

26. 2. 2009

**REGULATORY AND PLANNING COMMITTEE
2 FEBRUARY 2009**

**A meeting of the Regulatory and Planning Committee
was held on Monday 2 February 2009 at 9am**

PRESENT: Councillor Sue Wells (Chairperson),
Councillors Helen Broughton, Sally Buck (from 10.57am),
Ngaire Button, Yani Johanson, Claudia Reid, Bob Shearing (to 11.55am),
Mike Wall (from 11.06am), and Chrissie Williams.

IN ATTENDANCE: Councillor Norm Withers (from 10.45am).

APOLOGIES: Apologies for lateness were received and accepted from Councillors
Sally Buck and Mike Wall.

Councillor Sally Buck arrived at 10.57am and was absent for clauses
1-5 and part of clause 6.

Councillor Mike Wall arrived at 11.06am and was absent for clauses 1-5
and part of clause 6.

Councillor Bob Shearing departed at 11.55am and was absent for part
of clause 6.

The Committee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. FORMATION OF A PUBLIC PLACES POLICY WORKING PARTY

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

PURPOSE OF REPORT

1. To seek the formation of a working party to consider the review of policies relating to the Public Places Bylaw 2008 and to assist staff to discuss the revised public places policy or policies to be recommended to the Regulatory and Planning Committee.

EXECUTIVE SUMMARY

2. At its meeting of 28 February 2008, the Council resolved that the operational policies relating to the Public Places Bylaw were to be reviewed by the end of 2008.
3. The policies relate to the clauses in the Public Places Bylaw which regulate commercial activities and obstructions in public places. The 12 policies that need to be reviewed can be grouped into four subject areas:
 - (a) Structures on roads
 - (b) Signboards
 - (c) Market stalls, and
 - (d) Busking.
4. At its meeting of 4 September 2008, the Regulatory and Planning Committee considered a report noting that staff were undertaking the initial stages of the review of these policies. Feedback from Councillors on the initial stages of the review was sought and Councillors raised a wide range of questions and additional matters for staff to consider.

1 Cont'd

5. The number of policies which relate to the Public Places Bylaw and the work required to review them has meant that the deadline for reviewing the policies by the end of 2008 has not been possible. Work began on reviewing the policies in late 2008, and has continued steadily since then. Staff are now at the point of having a draft single new policy to present to Councillors, but also have a number of options and matters which require Councillor input.
6. It would be valuable for staff to work with Councillors (via a working party) to discuss some of these matters and to then present a single revised policy to the Regulatory and Planning Committee for decision, with the support of the working party.
7. The terms of reference for the working party would be:

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

FINANCIAL IMPLICATIONS

8. It is important that the operational policies are reviewed, updated and adopted in a timely manner as there are a number of stall sites due for tender and subsequent awarding of contracts during 2009. In the interim, it may be that existing contracts are rolled over on a short-term (for example, six-month) basis in anticipation of the new policy or policies, rather than being competitively tendered and awarded for the usual three years.
9. The work to review these policies involves largely staff and elected member time which is already budgeted. There are opportunity costs involved with staff and elected members working on these projects not being available to carry out other work, however, given the earlier resolution of Council to review the policies, there is little option other than to carry out the work in a timely manner.

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

10. An allowance for staff time and contributions to policy processes is built into a number of activities in the LTCCP. The review of the policies relating to the Public Places Bylaw is part of the bylaw's implementation process.

LEGAL CONSIDERATIONS

11. The Local Government Act 2002 generally requires councils to comply with policies they have adopted. If a decision is likely to be inconsistent with, or to have consequences that are inconsistent with a policy adopted by the Council, it must take certain steps, including clearly identifying the reason for the inconsistency (section 80).
12. In order to avoid the likelihood of Council needing to consider making a decision contrary to a policy it has adopted, it is appropriate to review and update the 12 policies relating to the Public Places Bylaw in order to ensure that they are still necessary, appropriate and fit for purpose.
13. These policies also need to be reviewed in order to ensure appropriate tendering and contracting can be undertaken, as mentioned above in paragraph 8.

