly some comments on this have been included in this report.

**FINANCIAL IMPLICATIONS**

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

4. The submissions as recommended have no significant financial implications for the Council.

1 Cont'd

**LEGAL CONSIDERATIONS**

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

5. Yes. Pursuant to the Act, section 105 (1), requires every DLA to prepare and send to the LLA a report of the DLA's 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 2006-16 LTCCP?**

7. Yes. The submission detailed supports the Council's Regulatory Services activities, which includes assessing the potential effects of sale of liquor licences (page 145 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 link 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 Sub-Committee, has taken place.
10. A point of interest that the Regulatory and Planning Committee may care to note, is the view expressed on page 3 of the Annual Report, relating to raising the age to 20 years of age for purchase liquor from an Off Licence. It is the view of the Liquor Licensing Team that raising the age limit will have a positive impact on reducing the levels of intoxication and disorder in the city, as research indicates that 70 per cent of all liquor sales are from Off Licence premises. Raising the age limit will restrict the availability of cheap alcohol to young people from Off Licence premises.

**STAFF RECOMMENDATION**

It is recommended that the Council adopt the **attached** 2007/2008 Annual Report to the Liquor Licensing Authority, pursuant to Section 105 of the Sale of Liquor Act 1989.

**COMMITTEE RECOMMENDATION**

It is recommended that the Council:

- (a) Adopt the **attached** 2007/2008 Annual Report to the Liquor Licensing Authority, as amended, pursuant to Section 105 of the Sale of Liquor Act 1989, subject to item (b) below.
- (b) The clause reading "The agency is of the opinion that the availability and cheap price of liquor via Off Licences is the major contributor. The agency would have liked to have seen a proposal in the Sale and Supply of Liquor and Liquor Enforcement Bill raising the age to 20 years of age for purchase from an Off License as this may have had a major positive impact in this area" being considered separately.

**2. NOTIFICATION OF COUNCIL PLAN CHANGE 8 TO CITY PLAN – REZONING OF 191 WIGRAM ROAD (MUSGROVES SITE) FROM BUSINESS 5 TO BUSINESS 4**

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	David Mountfort, Team Leader, City Plan
<b>Author:</b>	Anita Hansbury, Assistant Planner, City Plan

**PURPOSE OF REPORT**

1. This report is seeking a Council resolution on whether or not to proceed with public notification of proposed Plan Change 8 – Rezoning of 191 Wigram Road (Musgroves site) from Business 5 to Business 4.

**EXECUTIVE SUMMARY**

2. The proposed plan change seeks to change the zoning of the Musgroves site at 191 Wigram Road (Lot 6 DP 73928, comprising 11.1553 ha) from Business 5 (B5) to Business 4 (B4).
3. In 1995 Musgrove Bros Limited lodged a submission to the then Proposed City Plan, seeking the rezoning of the subject site from Rural to Business 5. This land was also encompassed by the Good Shepherd Convent Trust and Others, whose submission requested the rezoning of a substantial area of land in the locality to a mix of Living zones. In 1999 the Council's decision rezoned the Musgroves site from Rural to Living 1A Deferred. Subsequently Musgrove Bros Limited lodged a reference with the Environment Court against the Council's decision. The referrer sought Business 5, or alternatively, Business 4 zoning.
4. The Council officers proceeded to negotiate a settlement for a B4 Zone on the basis that it would be a more suitable zone in terms of the objectives and policies of the Plan and its location adjacent to the newly rezoned Living land. Before an agreement was reached it was determined that the Council was unable to rezone the Musgroves site to B4, as it was beyond the scope of the original Musgroves Bros submission. Instead, the B5 zoning with conditions was agreed to by both parties and the Council agreed to consider the B4 zoning within 18 months of the City Plan being made operative.
5. The City Plan was made partially operative on 21 November 2005. The Council has reassessed the zoning status of the Musgroves site in terms of Section 32 of the Resource Management Act, in accordance with its agreement.
6. The attached report (separately circulated) concludes that the proposed change of zoning to B4 is a more efficient and effective means of achieving the City Plan's objectives and policies than the current B5 provisions.

**FINANCIAL IMPLICATIONS**

7. There are no direct financial considerations beyond staff time covered by existing unit budgets.

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

8. The costs of public notification are able to be covered by existing unit budgets.

**LEGAL CONSIDERATIONS**

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

9. Section 32 of the Resource Management Act (RMA) requires the Council to undertake an analysis of the costs and benefits of any potential plan change, so that the Council can be satisfied that the proposed plan change is a more efficient and effective method of achieving the Plan's objectives and policies than the current provisions. (The section 32 report has been separately circulated to members and a copy will be available at the meeting.)

