

22. 10. 2009

**REGULATORY AND PLANNING COMMITTEE
1 OCTOBER 2009**

**Report of a meeting of the Regulatory and Planning Committee
held on Thursday 1 October 2009 at 9am.**

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

APOLOGIES: Nil.

Councillor Buck arrived at 9.12am.

Councillor Broughton departed at 11.26am and returned at 11.59am and was absent for part of clause 4 and all of clause 5.

Councillors Button and Shearing departed at 12.37pm and were absent for clauses 7 and 9.

The Committee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. ADOPTION OF REPORT ON DOG CONTROL POLICY AND PRACTICES 2008/09

General Manager responsible:	General Manager Regulatory and Democracy Group, DDI 941 8462
Officer responsible:	Inspections and Enforcement Unit Manager
Author:	Mark Vincent, Animal Control Team Leader

PURPOSE OF REPORT

1. This report fulfils the requirement of the Dog Control Act 1996 which requires all territorial authorities to report annually. Once the Council has adopted the report, public notice must be given of the report and a copy sent to the Secretary for Local Government. This provision in the Act was introduced by the Dog Control Amendment Act 2003. The Dog Control Act 1996 lists the information required in the report.

EXECUTIVE SUMMARY

2. The Dog Control Act 1996 (the Act) was amended by the Dog Control Amendment Act 2003 with a focus on increasing public safety. As part of the amendments, Central Government has introduced the requirement for Territorial Authorities to report annually with certain information.
3. The Act requires territorial authorities to provide details in the annual report in relation to such matters as: dog exercise and leash control; dog prohibited areas; impounded animals; education programmes and initiatives and a range of specific annual statistics including aggressive/dangerous dogs, number of dogs classified as dangerous or menacing dog, the number of registered dogs, number of infringement notices issued, and the number of prosecutions etc.
4. In either October or November the Inspections and Enforcement Unit Annual Report will be brought to the Regulatory and Planning Committee which will detail the Inspections and Enforcement Unit's approach, outputs and trend data across the full range of enforcement activities. This additional report will expand on the information provided in the Report on the Administration of the Christchurch City Council's Policy and Practices in relation to the Control of Dogs (**Attachment 1**), and will provide additional information in regards to such matters as complaint trends, dog owner numbers, micro chipping etc.

1 Cont'd

FINANCIAL IMPLICATIONS

5. There are no direct financial implications in relation to the preparation of the annual report nor any financial implications should the Council adopt the recommendation contained in the report.
6. Covered by existing unit budgets.

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

7. Yes.

LEGAL CONSIDERATIONS

8. Section 10A of the Dog Control Act requires that a territorial authority must report on Dog Control Policy and Practices:
 - (1) In respect of each financial year, report on the administration of:
 - (a) Its Dog Control Policy adopted under section 10.
 - (b) Its Dog Control Practices.
 - (2) The report must include, information relating to:
 - (a) The number of registered dogs.
 - (b) The number of probationary and disqualified owners.
 - (c) The number of dogs classified as dangerous and the relevant provision under which the classification was made.
 - (d) The number of dogs classified as menacing under section 33A.
 - (e) The number of dogs classified as menacing under section 33C.
 - (f) The number of infringement notices issued.
 - (g) The number of prosecutions taken.
 - (3) The territorial authority must give public notice of the report:
 - (a) By publishing the report in:
 - (i) One or more daily newspapers circulating in the district.
 - (ii) One or more other newspapers that have at least an equivalent circulation in the district to the daily newspapers circulating in that district.
 - (b) By any means that the territorial authority thinks desirable in the circumstances.
 - (4) The territorial authority must also, within one month after adopting the report, send a copy of it to the Secretary for Local Government.

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

9. As per above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. The annual report and recommendation contained in this report aligns with the LTCCP level of services for Animal Control as the levels of service detailed in the LTCCP require complaints in regards to aggressive behaviour by dogs to be responded to within stipulated timeframes (page 90 of the 2009-19 LTCCP, under "Regulatory Services").

1 Cont'd

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

11. Not applicable.

CONSULTATION FULFILMENT

12. There is no requirement for consultation in relation to the preparation of the annual report. There is a statutory requirement (section 10A of the Dog Control Act 1996) for the report to be publicly notified once adopted by the Council.

STAFF RECOMMENDATION

It is recommended that the Council adopt the attached Christchurch City Council Report on Dog Control Policy and Practice for 2008/09, pursuant to Section 10A of the Dog Control Act 1996.

COMMITTEE RECOMMENDATION

That the staff recommendation be adopted.

The Committee asked staff to provide it with information by the end of 2009 on the following issues:

- Humane destruction of dogs.
- General practices within animal control, looking at facilities, including shelters and parks.
- Intention to develop or refurbish any facility and how this will be paid for.
- Signage around the bylaw and communication around dog messages.
- Any update in regard to levels of service in the LTCCP.

2. DISTRICT PLAN WORK PROGRAMME 2009-2010

This item was discussed by the Committee on 9 October 2009 and is attached.

3. SUBMISSION ON THE PROPOSED PLAN CHANGE 1 WAIMAKARIRI RIVER REGIONAL PLAN

General Manager responsible:	General Manager Strategy and Planning DDI 941 8281
Officer responsible:	Programme Manager - Healthy Environment
Author:	Peter Kingsbury, Principal Adviser - Natural resources

PURPOSE OF REPORT

1. The purpose of this report is to seek retrospective adoption by the Council of the submission (**Attachment 1**) on Proposed Plan Change 1 to the Waimakariri River Regional Plan (WRRP). The submission was lodged with Environment Canterbury (ECan) on 11 September 2009.
2. Retrospective adoption of the submission by the Council is sought because of the short timeframes for lodging the submission with ECan. The absence of any written notification of the Plan Change also resulted in a delayed response from Council staff.
3. The Council has the option of endorsing the submission, in whole or in part, or could withdraw the submission.