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

14. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

15. The timetables and processes outlined in this report are consistent with the Democracy and Governance Group of activities in the LTCCP which states "the Council provides opportunities for public participation in decision-making, and it receives and processes the community's input to ensure effective decision-making".

1 Cont'd

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

- 16. Yes, supports 75 per cent of residents satisfied with the way the Council involves the public in decision making and 75 per cent of residents satisfied that the Council makes decisions in the best interests of Christchurch.

ALIGNMENT WITH STRATEGIES

- 17. The overall timetable and process is not directly applicable to any specific strategy. The content of the bylaw and policies relate to, and play important roles in, contributing to a number of the Strategic Directions and Council strategies.

Do the recommendations align with the Council's strategies?

- 18. As above.

CONSULTATION FULFILMENT

- 19. Not applicable to this report.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Agree to appoint a working party with the following terms of reference:
To work with staff to discuss the new operational policy relating to matters covered by the Public Places Bylaw and to make recommendations to the Regulatory and Planning Committee to that effect.
- (b) Determine the composition of the working party and appoint a chairperson and the necessary members to it.

COMMITTEE RECOMMENDATION

The Committee recommends that the Council **adopt** staff recommendation (a) and that the membership of the Public Places Policy Working Party consist of Councillors Johanson, Shearing, Wall, and Wells, and that Councillor Wells be appointed as Chairperson.

2. FORMATION OF A GAMBLING VENUE POLICY REVIEW WORKING PARTY

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Programme Manager Strong Communities
Author:	Siobhan Storey, Senior Policy Analyst

PURPOSE OF REPORT

- 1. To seek the formation of a working party to consider the review of the 2006 Gambling Venue Policy and to work with staff to recommend a Gambling Venue Policy to the Regulatory and Planning Committee.

EXECUTIVE SUMMARY

- 2. The Council reviewed its Gambling Venue and Totalisator Agency Board (TAB) Venue Policy in 2006 and the revised policy was adopted on 23 November 2006. The Gambling Venue Policy provides for Class 4 Gambling as follows:

2 Cont'd

1. *The Christchurch City Council will not grant consent under section 98 of the Gambling Act 2003 to allow any increase in Class 4 Gambling 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.*

(Sections 3-6 are not relevant)

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.*

The triennial review of this policy is being undertaken in 2009.

3. It would be valuable for staff to work with Councillors (through a working party) to consider the options available under the Gambling Act 2003, the types of policies other local authorities have adopted, and to develop a revised policy. The revised policy will then be presented to the Regulatory and Planning Committee for recommendation to the Council.
4. The terms of reference for the working party would be:
To work with staff to carry out the initial review of the Gambling Venue Policy and make recommendations to the Regulatory and Planning Committee.
5. As the Gambling Venue Policy is politically contentious it is recommended that Councillors who are not on the Regulatory and Planning Committee be provided with the opportunity to participate in the working party.

FINANCIAL IMPLICATIONS

6. The work to review this policy involves largely staff and elected member time which is already budgeted for. There are opportunity costs involved with staff and elected members working on this project not being available to carry out other work, but given the legislative requirement to review the policy every three years there is little option other than to carry out the work in a timely manner.

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

7. Yes, as above.

LEGAL CONSIDERATIONS

8. The policy must comply with the Gambling Act 2003 and the Local Government Act 2002.

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

9. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. The policy will align with the Democracy and Governance Group of activities: Activity 4.1 Public Participation in Democratic Processes.

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

11. Yes, as above.

2 Cont'd

ALIGNMENT WITH STRATEGIES

12. Not applicable.

Do the recommendations align with the Council's strategies?

13. As above.

CONSULTATION FULFILMENT

14. The review process will include engagement with both internal and external stakeholders and a Special Consultative Procedure as required under the Gambling Act 2003.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Appoint a working party with the following terms of reference:

To work with staff to carry out the initial review of the Gambling Venue Policy and make recommendations to the Regulatory and Planning Committee.

- (b) Determine the composition of the working party and appoint a chairperson and the necessary members to it.

COMMITTEE RECOMMENDATION

The Committee recommends that the Council **adopt** staff recommendation (a) and that the membership of the Gambling Venue Policy Review Working Party consist of Councillors Button, Broughton and Williams, and that Councillor Broughton be appointed as Chairperson.