**2 Cont'd**

10. There is a legal process set out in the RMA which must be followed. It includes public notification of the plan change followed by submissions, reporting, hearings, decisions and possible appeals. It is a process which is very familiar to the Council and should create no particular risks or liabilities if followed correctly.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

11. Supports the LTCCP City Plan measure of 10 variations or plan changes being prepared and notified annually.

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

12. As above.

**ALIGNMENT WITH STRATEGIES**

13. The Section 32 report (separately circulated) demonstrates that the proposed plan change more effectively and efficiently meets the objectives and policies of the City Plan than the current provisions.
14. The proposed plan change does not conflict with the recently adopted Urban Development Strategy.

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

15. As above.

**CONSULTATION FULFILMENT**

16. The City Council has consulted all near neighbours, the local residents groups, the relevant community board, Environment Canterbury and the local tangata whenua about the proposed rezoning, at the beginning of the review process in late 2006. Aidanfield Holdings Limited, the developer of the neighbouring residential properties, and the owner of the site expressed their support for the proposed plan change. Environment Canterbury expressed their concern over the issue of the use of hazardous substances on the site and the potential for contamination of the underlying aquifer. Their concerns have been addressed in the proposed provisions regarding the storage and use of hazardous substances on the site, as well as the proposed groundwater protection provisions. It is noted that public notification of the proposed Plan Change will enable the community to have their say through submissions and a public hearing.

**STAFF RECOMMENDATION**

It is recommended that the Council:

- (a) Adopt the attached (separately circulated) assessment under Section 32 of the Resource Management Act.
- (b) Publicly notify Plan Change 8 to the City Plan.

**RICCARTON/WIGRAM COMMUNITY BOARD CONSIDERATION**

The Riccarton/Wigram Community Board considered the above report at its meeting on 5 August 2008.

The Board resolved that the staff recommendation be adopted.

## 2 Cont'd

### COMMITTEE RECOMMENDATION

It is recommended that the Council:

- (a) Adopt the attached (separately circulated) assessment pursuant to Section 32 of the Resource Management Act.
- (b) Publicly notify Plan Change 8 to the City Plan.
- (c) Appoint a Panel comprising three elected representatives, to hear Plan Change 8 to the City Plan.

### BACKGROUND AND DISCUSSION

#### The Plan Change

17. The purpose of Plan Change 8 is to rezone the Musgroves site at 191 Wigram Road, from Business 5 (B5) to Business 4 (B4). The subject site comprises 11.1553 ha and is occupied in part by a recycling business for demolition building materials which was established in 1972 through a resource consent process.
18. The current Business 5 zone provides for larger scale industrial uses with associated adverse effects such as high traffic generation, noise and hazardous substances. The uses associated with the zone may conflict with the neighbouring residential activities and give rise to reverse sensitivity.
19. The proposed Business 4 zone is intended to accommodate light industrial activities, warehousing, service industries, some commercial activities like offices and limited retail activities. The zone standards exclude or control activities with a potential to have detrimental impact on adjoining living zones through stricter limits on the scale of buildings, noise and other nuisance effects. The higher standards of amenity within Business 4 zones are making them more compatible with adjoining sensitive zones such as living zones.
20. Rezoning of the site to B4 will allow the existing business activity to operate as a permitted activity, without the need for resource consent applications. Development of the remainder of the site according to B4 standards would provide for activities better suited to the site specific constraints and more compatible with the surrounding sensitive zones. In reflection of the characteristics of the land and the associated constraints the plan change introduces alternative, site specific standards and a development plan outlining some of the requirements and restrictions affecting future re-development of the site.
21. The main justification for the change is the fact that the current B5 zoning was never considered an acceptable zone for this site and was only the result of a lack of scope within a court reference. Comments received from various departments of the Council and commissioned reports provide grounds for the site specific provisions. These are discussed below in the Description of Issues.
22. A copy of the proposed plan change is separately circulated.

#### Description of the Site

23. The Musgroves site adjoins a Living 1A zone to the south west and south east, Open Space 2 zone to the north east and Special Purpose (Wigram) zone (Areas A and B) to the north east. The areas marked 'A' are being considered for re-development for industrial/commercial and residential activities, as part of the South-Western Area Plan for Christchurch urban growth with residential development being proposed across Wigram Road from the site.