3 Cont'd

EXECUTIVE SUMMARY

4. The WRRP manages water quality and quantity, including surface water takes, and the management of river and lake beds in the Waimakariri Catchment. ECan have prepared a number of changes to the plan (Proposed Plan Change 1) to deal with, essentially, water takes and diversions. This plan change primarily concerns a proposed allocation regime for the Waimakariri River and its tributaries (refer to the background section of the report).
5. The city recognises the need for a plan change due to the increased pressure to access large quantities of water from the mainstem of the Waimakariri River, and the concerns in interpretation of some of the WRRP provisions.
6. Although the city does not currently obtain water for domestic use from the Waimakariri River there is the possibility that in the future the city may require at least part of its essential community drinking water supply to be obtained from sources other than the aquifer system currently used.
7. Prior to the notification of the plan change, Council staff were invited to meet with ECan staff to discuss the proposed plan change. Council staff presented a case for ECan to specifically recognise the potential requirement for water supply from the Waimakariri River for the purpose of community supply. A memorandum, summarising the discussion held, was prepared by the Council and sent to ECan.
8. The Council lodged a submission with ECan on 11 September 2009 which generally supports the plan change but seeks a stronger mechanism for water allocation for the purpose of providing for future community supply for Christchurch. The exact quantity of water which could be required is unknown at this time. However, a draft initial assessment, assuming 50 per cent of the existing water supply was contaminated, suggests approximately $1\text{m}^3\text{s}^{-1}$, on average, might be required. The plan change recognises the potential for the Council to require a water take in the future, but does not recommend making any provision to reserve a defined quantity of water for that purpose at this stage. Although the Council accepts that no absolute guarantees can be provided in the plan, the plan provisions need to remain flexible to ensure that water would be available if required.
9. The requirement for water supply from the Waimakariri River could result from the contamination of existing water supply aquifers or if they were physically disrupted by ground disturbance (high levels of ground shaking, or faulting) in a large earthquake. If either of these events were to occur, a significant proportion of the city supply could potentially be unavailable indefinitely or at least for a considerable period of time. At that time an alternative long-term source would be required, and a potential source would be the Waimakariri River.
10. The proposed plan change has no immediate or short term impact on the water supply operation of the Council.
11. The Council recognises that there are a number of methods that could be used to obtain water from the Waimakariri River, including applying for a resource consent, or reaching an agreement with another major consent holder(s) to share or buy out their allocation. However, the critical issue for the Council is that any plan change proposed recognises the importance of providing for essential community water supplies and is flexible enough to provide a variety of feasible options for the Council to obtain water if required.

FINANCIAL IMPLICATIONS

12. There are no immediate financial implications for the Council. The plan change will not directly affect Council operations.

3 Cont'd

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

13. The cost of preparing and presenting this submission is included in existing budgets.

LEGAL CONSIDERATIONS

14. The Resource Management Act 1991 (First Schedule, Part 1 (6)) allows the Council to make submissions on a variation to a regional plan.

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

15. A legal review of the submission has not been carried out. However, any evidence prepared for a hearing will be subject to a legal review.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. This submission supports the LTCCP community outcome of a "well governed city", and in particular, planning for the future, and as part of this, the activity of providing a reliable supply of water which is safe to drink.

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

17. As above.

ALIGNMENT WITH STRATEGIES

18. This submission supports work being done in preparation of the Water Supply Strategy (2009).

Do the recommendations align with the Council's strategies?

19. As above.

CONSULTATION FULFILMENT

20. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council endorse the attached submission on Proposed Plan Change 1 to the Waimakariri River Regional Plan.

COMMITTEE RECOMMENDATION

That the staff recommendation be adopted.

3 Cont'd

BACKGROUND

21. The WRRP was first drafted in the mid 1990s and became operative in October 2004. Due to increased pressure to access large quantities of water from the mainstem of the Waimakariri River, ECan is reviewing some aspects of the plan. In addition, there has been some historical ambiguity and difficulty in interpretation of some of the WRRP provisions.
22. ECan decided to prepare a plan change that takes into account the needs of water users and to protect instream values.
23. The WRRP currently provides for a minimum flow of $41\text{m}^3\text{s}^{-1}$, an A block of $22\text{m}^3\text{s}^{-1}$, a B block with no upper limit on the size of the B block, and no gap between the A and B blocks.
24. The key water allocation related changes to the plan are new AA permits for community and stock water requirements, a decrease in allocation limit for A permits, an allocation limit on the B block permits, an allocation limit on B1 permits, and the establishment of a gap between the A and B allocation blocks. These changes are summarised in paragraphs 25-29 below.
25. AA permits: The total stock water and domestic community water supply is currently $4.895\text{m}^3\text{s}^{-1}$ (cubic metres per second). The plan does not currently manage water taken for community and stock water through an allocation, and has limited rules to manage these. It is suggested that a limit be set on the exempted takes for domestic community water supplies and stock water of approximately $5\text{m}^3\text{s}^{-1}$ and will limit use of this allocation to these activities.
26. A permits: The allocation limit for A permits has been reduced from $22\text{m}^3\text{s}^{-1}$ to $17\text{m}^3\text{s}^{-1}$.
27. B permits: Recent demand for B block water have identified that the present rule regime in the plan, which does not provide any limit on the amount of water that can be taken, is not appropriate. In preparation of the WRRP it was envisaged that only a small amount of B block water might be sought over the life of the plan. To date, many times the amount of water envisaged has been applied for. For this reason ECan considered it appropriate for the plan to provide an upper limit to the amount of water that may be taken from the B block in order to protect instream values. This has been set at $40\text{m}^3\text{s}^{-1}$ at a minimum flow of $104\text{m}^3\text{s}^{-1}$. The minimum flow of $104\text{m}^3\text{s}^{-1}$ results in a $30\text{m}^3\text{s}^{-1}$ gap being established between the A or B1 and B allocation blocks (refer to paragraph 28 below).
28. B1 permits: The B1 block has been introduced to recognise two existing resource consent applications. The B1 block is to commence immediately following the A block. The allocation limit for B1 permits has been set at $1.72\text{m}^3\text{s}^{-1}$.
29. A and B block gap: With the A and B blocks running consecutively, ECan identified the risk of abstractions taking all the water above the minimum flow for extended periods. By providing a gap between the A and B blocks of $30\text{m}^3\text{s}^{-1}$, flushing flows that are important in washing algal growth and sediment from the riverbed, and variability of flow for river users can be maintained. As part of the consultation phase, ECan received limited support for a gap regime. The preferred alternative approach was a 1:1 flow sharing regime from potential *out-of-stream* users (especially irrigators) as it would allow some *run-of-river* water to be taken.
30. In addition to water allocation matters, other matters included in the plan change are:
 - Shifting the flow measurement point from the Old Highway Bridge to Otarama.
 - Removal of the term *unmodified flow*.
 - Removing the restriction on discretion to considering only the effects *near the point of take*.
 - Changing the monitoring requirement so that all takes are to be continuously measured and data transmitted via telemetry.
 - Correcting the planning maps to show the catchment boundaries of the *below Woodstock* area.