3. PLAN CHANGES 17 AND 19 TO THE WAIMAKARIRI DISTRICT PLAN

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Strategy Support Manager
Author:	David Mountfort

PURPOSE OF REPORT

1. The purpose of this report is to inform the Council of the outcome of submissions on the Waimakariri District Council District Plan Changes 17 and 19 and recommend that no appeal be lodged against the decision of the Waimakariri District Council.

EXECUTIVE SUMMARY

2. The Waimakariri District Council (WDC) has issued its decisions on District Plan Changes 17 and 19. The Christchurch City Council (the Council) had lodged submissions against these two plan changes following their notification in August 2006.
3. Plan Changes 17 and 19 rezoned two areas of land at Kaiapoi for urban growth. The changes were opposed by the Council on the grounds of traffic impacts on the northern access routes into Christchurch, especially at Belfast, and because they infringed, in part, on the existing and proposed new 50 dBA airport noise contours. The Council sought the deferral of the plan changes until the construction of the Northern Arterial, and the deletion of those parts of the sites subject to greater than 50 dBA of aircraft noise.

3 Cont'd

4. Opposing submissions were also lodged by Transit NZ, Environment Canterbury and Christchurch International Airport Ltd.
5. After the public notification of the changes, but before the hearings, Environment Canterbury publicly notified Change 1 to the Regional Policy Statement (RPS). This deals with urban growth and provided for further growth at Kaiapoi. The RPS Change, which the Council has supported, is inconsistent with the position taken by the Council on Changes 17 and 19.
6. The WDC has accepted the argument about noise contours and modified the areas to be rezoned accordingly. However, it has rejected the traffic arguments.
7. The issue for the Council to now determine is whether or not to appeal the decision to the Environment Court. This report recommends that no appeal be lodged, to avoid compromising the RPS Change process.

FINANCIAL IMPLICATIONS

8. If no appeal is lodged, no direct financial implications would result. However, the need for improvements to the northern accesses into Christchurch will become more pressing as a result of the additional development. Should the Council decide to appeal this decision to the Environment Court, costs in the range of \$100,000—\$150,000 could be expected.

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

9. Yes.

LEGAL CONSIDERATIONS

10. The Council has the opportunity to appeal this decision to the Environment Court using the well-established Environment Court process.

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

11. An appeal would have the potential to complicate and confuse the RPS Change 1 process as it proceeds through Environment Canterbury hearings and then the Environment Court.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

12. Aligns with Greater Christchurch Urban Development Strategy and related activities.

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

13. Yes. Supports the Greater Christchurch Urban Development Strategy project and the City Plan Activity.

ALIGNMENT WITH STRATEGIES

14. Aligns with the Greater Christchurch Urban Development Strategy.

Do the recommendations align with the Council's strategies?

15. Yes.

CONSULTATION FULFILMENT

16. Not required.

3 Cont'd

STAFF RECOMMENDATION

It is recommended that that the Council not appeal to the Environment Court against the decisions of the Waimakariri District Council in regard to Plan Changes 17 and 19 to the Waimakariri District Plan.

COMMITTEE RECOMMENDATION

Councillor Wells moved that the Committee recommend that the Council **adopt** the staff recommendation.

The motion was seconded by Councillor Shearing and when put to the meeting was declared **carried** on division No 1 by 6 votes to 1, the voting being as follows:

For: (6) Councillors Williams, Broughton, Reid, Button, Shearing, and Wells.

Against: (1) Councillor Johanson.

BACKGROUND (THE ISSUES)