**2 Cont'd**

24. The south-eastern part of the site is subject to the Transit New Zealand designation for the Southern Motorway extension which will separate the site from the Living zones in the Aidanfield development. The proposed Aidanfield Drive extension will separate the site from the Broken Run subdivision on the south-west boundary. Eventually the site will be surrounded by residential development across the roads on three sides and an open space zone on the fourth.
25. Council records identify the Musgroves site, a former quarry back-filled with uncontrolled material, as land subject to potential geotechnical hazard risks associated with ground instability, subsidence, landfill gas, soil contamination and potential for ground water contamination. This may impose constraints on the development of the site and specific investigation of remediation options will need to be undertaken at the time of development.
26. Careful management of the development of the site and of stormwater disposal will be required in order to avoid any surface and in-situ contaminants entering the groundwater and/or the Heathcote River system. The storage and handling of hazardous substances on the site is also restricted due to the potential for groundwater contamination.
27. The site is currently not connected to a sewer system. The Musgroves site is part of the Halswell contribution scheme for sewer which is designed to a capacity suitable for residential zoning. Wastewater discharge from the site is therefore limited to a volume consistent with residential development rather than "wet" industrial activities often associated with B5 zoning.
28. The existing B5 provisions contain site specific rules relating to setbacks, landscaping, wastewater and groundwater protection aimed at avoiding, mitigating or remedying adverse effects of possible B5 industrial development on the Musgroves site.

**Description of Issues**

29. Plan Change 8 (separately circulated) provides details of the proposed changes to the City Plan. The Section 32 assessment accompanying the plan change provides a description of the site and its environs and the full background and reasons for the proposed changes. The proposed rezoning is sought to provide for viable development options for the site and for the on-going operation of the existing business. The rules are amended in reflection of the site specific conditions and limitations thus ensuring better environmental outcomes.
30. The greater setback from roads and landscaping requirements specific to the Musgroves site are proposed to be carried over to the B4 zone rules to mitigate adverse effects of larger scale buildings and maintain a higher standard of visual amenity. An increased setback of 70m is introduced from the boundary with the proposed Southern Motorway, as the final width of the constructed motorway will exceed the currently designated area. There is provision to reduce the setback to the standard 6m from the road boundary once the land required for the Southern Motorway has been purchased and the new legal boundary established.
31. The Musgroves site currently adjoins a residential subdivision along its south-western boundary. Future plans will see Aidanfield Drive extended along that boundary, therefore separating the site from the Living zone with a road. The plan change increases the setback requirement along that boundary to 10m to align it with the B4 setback requirement for the road boundaries opposite a Living zone. The proposed exception of 4.5m reduced setback for residential units is also consistent with the current B4 rule.
32. The standard B4 rule requires that 10 per cent of a site is set aside for landscaping. This Plan Change introduces an additional requirement for a 4.5m average width and a 1.5m minimum width of the landscape strip along the frontage of Wigram Road, future Aidanfield Drive extension and the Southern Motorway. This will provide an adequate buffer between the site and the surrounding sensitive zones and allow for a higher standard of amenity.

**2 Cont'd**

33. The existing groundwater protection and wastewater rules for Musgroves are proposed to be carried over to the B4 provisions. The trade waste disposal rate remains constrained by the available sewer capacity. It is recognised that the works to develop the site have the potential to adversely affect the quality of groundwater and the Heathcote River system through the potential to mobilise in-situ contaminants to the underlying groundwater aquifer. Investigation of remediation measures and a site management plan will be required at the time of carrying out the works. There are sufficient rules in the City Plan and regulations under the Building Act to ensure that any potential adverse effects of site development on the groundwater are avoided or mitigated.
34. The ground contamination on this former quarry site precludes the discharge of roof and impervious surfaces runoff water to the ground. Stormwater disposal on the Musgroves site shall be based on a first flush treatment and detention basin system designed in accordance with the development plan shown in Part 3, Appendix 10. This will maintain the groundwater quality, avoid discharge of any contaminated stormwater directly into the Heathcote River system and prevent downstream flooding of the river at peak times.
35. A transportation assessment carried out on behalf of the Council (refer Attachment 3 - separately circulated) has revealed that the proposal has the potential to produce some adverse effects on the surrounding road environment which will require mitigation. The projected high number of vehicle movements generated by the B4 activities on the Musgroves site could create congestion, cause delays at the Wigram Road intersection with the internal site road and compromise the safety of the receiving road environment. To mitigate such potential adverse effects vehicle access to Wigram Road and the future Aidanfield Drive extension is limited to one access point to each. Additionally, the Wigram Road intersection design incorporates right and left turning lanes and a physical seagull island on Wigram Road so that right turning traffic from the site is not opposed by north-bound traffic on Wigram Road. A high traffic generator rule is introduced as a means of staging the development until the Southern Motorway extension is open to traffic and able to reduce the demand and traffic volume on Wigram Road. These measures will also ensure that the anticipated future arterial function of Wigram Road and its efficiency and safety are not compromised.