4. CORRECTION OF ERROR AND APPROVAL OF CHANGES TO PROVISIONS IN THE CITY PLAN

General Manager responsible:	General Manager Strategy and Planning, DDI 941-8281
Officer responsible:	Acting Programme Manager, District Planning
Author:	David Punselie

PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council that it make an amendment to a provision in the City Plan; and that it approve changes to the City Plan introduced by decisions on various plan changes, variations and appeals.

EXECUTIVE SUMMARY

2. A minor error has been identified in a provision introduced by Variation 93 to the City Plan. Variation 93 provided for the expansion of the Clearwater Resort by increasing the maximum number of residential units and hotel rooms. It created a Conservation Park on land owned by the Isaac Wildlife Trust, and allowed a greater part of this land to be used for quarrying than is permitted under the existing Rural Quarry zone but otherwise limited its use to conservation and recreational activities.
3. The variation introduced an amendment to Rule 2.4 5 in Part 6 to provide minimum ground levels for residential buildings located within Resort Community Areas (RCs) at Clearwater. The levels are set out in a table in the rule which is reproduced below.

Table 3

<u>Column A</u> <u>Area to which</u> <u>minimum ground</u> <u>levels apply (as</u> <u>shown on plan in</u> <u>Appendix 3b)</u>	<u>Column B</u> <u>Grid reference (NZMS Grid)</u>		<u>Column C Minimum</u> <u>finished ground</u> <u>level (metres above</u> <u>mean sea level)</u>
	<u>Northing</u>	<u>Easting</u>	
<u>RC5 – A</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>2477660 N</u> <u>2477909 N</u>	<u>5751420 E</u> <u>5751719 E</u>	<u>12.05</u> <u>11.9</u>
<u>RC5 – B</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>2478180 N</u> <u>2478449 N</u>	<u>5751568 E</u> <u>5751870 E</u>	<u>11.07</u> <u>10.46</u>
<u>RC5 – C</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>2478238 N</u> <u>2478525 N</u>	<u>5751034 E</u> <u>5751611 E</u>	<u>12.85</u> <u>10.40</u>
<u>RC6</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>2477191 N</u> <u>2477466 N</u>	<u>5750165 E</u> <u>5750286 E</u>	<u>15.2</u> <u>14.4</u>

4. The northings and eastings set out in Column B above have been transposed and need to be corrected as they currently do not correctly identify the locations. In addition the locational references for RC6 are incorrect and consequently the minimum ground level is also incorrect.
5. Clause 16(2) of the Resource Management Act 1991 allows the Council to make an amendment, without further formality, to its plan to alter any information where such an alteration is of minor effect. The clause also allows the Council to correct minor errors.

4 Cont'd

6. Table 3 should correctly be as set out below.

<u>Column A</u> <u>Area to which</u> <u>minimum ground</u> <u>levels apply (as</u> <u>shown on plan in</u> <u>Appendix 3b)</u>	<u>Column B</u> <u>Grid reference (NZMS Grid)</u>		<u>Column C Minimum</u> <u>finished ground</u> <u>level (metres above</u> <u>mean sea level)</u>
	<u>Northing</u>	<u>Easting</u>	
<u>RC5 – A</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751420 N</u> <u>5751719 N</u>	<u>2477660 E</u> <u>2477909 E</u>	<u>12.05</u> <u>11.9</u>
<u>RC5 – B</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751568 N</u> <u>5751870 N</u>	<u>2478180 E</u> <u>2478449 E</u>	<u>11.07</u> <u>10.46</u>
<u>RC5 – C</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751034 N</u> <u>5751611 N</u>	<u>2478238 E</u> <u>2478525 E</u>	<u>12.85</u> <u>10.40</u>
<u>RC6</u>	<u>5751014 N</u>	<u>2477695 E</u>	<u>13.8</u>

7. A number of variations, plan changes and other proceedings have reached the stage where they are beyond challenge. The Council can now formally approve the changes to the City Plan introduced by these matters. They are detailed below:

- **Variation 86 Retail Distribution**

This variation was notified in August 2004 and introduced and amended objectives, policies and rules in the Plan associated with retail distribution. In particular, it sought to restrict retail development in the Business 4 zone so that existing commercial centres are not undermined by ad hoc retail development beyond those centres. It also introduced a new Business (Retail Park) zone for large format retail development. Commissioner Alistair Aburn conducted a hearing over 11 days in March 2006, and in November 2006 the Council adopted the Commissioner's recommendation as its decision. Some 11 appeals against the decision were received. There were several hearings before the Environment Court and an appeal to the High Court. Six separate decisions were issued by the Environment Court.

Appendix 1 is the Variation as amended by the Council decision on the variation and by the decisions of the Environment Court on appeal.

- **Variation 93: Clearwater and the Isaac Conservation Park**

As discussed above, Variation 93 provided for the expansion of the Clearwater Resort by increasing the maximum number of residential units and hotel rooms. It created a Conservation Park on land owned by the Isaac Wildlife Trust and allowed a greater part of this land to be used for quarrying than is permitted under the existing Rural Quarry zone but otherwise limited its use to conservation and recreational activities. Notification of the variation attracted 43 submissions which were heard by Commissioner David Collins. His recommendation that the variation be adopted subject to some amendments was adopted by the Council in August 2007. One appeal against the decision was received. The Environment Court's decision to allow this appeal was itself appealed to the High Court by Environment Canterbury. The High Court allowed Environment Canterbury's appeal and quashed the Environment Court's decision.