17. Changes 17 and 19 to the Waimakariri District Plan were notified in August 2006, prior to Change 1 to the Canterbury Regional Policy Statement (RPS), which provides for urban growth in Greater Christchurch. The two district plan changes provide significant areas of rezoning for urban growth purpose in Kaiapoi. The RPS Change and its predecessor, the Greater Christchurch Urban Development Strategy (UDS), allows for urban growth at Kaiapoi. Seven hundred households are provided for between 2007-2016, 700 between 2017-2026 and 900 between 2027-2041. Change 1 to the RPS, in its original form, did not allocate this growth to any particular site but subsequently Variation 2 has nominated areas for this growth that correspond to Changes 17 and 19. The Christchurch City Council (the Council) submitted in support of the RPS Change so, to an extent, its submissions against the Kaiapoi plan changes are not consistent with its support for the RPS. The submission was lodged prior to the adoption of the RPS change by the partner organisations.
18. Plan Change 17 for an area to the north of Kaiapoi has been approved in a modified form. However Change 19, for an area to the west of Kaiapoi, has not been approved. Instead, a deferred zoning has been maintained, with further assessment and solutions required on a number of issues before the zoning can be confirmed. The most significant of these are flooding issues, and the need to relocate the Island Road arterial route to Rangiora which bisects the Change 19 area. These are local issues of no particular concern to the Council.
19. The overall growth strategy of the UDS/RPS allocated growth to the WDC and Selwyn District in the earlier years because of the need for major infrastructure upgrades in Christchurch before any significant amounts of Greenfield growth could be supported. In particular, major sewer upgrades and roading projects are being carried out to support growth in the south-west and north of the city which will not be available until about 2014-2016. However, the UDS process did not resolve the issue of the short-term traffic congestion that would arise from this immediate allocation to Kaiapoi.
20. In its decisions on the plan changes, the WDC has accepted the recommendations of its Commissioners that the issue of airport noise contours is a regional issue that should be resolved through the RPS process. It has therefore excluded land within the 50 dBA contour from the land to be rezoned.
21. The Commissioners have rejected the traffic arguments put forward by the Council and Transit NZ. The Commissioners found that any traffic congestion arising would be a relatively small part of a problem which already exists and for which solutions are possible and under discussion, such as the Northern Arterial extension, the Western Belfast Bypass and the Cranford Street and Hills Road upgrades. These conclusions are debateable. It is possible to calculate quite precisely the impact of development of this scale on the traffic network. The Council is well aware of the state of this network from its own studies on the Belfast section 293 appeals and the Belfast Area Plan. Further developments anywhere to the north of the city from Belfast to Pegasus, will inevitably result in lower levels of service on the northern roading network.

3 Cont'd

22. The Northern Arterial will not be constructed before 2016 at the earliest. The interim Western Belfast Bypass may also be constructed around this time if the section 293 appeals are finally resolved.
23. To lodge an appeal would be inconsistent with the Council's support for the UDS and RPS Change. The Commissioners found this aspect particularly difficult to understand, and the Environment Court would probably have similar difficulties.
24. Although it is an unsatisfactory situation, the recommendation of this report is that there should be no appeal; that the declining level of service should be tolerated; and that the Council should instead rely on actions to get the road upgrades carried out as soon as possible. The benefits of maintaining a clean RPS process and providing some opportunity for urban growth to meet anticipated demand are considered to outweigh the short-term traffic congestion that could result.

THE OPTIONS

25. Staff have identified the following options:
 - (a) Appeal the decisions to the Environment Court on the grounds of impact on safe and efficient operation of the roading network in the northern part of Christchurch City.
 - (b) Do not appeal.

THE PREFERRED OPTION

26. The preferred option is (b).

PART B - REPORTS FOR INFORMATION

4. PLANNING ADMINISTRATION MONTHLY REPORTS FOR NOVEMBER AND DECEMBER 2008

The standing monthly Planning Administration report to the Regulatory and Planning Committee was deferred until March 2009.

The Committee **decided** to receive the report for information.

5. QUARTERLY REPORT ON THE IMPLEMENTATION AND ENFORCEMENT OF THE TRAFFIC AND PARKING BYLAW 2008

The Quarterly Report on the Implementation and Enforcement of the Traffic and Parking Bylaw 2008 to the Regulatory and Planning Committee was deferred until its March 2009 meeting.

The Committee **decided** to receive the report for information.

6. COMMITTEE WORKSHOP ON PLANNING

Staff held a planning workshop for the Committee which discussed planning issues relevant to the Committee's terms of reference.

The meeting concluded at 10am and was followed by a Committee workshop which concluded at 12.47pm.

CONSIDERED THIS 26TH DAY OF FEBRUARY 2009

MAYOR