**CONCLUSIONS**

36. The lighter industrial, business or commercial activities permitted in the B4 zone are likely to be less affected by the site specific constraints and will maximise development opportunities provided by the site. Any adverse effects of the development will be avoided, remedied or mitigated through the proposed site specific provisions relating to setbacks, landscaping, roading, hazardous substances, wastewater and stormwater disposal. The proposed rezoning will provide opportunities for a development which is more suitable for the site conditions while being more compatible with the surrounding sensitive environment.
37. Section 32 of the Resource Management Act (RMA) requires the Council to be satisfied that any proposed plan change is a more efficient and effective means of achieving the Plan's objectives and policies than the current provisions. The Section 32 report concludes that this is the case for the proposed amendments to the City Plan. Public notification of the plan change will also fulfil Council's earlier commitment to review the zoning of the Musgroves site. Should the Council resolve to publicly notify the proposed plan change then those changes will be available for the community to make submissions on. The submitters will then be able to present their submission at a public hearing following which the hearing panel will be obliged to make a recommendation to the Council on whether or not the plan change should be accepted, amended or rejected.

### 3. ESTABLISHMENT OF SUBMISSIONS PANEL

<b>General Manager responsible:</b>	General Manager Strategy and Planning, DDI 941-8177
<b>Officer responsible:</b>	Strategy Support Manager, Strategy and Planning
<b>Author:</b>	Assistant Policy Analyst, Strategy and Planning

#### PURPOSE OF REPORT

1. The purpose of this report is to seek approval to establish a subordinate decision-making body, the "Submissions Panel", to consider, amend and approve submissions on behalf of the Council on proposed legislation, strategies, policies and plans, where the submissions require Councillor input.

#### EXECUTIVE SUMMARY

2. The current submissions procedure was established in late 2007. It aims to improve the coordination of Council's submissions to external organisations, and ensure that:
  - (i) the Council is aware of proposals by external organisations that may affect it; and
  - (ii) that submissions are lodged, at an appropriate level (staff, organisation, or Council) on issues of significance.
3. The procedure has, in general, been effective, but due to the short timeframes of many consultation periods (three to four weeks), it has often proved difficult to get timely input from Councillors into Council submissions.
4. On 29 May 2008, the Regulatory and Planning Committee considered a report from the Council Secretary seeking to establish a Legislation and Submissions Committee.
5. The Regulatory and Planning Committee requested that staff develop a model of the proposed committee for evaluation. In particular, Councillors asked for fuller consideration to be given to the scope of any committee, the level of delegation, and how the committee might operate to ensure it remains timely and responsive. Staff were also asked to consider how this committee would integrate with the existing submissions procedure.
6. To ensure that Council submissions are considered and approved by the Council in a timely manner, this report discusses the advantages and disadvantages of two possible decision-making bodies:
  - i. a subcommittee of Council; or
  - ii. a subordinate decision-making body ("the Panel").
7. This report suggests that, due to the need for the timely delivery of submissions, the Regulatory and Planning Committee recommend to Council that it:
  - establish a panel made up of four Councillors;
  - delegate authority to the Panel to consider, amend and approve Council submissions on all relevant bills and regulations; local, regional and central government strategy and policy reviews; Long-Term Council Community Plans and Annual Plans of other authorities; and the strategies and policies of key partners; and
  - provide that the Panel is not discharged following the next triennial local government general election.
8. To ensure that all elected members have input into Council submissions, staff will, where possible, send out draft Council submissions for feedback prior to the Panel meeting. Any elected member feedback would need to be given in a timely manner. If this is achievable in the timeframe given, staff will be able to present this feedback to the Panel for their consideration.
9. The Panel would not consider submissions under the Resource Management Act 1991, for which specific delegations under that Act already exist.



**3 Cont'd**

10. It is not anticipated that the Panel would be considering more than 15 submissions over a year long period, based on figures from August 2007 to July 2008.

**LEGAL CONSIDERATIONS**

11. Under Clause 30(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002), the Council can delegate powers to a subcommittee or subordinate decision-making body, such as the power to consider, amend and approve submissions on behalf of Council.
12. Further discussion of the legal considerations and advantages of establishing a submissions panel over a subcommittee of Council are included in the options section.