Appendix 2 is the Variation as amended by the Council's decision.

4 Cont'd

- **Plan Change 27: Rezoning of Central New Brighton**

Plan Change 27 sought to alter the zoning within parts of central New Brighton to allow for an increase in residential density through changes to permitted building heights, while minimising the potential for adverse environmental effects. New rules relating to design and appearance of buildings and wind effects were proposed. Public notification of the plan change in July 2007 attracted 206 submissions. These were heard over four days in May and September 2008 by Commissioner David McMahon. His recommendation that the plan change be confirmed, subject to some amendments, was adopted by the Council in May 2009. No appeals against the decision were received.

Appendix 3 is the Plan Change as amended by the Council's decision.

- **Plan Change 29: Height and Setback Controls in B4 and BRP Zones**

This Change introduced height limits in the Business 4 and Business RP zones and provided for an increased setback for buildings in those zones. Commissioner David Collins was appointed to consider the matter and conducted a hearing over three days in September 2008. The Council, in February 2009, accepted his recommendation that the height limits proposed be adopted, subject to some amendment, and that the setback provision not be altered. One appeal against the decision was received but this has been withdrawn.

Appendix 4 is the Plan Change as amended by the Council's decision.

- **Cashmere and Worsley Valleys**

In July 1998 a Council Hearings Panel heard submissions relating to the zoning of land in the vicinity of Cashmere and Worsley Valleys. Before decisions were released on these submissions, the Environment Court ruled that the summary of submissions had been defective and directed the summary be corrected and re-notified. In July 2001 a new hearing of the submissions was held over seven days and in September 2001 the Council gave its decision. Various appeals were received and were the subject of several hearings before the Environment Court and the High Court. In February 2009 the Environment Court issued its final decision on the appeals.

Appendix 5 is the Environment Court's final decision. It includes as **Appendix A** all the amendments to be made to plan provisions.

FINANCIAL IMPLICATIONS

8. There are no direct financial implications.

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

9. Covered by existing budgets.

LEGAL CONSIDERATIONS

10. The Council is empowered by the Resource Management Act 1991 to make amendments to the City Plan to alter any information where such alteration is of minor effect, and to correct minor errors. The Council can do so without further formality. The Council has delegated this function to the Committee.
11. Approving provisions in the City Plan is a formal procedural step required by the Resource Management Act 1991 before those provisions can be made operative.

4 Cont'd

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

12. Yes, see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

13. Aligns with District Plan Activity Plan.

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

14. Yes. Supports the maintenance and review of the District Plan project.

ALIGNMENT WITH STRATEGIES

15. Yes.

Do the recommendations align with the Council's strategies?

16. Yes.

CONSULTATION FULFILMENT

17. Making amendments to the City Plan under clause 16(2) of the First Schedule to the Resource Management Act 1991 is a function that the Council can do without further formality. Consultation is not required.

18. Approving changes to the City Plan under clause 17(2) of the First Schedule to the Resource Management Act 1991 is a procedural step that does not require consultation.

STAFF RECOMMENDATION

It is recommended that the Council:

1. Without further formality, and pursuant to clause 16(2) of the First Schedule to the Resource Management Act 1991, amend the Christchurch City Plan by deleting Table 3 in rule 2.4.5 in Part 6 of the City Plan and substituting the following table:

<u>Column A</u> <u>Area to which</u> <u>minimum ground</u> <u>levels apply (as shown</u> <u>on plan in Appendix</u> <u>3b)</u>	<u>Column B</u> <u>Grid reference (NZMS Grid)</u>		<u>Column C Minimum</u> <u>finished ground</u> <u>level (metres above</u> <u>mean sea level)</u>
	<u>Northing</u>	<u>Easting</u>	
<u>RC5 – A</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751420 N</u> <u>5751719 N</u>	<u>2477660 E</u> <u>2477909 E</u>	<u>12.05</u> <u>11.9</u>
<u>RC5 – B</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751568 N</u> <u>5751870 N</u>	<u>2478180 E</u> <u>2478449 E</u>	<u>11.07</u> <u>10.46</u>
<u>RC5 – C</u> <u>Westernmost extent</u> <u>Easternmost extent</u>	<u>5751034 N</u> <u>5751611 N</u>	<u>2478238 E</u> <u>2478525 E</u>	<u>12.85</u> <u>10.40</u>
<u>RC6</u>	<u>5751014 N</u>	<u>2477695 E</u>	<u>13.8</u>

4 Cont'd

- 2(a) Approve, pursuant to clause 17(2) of the First Schedule to the Resource Management Act 1991, the changes to City Plan provisions set out in the documents attached to this report as Appendices 1, 3, 4 and 5.
- 2(b) Approve, pursuant to clause 17(2) of the First Schedule to the Resource Management Act 1991, the changes to City Plan provisions set out in Appendix 2 attached to this report, subject to the substitution of Table 3 in rule 4.2.5 in Part 6 in Appendix 2 by the table set out in recommendation (a) above.
- 2(c) Authorise the General Manager, Strategy and Planning to determine the date on which the changes to plan provisions become operative.

COMMITTEE RECOMMENDATION

That the staff recommendation be adopted.

Councillor Williams declared an interest in Appendix 3 and took no part in the discussion on related matters and voting on recommendation 2(b).

5. RESOURCE MANAGEMENT (SIMPLIFYING AND STREAMLINING) AMENDMENT BILL 2009 – DELEGATION OF POWERS

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Environmental Policy and Approvals Unit Manager
Author:	Maurice Dale, Senior Planner

PURPOSE OF REPORT

- The purpose of this report is to inform the Council about new decision making powers under the Resource Management (Simplifying and Streamlining) Amendment Bill 2009, relating to both the planning administration and district planning teams, which are recommended to be delegated to either the Hearings Panels, Officer Subcommittees or senior staff positions. It also recommends new delegations in response to the needs of planning administration, the removal of now redundant delegations and job position titles, and consequential changes to the wording of existing delegations to reflect the amended statute, new job position titles, and to correct errors.

EXECUTIVE SUMMARY

- The Resource Management (Simplifying and Streamlining) Amendment Bill 2009 is proposed to be enacted and come into effect on 1 October 2009. It introduces a number of changes to the Resource Management Act 1991, with the aim of simplifying and streamlining the planning processes under the Act including in relation to development proposals of national significance. Many of these changes give the Council new powers in relation to processing resource consents.
- The new powers for which delegations are required relate to the following:
 - Deciding on whether a notified resource consent application or an application to change or cancel a condition of a resource consent that has been notified, should be directly referred to the Environment Court at the request of an applicant, under section 87CA of the amended Act.
 - Deciding on whether to request the Minister for the Environment to call-in a resource consent application for a proposal of national significance, under section 145(1) of the amended Act.

5 Cont'd

- Making suggestions to the Minister for the Environment for persons to sit on a board of inquiry to be appointed to hear a resource consent for a proposal of national significance, under section 149K of the amended Act.
 - To provide a discount on an administrative change imposed under section 36 in accordance with regulations made under section 360(1)(hj) of the Resource Management Act 1991, where a resource consent has not been processed within statutory timeframes.
 - Deciding on whether a notice of requirement for designation or a notice for a heritage order should be directly referred to the Environment Court at the request of a requiring authority or a heritage protection authority under sections 198BA or 198I.
 - Determining any notification issues for any notice of requirement for designation under sections 168A or 169 of the Resource Management Act 1991 or for any notice of requirement for a heritage order under sections 189A or 190.
 - To suggest conditions that should be imposed if the Environment Court decides to grant any of the applications in sections 87BA, 198A and 198H, that the Council has referred to the Court for decision, under sections 87D, 198C or 198J,
 - To make a further submission to the EPA under section 149D of the Resource Management Act 1991.
 - To determine that an application is incomplete and return it to the applicant pursuant to section 88(3) of the Resource Management Act 1991 (has been previously adopted but not included in the current delegations register).
 - To issue a certificate of compliance pursuant to section 139 of the Resource Management Act 1991 (a new delegation for the Resource Management Officer Subcommittee but deleted as an existing delegation to the Team Leaders).
4. In addition, a new delegation is sought in relation to the existing section 138 of the Act relating to the surrendering of resource consents. Section 138 enables a holder of a resource consent to surrender that consent in whole, or in part, by giving written consent to the Council. The Council may refuse to accept the surrender of *part* of a consent where it considers that the surrender would affect the integrity of the consent, or affect the ability of the consent holder to meet other conditions of the consent, or lead to an adverse effect on the environment. A delegation of this decision making power is sought for the Hearings Panels, and the Resource Management Officer Subcommittee.
5. In terms of the new powers relating to direct referral of an application to the Environment Court and requesting the minister to call-in an application, these processes will be used exclusively for either notified (in the case of direct referral), or nationally significant proposals (in the case of called-in applications). As such it is recommended that they be exercised by a Hearings Panel in recognition of their significance. They also align with similar powers the Hearings Panels currently have in respect of notified applications. In reality such powers may be rarely used as, for example, it is not envisaged that there will be many proposals that would qualify as a proposal of national significance in the Christchurch City Council area.
6. It is recommended that the new power to make suggestions to the Minister of the Environment for persons to sit on a board of inquiry to hear an application for a proposal of national significance be exercised by the Resource Management Manager or Planning Administration Manager. Currently these positions have the delegation to approve the composition of Hearings Panels to hear matters under the Resource Management Act 1991, and it is considered that the new power would align with these existing delegations. Again, it is considered that such a power will be rarely exercised within the Christchurch City Council area.
7. The new powers in relation to providing a discount on an administrative change for late consent processing and determining whether to accept a surrender of part of an existing resource consent are typical planning administrative manners which are considered appropriate to be exercised at Resource Management Officer Subcommittee level.

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8. As a result of changes to the format and/or wording of existing provisions in the Act, consequential wording changes are also required to other existing delegations. With the exception of expanding the powers of the Resource Management Officer Subcommittee to appoint commissioners, the remainder of these changes do not in any way affect the substance or affect the power given by the existing delegations. They are necessary only to ensure consistency with the format and wording of the amended Act.
9. Changes to the current delegation to the Resource Management Officer Subcommittee to appoint commissioners is, however, recommended to broaden the powers of the Subcommittee to appoint commissioners to consider wider matters delegated to subcommittee level. This would include the ability to consider applications for change or cancellation of consent conditions, outline plans, certificates of compliance, and existing use certificates among other subcommittee powers. It is also recommended that the Subcommittee have the delegation to appoint commissioners to consider objections to additional fees charged on resource consents under sections 357B and 357D of the Resource Management Act 1991.
10. The broadening of these powers is considered necessary to allow commissioners to be appointed for such matters where the Council may have a conflict of interest in making a decision on the matter itself. This would also avoid the need to bring together Hearings Panels at short notice to instead delegate subcommittee powers to commissioners. Furthermore, the delegation of fee objections to commissioners is considered good planning practice to ensure that fee objections are considered in an independent and transparent manner.
11. At present the delegations from the Council give a Council Hearings Panel or a commissioner the power to hear matters such as plan changes and variations and make recommendations to the Council. The same applies to notices of requirement heard by a Council Hearings Panel (i.e. a recommendation is made to the Council which then makes a recommendation to the requiring authority). However, a commissioner hearing a similar matter has the power to make a recommendation direct to the requiring authority.
12. Previously there has been conflicting opinion as to the powers that could be delegated to a commissioner but recent case law (Kapiti Environmental Action Inc v Kapiti Coast District Council [EnvC W085/07]) gave some direction and the Act is now to be amended to clarify that a commissioner may be delegated the power to exercise any functions, powers, or duties under the Act other than the approval of a plan under Clause 17 of Schedule 1. Section 34 of the Act allows the Council to delegate to any committee any of its functions powers or duties.
13. The Committee may wish to consider recommending to the Council that the delegations to Council Hearings Panels be amended to allow a panel to make decisions rather than recommendations on plan changes, variations and the power to make a recommendation directly to a requiring authority. Such a change would have the effect of giving the same power to a commissioner because of the Council's delegation giving commissioners the powers of a Hearings Panel.
14. The Council is very limited in what it can do with a recommendation from a panel or commissioner. It cannot substitute the recommendation with its own decision nor can it vary a recommendation substantially. It can refer a recommendation back to a panel or commissioner and ask that particular matters be reconsidered or it could refer the matter to another panel or commissioner to be reheard. The need to have a panel or commissioner recommendation confirmed by the Council as its decision can result in a delay of a decision by up to six weeks.
15. If the Council is minded to delegate the functions discussed in paragraph 13 then the following resolution also needs to be made. [To amend the existing delegations (1(a), 1(b), 1(f) and 1(h)) to the Council Hearings Panels to allow a panel to make decisions rather than recommendations on plan changes, variations and the power to make a recommendation directly to a requiring authority].