**FINANCIAL IMPLICATIONS**

13. If either option is accepted by Council meeting fees will not apply, as the Council has adopted a salary-only model of remuneration.
14. If the Regulatory and Planning Committee recommends either option, agenda and printing expenses will be met from the Democracy Services Unit's existing budget. However, the public notification costs required with a subcommittee of Council are not required with the establishment of a panel.

**DO THE RECOMMENDATIONS OF THIS REPORT ALIGN WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

15. Yes.

**DO THE RECOMMENDATIONS OF THIS REPORT ALIGN WITH STRATEGIES AND POLICIES**

16. The recommendation is consistent with the principles of the Governance Statement, especially s.2, 3 and 4 – and with s.6 on Roles and Conduct of Elected Members.

**CONSULTATION FULFILMENT**

17. No consultation is required.

**BACKGROUND (THE ISSUES)**

18. From 1998 to 2004, a subcommittee of the former Strategy and Finance Committee had delegated authority to:
  - (a) approve submissions on proposed legislation;
  - (b) review and make recommendations to the Council on charges to Standing Orders as necessary; and
  - (c) provide instructions to staff on the contents of Local Bills promoted by the Council.
19. At present the Council operates a tier system of submission making: Council submissions (including submissions on all Bills), organisational submissions, and staff submissions. In some instances where multiple periods of consultation are undertaken, a topic may be submitted on through one or more mechanisms (eg an initial staff comment, a more formal organisational submission on a discussion paper, and a Council submission on a formally proposed policy).
20. All consultation opportunities are evaluated by staff, and the Chief Executive approves how any specific topic should be addressed. The following guidance is in place to assist the Chief Executive in making this decision.
  - (a) **Council Submissions** are approved by Council. A Council submission should be made when:

3 Cont'd

- the submission would require Council to determine a policy position. This may occur if there is no existing policy covering the matter, or an existing policy needs to be reviewed or re-confirmed in light of the matters being considered;
- the matter being consulted on has the potential to significantly impact on Council's community outcomes or existing strategy or policy; and
- there are significant potential financial implications for Council.
- *Note:* all submissions on bills are Council submissions where the proposed legislation is relevant to Council.

(b) **Organisational Submissions** are approved by the Chief Executive, rather than Council. Organisational submissions are appropriate where:

- there is existing Council policy and this is reflected in the submission; or
- the matters being submitted on impact at the operational level rather than the governance level.

In some circumstances, an organisational submission may be made to provide staff views on policy matters at an earlier and informal stage of policy development. The decision on whether Council approval is required is made by the Chief Executive or appropriate General Manager.

(c) **Staff Submissions** are approved by the appropriate General Manager. Staff submissions should be confined to matters of technical or operational detail.

21. In addition to the above, the level of submission may need to be escalated to a higher level if:
- there is a strong political interest in the matter or it requires advocacy at the political level; or
  - there is a need for the submission to carry greater weight to effect the desired outcomes (ie a more formal response is needed to emphasise the importance of the matter).
22. In the last year, only 23 per cent of requests for consultation have been taken up for submission. Of these, 38 per cent were responded to as staff submissions, 33 per cent as organisational submissions, and 29 per cent as Council submissions.
23. While the submissions process has improved the prioritisation and coordination of submissions, it has proved difficult on occasion to get formal Councillor input into, and approval of, Council submissions in the time available for consultation. This is because:
- many consultation periods are only three to four weeks in total;
  - the preparation and management approval of a draft submission may take up to three weeks, making it difficult to meet agenda, printing and circulation deadlines of Regulatory and Planning Committee or Council meetings; and
  - Regulatory and Planning Committee and Council meetings may not coincide with the consultation deadline, and agendas may already be full.

**THE OBJECTIVE**

24. To ensure that Council submissions are considered and approved by Council in a timely manner.

**THE OPTIONS**

25. This report presents two options for the Regulatory and Planning Committee to consider to achieve this objective.

(a) Set up a **subcommittee of Council** to consider, amend and approve Council submissions. A subcommittee of Council – as a formal body of Council - would be subject to the rules in Part VII of Local Government Official Information and Meetings Act 1987 (LGOIMA) relating to public notice, the right of public attendance, and the availability of agendas, reports and minutes.