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16. Finally, some changes are also recommended to correct errors in the existing delegations, to reflect changed job position titles, and to remove redundant delegations for some job positions due to changes in the roles and responsibilities of those positions. This includes removal of some plan making delegations to the Environmental Policy and Approvals Manager which are no longer a role of that position. These now sit within the Strategy and Planning Group, and requisite delegations already exist for persons within that group to carry out those powers.
17. The three Tables below set out the changes proposed for the planning administration team, with Table 1 setting out the new powers together with the group or position to which it is recommended they be delegated. Table 2 sets out the consequential amendments to existing delegations required to ensure consistency with the amended Act. Table 3 sets out those amendments required to correct errors or remove now redundant delegations.

Table 1 – New Powers Requiring New Delegations

New Delegation	Recommended Delegation
<u>To determine whether a notified resource consent application or an application to change or cancel a condition of a resource consent that has been notified, should be directly referred to the Environment Court at the request of an applicant, under section 87CA of the amended Act.</u>	Delegation (zn) to Hearings Panels.
<u>To determine whether to request the Minister for the Environment to call-in a resource consent application for a proposal of national significance, under section 145(1) of the amended Act.</u>	Delegation (zo) to Hearings Panels
<u>To make suggestions to the Minister for the Environment for members to sit on a board of inquiry to be appointed to hear a resource consent for a proposal of national significance, under section 149K of the amended Act.</u>	Delegation (zp) to Hearings Panels, Resource Management Manager (4), and Planning Administration Manager (l).
<u>To determine any discount under section 36AA of the Resource Management Act 1991 on an administrative charge imposed under section 36 in accordance with regulations made under section 360(1)(hj) of the Resource Management Act 1991.</u>	Delegation (19) to the Resource Management Officer Subcommittee
<u>To determine whether to accept the surrender of part of a resource consent under section 138 of the Resource Management Act 1991.</u>	Delegation (zr) to Hearings Panels, and the Resource Management Officer Subcommittee (20).
<u>To decide whether a notice of requirement for designation or a notice of requirement for a heritage order should be directly referred to the Environment Court at the request of a requiring authority or a heritage protection authority under sections 198BA or 198I.</u>	Delegation (zs) to Hearings Panels.
<u>To determine any notification issues for any notice of requirement for designation under sections 168A or 169 of the Resource Management Act 1991 or for any notice of requirement for a heritage order under sections 189A or 190.</u>	Delegation (zt) to Hearings Panels.

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<u>To determine that an application is incomplete and return it to the applicant pursuant to section 88(3) of the Resource Management Act 1991.</u>	Delegation (zv) to Hearings Panels and Resource Management Officer Subcommittee (22). Previously recommended and adopted but not currently included in delegations register.
<u>To issue a certificate of compliance pursuant to section 139 of the Resource Management Act 1991.</u>	Delegation (21) to the Resource Management Officer Subcommittee. Was delegated to team leaders which is now deleted to maintain consistency with other delegations.
<u>Pursuant to sections 87D, 198C or 198J, to suggest conditions that should be imposed if the Environment Court decides to grant any of the applications in sections 87BA, 198A and 198H, that the Council has referred to the Court for decision.</u>	Delegation (zw) to Hearings Panels.
<u>To make a further submission to the EPA pursuant to section 149D of the Resource Management Act 1991.</u>	Delegation (zx) to Hearings Panel
<u>To lodge submissions on behalf of the Council on any proposed Regional Plan or variation to a proposed Regional Plan, or on any change to a Regional Plan.</u>	Delegation (zy) to Hearings Panel and Strategy and Planning General Manager.

Table 2 – Consequential Amendments to Existing Delegations

Amended Delegation (Crossed out text notates deletions, and underline text notates additions)	Current Delegation
To determine any notification issues in relation to any application for resource consent pursuant to sections 93, 94A, 94B, and 94C <u>95A – 95F</u> of the Resource Management Act 1991.	Remains delegated to Hearings Panels (c).
To lodge an appeal or a reference to the Environment Court, pursuant to either s.174 or Clause 14 of the First Schedule to the Resource Management Act 1991, against any decision of a Requiring Authority.	Remains delegated to Hearings Panel (i).
To hear and make decisions on any objection, made under <u>sections 357 and 357A</u> of the Resource Management Act 1991, to any Council decision.	Remains delegated to Hearings Panels (j).
To give the consent of the Council as the requiring authority to the use of land which is subject to a designation, pursuant to sections <u>9(2)(3)</u> , 176 and 178 of the Resource Management Act 1991.	Remains delegated to Hearings Panels (q).
To determine whether an application for a resource consent need not be notified pursuant to <u>sections 94 95A to 95F</u> of the Resource Management Act.	Remains delegated to Resource Management Officer Subcommittee (2). Amendment reflect new numbering.
To require additional fees to be paid over and above any prescribed fees, in order to enable the Council to recover its actual and reasonable costs in respect of the matter concerned, pursuant to <u>sections 36(3) and 149ZD</u> of the Resource Management Act 1991.	Remains delegated to the Resource Management Officer Subcommittee (6).

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<p>To appoint any commissioner or commissioners where, in the opinion of the subcommittee, it is desirable that a commissioner or commissioners be appointed for the purpose of deciding whether:</p> <p>(a) an application should be notified or non-notified under s94 section 95A and 95B;</p> <p>(b) to hold a hearing of the application if required;</p> <p>(c) to determine whether to grant consent to the application.</p> <p>(d) any other matter delegated to the Resource Management Officer Subcommittee.</p> <p>(e) to hear, consider, and make a decision on an objection to the additional fees charged by the Council under sections 357B and 357D of the Resource Management Act 1991.</p>	<p>Remains delegated to the Resource Management Officer Subcommittee (11).</p>
<p>That pursuant to section 34A of the Resource Management Act 1991 the Council delegate to the Resource Management Officer Subcommittee the power to:</p> <p>(a) Make decisions on any notification issues in relation to resource consent applications under sections 92 – 94D 92 – 95F of the Resource Management Act 1991;</p> <p>(b) The powers of the Council under sections 37 and 37A of the Resource Management Act 1991;</p> <p>(c) The power to provide an estimate of the additional fees likely to be imposed on under section 36 of the Resource Management Act 1991.</p>	<p>Remains delegated to the Resource Management Officer Subcommittee (13).</p>
<p>To determine which persons and bodies shall be served with a copy on any notified resource consent application, and to arrange its public notification, and erection of signs, pursuant to section 93(1) sections 95A to 95F of the Resource Management Act 1991.</p>	<p>Remains delegated to Environmental Policy and Approvals Manager (c), Planning Administration Manager (b), Area Development Officers (2), Team Leader Subdivisions (2), and Planning Team Leader (b). Amended to reflect new sections.</p>
<p>To determine which persons shall be required to give their written approval for any resource consent which is not to be publicly notified, pursuant to section 94 sections 95A to 95F of the Resource Management Act 1991.</p>	<p>Remains delegated to Planning Administration Manager (c). Amended to reflect new sections.</p>
<p>To lodge submissions on behalf of the Council on any proposed district plan or variation to a proposed district plan administered by the Council, or on any Council initiated or privately initiated change to a district plan administered by the Council, or on any notice of requirement for a designation or on any notice of requirement for a heritage order.</p>	<p>As a result of restructuring delegation to Programme Manager Liveable City and Programme Manager Healthy Environment deleted and re-allocated to General Manager, Strategy and Planning (3) and to Programme Manager District Planning (7). Also to Council Hearings Panel (zu).</p>

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<p>The power, pursuant to Section 34(4) of the Resource Management Act 1991, To make submissions on individual notified regional land use consents and water, discharge and coastal permits where:</p> <p>(a) There are special matters of metropolitan importance; or</p> <p>(b) There are special matters of importance to the local community or local environment; or</p> <p>(c) There are technical skills or knowledge which the Council can contribute to achieving a better outcome for the community.</p>	<p>Delegation (1) remains with Programme Managers Liveable City and Healthy Environment. Section 34(4) was repealed several years ago</p>
<p>The power, pursuant to Section 34(4) of the Resource Management Act 1991, To make submissions on applications for resource consents applied for in territorial authority districts adjoining the city.</p>	<p>Delegation (2) remains with Programme Managers Liveable City and Healthy Environment. Section 34(4) was repealed several years ago</p>

Table 3 – Removal of Redundant Delegations and Correction of Errors.

Removal or Correction (Crossed out text notates deletions, and bold text notates additions)	Delegated to
<p>To resolve by consent order any proceedings before the Environment Court other than proceedings arising from a decision of Council on submissions to the proposed City District Plan.</p>	<p>Remains delegated (l) to Hearings Panels, Reference to “proposed” removed and broadened to include City Plan and Banks Peninsula District Plan.</p>
<p>Pursuant to s34A(1) of the Resource Management Act 1991, the power To appoint any hearings commissioner or commissioners any functions, duties powers of the Council except those described in section 34A(1)(a) and (b)</p>	<p>Delegation (u) to Council Hearings Panel amended. The reference to s34A(1) is incorrect (the correct section is section 34) and unnecessary as the wording is a repeat of the words under the heading. The deletion of the words at the end is necessary because it amounts to a sub-delegation. The Commissioner’s powers are delegated directly by the Council</p>
<p>(ii) Any authority given under this delegation shall be on such terms and conditions as the Panel considers appropriate.</p> <p>Authorised positions:</p> <ul style="list-style-type: none"> • Environmental Policy and Approvals Manager • Resource Management Manager • Planning Administration Manager • Team Leader, Civic Planning Team Leader • Team Leader, Subdivisions • Senior Planner • Specialist Planner – Professional Development • Subdivisions Officer • Solicitor, Legal Services Unit 	<p>Remains delegated to Hearings Panel. Position title amended to reflect new title (y)(ii).</p>