## 3 Cont'd

- (b) Set up a **submissions panel (as a subordinate decision-making body)** to consider, amend and approve Council submissions. A subordinate decision-making body of Council could be delegated the authority to approve Council submissions, and as a body of Council its considerations and decisions would be available to the public as they are "official information" for the purposes of LGOIMA.
26. The preferred option is (b) the establishment of a **submissions panel**, as it is the most flexible means to ensure transparent and timely Council approval of Council submissions.
27. The Panel option provides the required flexibility, while a subcommittee of Council would not be as flexible. A subordinate decision-making body has not been used before but provides a flexible mechanism that would suit the unpredictable nature of the submissions process. Arguments over relative transparency are relevant but not significant given the purpose of the decision-making body, the material which is available to the public, and the reporting function of the Panel, as recommended in this report. Public attendance can be provided for if the Panel wishes. Furthermore, if it is a controversial matter which is being discussed the Panel may wish to refer it to Council to consider, amend and/or approve.
28. The below table sets out the advantages and disadvantages of establishing a panel or subcommittee of Council.

	Subcommittee of Council	Submissions Panel
<b>Flexibility</b>		
Ability to meet at short notice	If scheduled: Limited to scheduled weekly meetings. Potential for regular cancellations. Would need to meet cancellation-associated costs.  If not scheduled: a minimum of five working days for public notices and two working days for agendas to be distributed to members. These may be waived if urgent meetings are required.	Members can be called together at any time.
<b>Transparency</b>		
Public access to information	All information is available and can be inspected by the public.  Agendas available prior to meeting.	All information is available and can be inspected by the public.
Public notification	Required.  If this body is to be flexible, public notices will not meet the legal time requirements set out in Part VII of LGOIMA, although as noted above these may be waived if urgent meetings are required.	Not required.
Public attendance	Public attendance provided for but public can be excluded (subject to Part VII of LGOIMA).	Public attendance is not explicitly provided for and would be at the discretion of the Panel.
<b>Financial</b>		
Notification costs	Would apply	Would not apply

**Function and Scope**

29. The function of either a panel or subcommittee of Council would be to consider and approve Council submissions on all relevant bills and regulations; local, regional and central government strategy and policy reviews; Long-Term Council Community Plans and Annual Plans; and the strategies and policies of key partners (eg Ngāi Tahu, Canterbury District Health Board etc).

### 3 Cont'd

#### Level of Delegation

30. Either decision-making body would need to have delegated authority to:
- (a) consider Council submissions prepared by staff;
  - (b) provide direction to staff on the contents of Council submissions;
  - (c) approve Council submissions; and
  - (d) refer any proposed submission to Council for its consideration and approval, where it considers the matter to be of particular significance, or where the Committee is unable to confirm the Council's position on an issue before it.

#### Final Decision

31. In delegating authority to either a panel or subcommittee of Council, the Council cannot rescind the decisions of these decision-making bodies. In both cases approval of submissions will require a majority of those present.

#### Membership

32. Staff recommend that, to facilitate the timely organisation of meetings, a panel or subcommittee of Council be limited to four Councillors. A quorum of two members is suggested for either body.

#### Meeting Frequency

33. Staff anticipate that such a decision-making body will need to have unscheduled meetings with the expectation that the Democracy Services Unit staff can set up a meeting with members on demand. The members chosen for this subcommittee would need to be flexible enough to meet at short notice and it is anticipated that there may be times when meetings are required each week, depending on consultation period timeframes.

#### Gaining Elected Member Feedback

34. To ensure that all elected members have input into Council submissions, staff will, where possible, send out draft Council submissions for feedback prior to the Panel meeting. Any elected member feedback would need to be given in a timely manner. If this is achievable in the timeframe given, staff will be able to present this feedback to the Panel for their consideration.

#### Reporting to Council

35. It is recommended that the Chairperson of the decision-making body, or Deputy Chairperson if necessary, provide an oral report as a standing agenda item, to Council once a month with a summary of submissions considered by the body. Copies of finalised submissions would be available to Councillors and the public. This would help the Panel be accountable to Council and the public. Otherwise the decision-making body's report would need to be lodged with the Democracy Services Unit three weeks before a Council meeting.

#### Secretarial Services

36. The Democracy Services Unit will provide secretarial support to either decision-making body. A subcommittee of Council would require formal public notification whilst a panel would not. This means there will be some extra cost and possible delays with the subcommittee option. Agenda papers will be distributed no less than five working days prior to the meeting, where possible. There may be times, however, where reports and draft submissions are not delivered until the day of the meeting.

### 3 Cont'd

#### Terms of Reference

37. A proposed Terms of Reference for a panel – as the recommended option – is **attached** for Council approval.

#### Legal Considerations

38. Under clause 30(1) of Schedule 7 of the LGA 2002:

*"A local authority may appoint –*

- (a) the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate..."*

39. Clause 32 allows for delegations to be made by the Council to a subcommittee or subordinate decision-making body, as follows:

*"Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except..."* [decisions on submissions is not one of the exceptions].

40. It should also be noted that clause 30(6) provides:

*"...(6) Nothing in this clause entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of decision by a committee, a subcommittee, or another subordinate decision-making body.*

41. The reference to other subordinate decision-making bodies in clause 30 of the LGA 2002 is new. The Act does not further define what is meant by this term, but it must be something other than a committee, subcommittee or joint committee, and it must also be a "body" which is subordinate to the Council and has a specific decision-making function.

42. The meaning of this term has not as yet been tested in the Courts, but the Department of Internal Affairs has informally advised that the inclusion of "subordinate decision-making bodies" in the LGA 2002 was the result of an explicit intention to provide for greater flexibility concerning internal governance arrangements, and not to restrict or bias options in favour of committees or subcommittees.

43. The rules in Part VII of LGOIMA (which deal with issues such as public notice, the right of public attendance, the availability of agendas, reports and minutes) do not apply to subordinate decision-making bodies, but would apply to a subcommittee. This is because the definition of "meeting" in section 45 of the LGOIMA does not refer to meetings of other subordinate decision-making bodies.

44. Utilising a subordinate decision-making body does not prevent the Council from being accountable and transparent in decision-making. The Council can establish appropriate terms of reference for a subordinate decision-making body, covering matters such as the quorum, how its meetings should be run, the limits of what the members could do and their responsibilities, and how it should report back to Council.

45. Pursuant to clause 30(7), the Council may wish to provide that the desired decision-making body is not discharged following the next triennial general election, which would allow it to keep "working" on Council submissions over that election period, if necessary.

### 3 Cont'd

#### STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Establish a Submissions Panel (as a subordinate decision-making body).
- (b) Delegate to the Panel the power to:
  - consider Council submissions prepared by staff on all relevant bills and regulations; local, regional and central government strategy and policy reviews; Long-Term Council Community Plans and Annual Plans; and the strategies and policies of key partners;
  - provide direction to staff on the contents of Council submissions;
  - approve Council submissions; and
  - refer any proposed submission to Council for its consideration and approval where the Panel is unable to confirm the Council's position on an issue before it.
- (c) Approve the **attached** Terms of Reference.
- (d) Require that the Chairperson of the Panel, or the Deputy Chairperson if necessary, provide an oral report as a standing agenda item, to Council each month, with a summary of submission(s) approved by the Panel, and a brief summary about the consultation(s).
- (e) Provide that the Panel is not discharged following the next triennial local government general election.
- (f) Appoint a Chair, a Deputy Chair and the two Councillors as members of the Panel.
- (g) Affirm that the delegation does not include submissions on matters under the Resource Management Act 1991, for which delegations already exist.

#### COMMITTEE RECOMMENDATIONS

It is recommended that the Council:

- (a) Establish a Submission Panel of at least four members (as a subordinate decision-making body).
- (b) Delegate to the Panel the power to:
  - consider Council submissions prepared by staff on all relevant bills and regulations; local, regional and central government strategy and policy reviews; Long-Term Council Community Plans and Annual Plans; and the strategies and policies of key partners;
  - provide direction to staff on the contents of Council submissions;
  - approve Council submissions; and
  - refer any proposed submission to Council for its consideration and approval where the Panel is unable to confirm the Council's position on an issue before it.
- (c) Approve the **attached** Terms of Reference.
- (d) Require that the Chairperson of the Panel, or the Deputy Chairperson if necessary, provide an oral report as a standing agenda item, to Council each month, with a summary of submission(s) approved by the Panel, and a brief summary about the consultation(s).
- (e) Provide that the Panel is not discharged following the next triennial local government general election.
- (f) Appoint a Chair, a Deputy Chair and the two Councillors as members of the Panel.
- (g) Affirm that the delegation does not include submissions on matters under the Resource Management Act 1991, for which delegations already exist.
- (h) Provide for all councillors to be circulated with the draft submissions and Panel meeting times to enable their respective attendance at Panel meetings if possible.

**PART B - REPORTS FOR INFORMATION**

**4. DEPUTATIONS BY APPOINTMENT  
LYTTELTON-MT HERBERT COMMUNITY BOARD – BANKS PENINSULA LANDSCAPE**

Members of the Lyttelton-Mt Herbert Community Board were in attendance.

The Chairperson, Paula Smith, referred to a discussion paper she had prepared, which advised that the Board is aware of concern about the landscape change in the Board's area, particularly the impacts of subdivision, and increasing dwelling density associated with the appearance of "lifestyle" residential development in the rural landscape. People are concerned because principally due to the findings of the public survey carried out as part of the Banks Peninsula Landscape Study and of individual comments to members of the Board. The survey showed a half of the respondents believed the peninsula landscape is deteriorating, citing housing developments and forestry as negative factors.

The Committee **decided** that the concerns of the Community Board and Banks Peninsula residents should be further discussed at the Committee's 24 September 2008 seminar.

**5. ALCOHOL POLICY AND LIQUOR CONTROL BYLAW SUBCOMMITTEE - 6 AUGUST 2008**

It was **agreed** that the minutes of the meeting of the Subcommittee be received.

**6. BROTHELS LOCATION AND SIGNAGE BYLAW SUBCOMMITTEE - 6 AUGUST 2008**

It was **agreed** that the minutes of the meeting of the Subcommittee be received.

**7. REVIEW OF OPERATIONAL POLICIES RELATING TO THE NEW PUBLIC PLACES BYLAW**

A report from the Policy Analyst – Bylaws Strategic Support Unit, provided an update on the initial stages of the review of the operational policies that relate to the new Public Places Bylaw and sought any initial feedback on the directional scope of the reviews.

The Committee **decided** to:

- (a) Receive the information contained in the report.
- (b) Note that staff are undertaking the initial stages of the review of operational policies under the new Public Places Bylaw.
- (c) Direct any feedback on the policies review to staff, to enable them to report back to the Committee at a later stage.

**8. DISTRICT PLAN WORK PROGRAMME 2008-2009**

A report from the City Plan Team Leader set out the details of the proposed 2008-2009 District Plan Work Programme.

The Committee **decided** that an amended report on the programme be brought back to the Committee's October meeting, bearing in mind the suggestions and issues raised by members, including whether the format of the report could be changed to better provide some sense of magnitude for each project.

Councillor Williams declared a conflict of interest in project 33 of the work programme of the report and took no part in the discussion or voting thereon.

**PART C - REPORT ON DELEGATED DECISIONS  
TAKEN BY THE COMMITTEE**

**9. SUPPLEMENTARY ITEM**

The Chairperson referred to the following report which was separately circulated after the agenda had been distributed.

**ESTABLISHMENT OF SUBMISSION PANEL**

The Chairperson advised that it was not possible to include this item in the agenda which, while having been considered and approved at the agenda meeting, was temporarily withdrawn to enable some amendments to be made.

It was **resolved** on the motion of Councillor Wells, seconded by Councillor Wall, that the late item be considered at the present meeting.

**10. CORRECTION OF MINOR ERRORS IN THE CITY PLAN**

A report from the Team Leader City Plan provided details of corrections proposed to the Living Hills zone.

The Committee **decided** that without formality and pursuant to clause 20A of the First Schedule to the Resource Management Act 1991, correct errors in the Christchurch City Plan by deleting the following provisions:

- Volume 3, Part 2 Rule 2.2.6(g)
- Volume 3, Part 2 Rule 2.4.1(e)
- Volume 3, Part 2 Clause 7.2.4(k)
- Volume 3, Part 2 Clause 8.1.4 (Fifth paragraph, First two sentences)
- Volume 3, Part 14 Rule 4.3.2 A (2<sup>nd</sup> row under heading "Living H Zone")
- Volume 3, Part 14 Rule 4.3.2 E (3<sup>rd</sup> paragraph)

**11. CONSULTATION ON DRAFT REGIONAL POLICY STATEMENT CHAPTERS ON WASTE  
MINIMISATION AND MANAGEMENT, CONTAMINATED LAND AND HAZARDOUS SUBSTANCES**

A report from the Policy Analyst – Strategy and Planning Group provided an overview of the issues arising in the draft chapters of the Canterbury Regional Policy Statement (CRPS), currently being reviewed by Environment Canterbury and sought to gain the Committee's support on recommendations of feedback to Environment Canterbury with regard to the draft chapters on Waste Minimisation and Management, Contaminated Land and Hazardous Substances.

The Committee **decided**, in view of time constraints, to hold the report over to its October meeting.

The meeting concluded at 1.10pm

**CONSIDERED THIS 25TH DAY OF SEPTEMBER 2008**

**MAYOR**