Removal or Correction (Crossed out text notates deletions, and bold text notates additions)	Delegated to
<p>That the Council Hearings Panel be delegated the power to authorise any officer approved by either the Legal Services Manager, or the Environmental Policy and Approvals Manager, <u>or the Strategy Support Unit Manager</u> to participate in a mediation of any proceeding before the Environment Court other than a proceeding under the Resource Management Act. Except on proceedings arising from decisions made by the full Council the authority shall include the power to commit the Council to a binding agreement to resolve the proceeding and shall be on such terms and conditions as the Panel considers appropriate.</p>	<p>Remains delegated to Hearings Panels. Position title amended to reflect new title (ya).</p>
<p>To hear and consider submissions on the Proposed City Plan District Plan and to recommend decisions to the Council.</p>	<p>Remains delegated (zg) to Hearings Panels. Reference to "Proposed City" deleted to broaden to both City Plan and Banks Peninsula District Plan.</p>
<p>To make hear and make decisions on any notified application or non-notified application which requires a hearing under the Resource Management Act 1991, including directions pursuant to Section 41B (provision of evidence) <u>and/or</u> Section 41C (order of business and provision of reports and information).</p>	<p>Remains delegated (zm) to Hearings Panels. Amendments clarifies purpose of delegation.</p>
<p>(b) Any authority given under this delegation shall be on such terms and conditions as the Subcommittee considers appropriate.</p> <p>Authorised positions:</p> <ul style="list-style-type: none"> • Resource Management Manager • Team Leader, City Plan • Solicitor, Legal Services Unit • Senior Planner, City Plan • <u>Programme Manager District Planning</u> • <u>District Planning Team Leader</u> • <u>Principal Advisor Planning</u> 	<p>Remains delegated to District Plan Appeals Subcommittee. Position titles amended to reflect new titles (3)(b).</p>
<p>To authorise any two or more officers who, for the time being, hold any of the following positions to jointly consider, and resolve by consent order, any appeal to the Environment Court against a decision of Council on submissions to the City Plan or District Plan, where the appeal relates to an alteration of minor effect or the correction of a minor error.</p> <p>Authorised positions:</p> <ul style="list-style-type: none"> • Resource Management Manager • Team Leader – City Plan • Senior Planner – City Plan • <u>Programme Manager District Planning</u> • <u>District Planning Team Leader</u> • <u>Principal Advisor Planning</u> • <u>Solicitor, Legal Services Unit</u> 	<p>Remains delegated to District Plan Appeals Subcommittee (4). Position titles amended to reflect new titles.</p>

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<p>Members 7.11.07 Environmental Policy & Approvals Manager Resource Management Manager Planning Administration Manager Team Leader City Plan Team Leader Subdivisions Civic Planning Team Leader Area Development Officers Subdivision Officers Senior Planners Specialist Planner – Professional Development Programme Manager, District Planning District Planning Team Leaders Principal Advisors, Planning</p> <p>(Quorum: any two members)</p>	<p>Delegated to the Resource Management Officer Subcommittee. Position titles amended to reflect new titles and remove redundant titles.</p>
<p>To waive or extent any time limited pursuant to s.37 and 37A of the Resource Management Act 1991</p>	<p>Remains delegated (4) to the Resource Management Officer Subcommittee.</p>
<p>To reduce any fees in respect of resource consent applications in the following cases:</p> <ul style="list-style-type: none"> • Where the application is a voluntary or community organisation (maximum reduction 50%). • Where the application is minor and the actual and reasonable costs of the Council are less than the prescribed fee. 	<p>Authority to waive fees remains under section 36 delegation. This delegation gives impression such organisation will receive 50% reduction (5).</p>
<p>To request any changes to any Outline Plan submitted pursuant to s420(4) section 176A(4) of the Resource Management Act 1991.</p>	<p>Remains delegated (7) to the Resource Management Officer Subcommittee.</p>
<p>COMMISSIONER OR COMMISSIONERS APPOINTED BY A COUNCIL HEARINGS PANEL</p>	<p>Reference to appointment by a Hearings Panel removed as commissioners not just appointed by Hearings Panels.</p>
<p>To hear and make a recommendation to the requiring authority on any requirement for a designation or heritage order.</p>	<p>Remains delegated (3) to commissioner. Reference to designation included.</p>
<p>Any other delegation given by the Council to the Council Hearings Panel, the City Plan Hearings Committee, the Resource Management Officer Subcommittee or to the Resource Management Officer Subcommittee District Plan Appeals Subcommittee.</p>	<p>Remains delegated (4) to Commissioner or Commissioners appointed by a Council Hearings Panel. Redundant committees deleted.</p>
<p>To determine which persons shall be required to give their written approval for any resource consent which is not to be publicly notified, pursuant to section 94 of the Resource Management Act 1991.</p>	<p>Delegated to Environmental Policy and Approvals Manager, Planning Administration Manager, Area Development Officers, Team Leader Subdivisions, and Planning Team Leader. Deleted as this delegation duplicates Resource Management Officer Subcommittee delegation.</p>

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<p>To issue a certificate of compliance pursuant to section 139 of the Resource Management Act 1991.</p>	<p>Delegated to Environmental Policy and Approvals Manager, Planning Administration Manager, Area Development Officers, Team Leader Subdivisions, and Planning Team Leader. Deleted as this delegation duplicates Resource Management Officer Subcommittee delegation.</p>
<p>(Delegations 1 to 7 above can also be exercised severally by Environmental Services Policy and Approvals Manager, Resource Management Manager or Planning Administration Manager or Team Leader Subdivisions).</p>	<p>Delegation under Area Development Officer. Amended to reflect new titles and title also rationalised.</p>
<p>The powers of the Council contained in:</p> <p>(a) Sections 92 to 94D of the Resource Management Act 1991;</p> <p>(b) Section 126 of the Resource Management Act 1991;</p> <p>(c) Section 34A(1) of the Resource Management Act 1991, to appoint any hearings commissioner or commissioners and delegate to any hearings commissioner or commissioners any functions, duties or powers except those described in section 34A(1)(a) and (b);</p> <p>(d) To agree to an allocation of an existing designation in the district plan, or a requirement in the proposed district plan, (section 181(3) of the Resource Management Act 1991);</p> <p>(e) To exercise the powers of the Council contained in sections 37 and 37A of the Resource Management Act 1991, and to make decisions under those sections.</p> <p>(Delegation 9 can also be exercised severally by Civic Plan Team Leader, Environmental Services Manager, Planning Administration Manager and Team Leader Subdivisions).</p>	<p>Area Development Officer delegation (9). Deleted as this delegation duplicates Resource Management Officer Subcommittee delegation.</p>
<p>To issue an amended resource consent pursuant to Section 133A of the Resource Management Act 1991.</p>	<p>Delegated to Environmental Policy and Approvals Manager, Planning Administration Manager, Area Development Officers, Team Leader Subdivisions, and Planning Team Leader. Deleted as this delegation duplicates Resource Management Officer Subcommittee delegation.</p>
<p>CIVIC PLANNING TEAM LEADER</p> <p>That pursuant to section 34(4) 34A of the Resource Management Act 1991, the following delegations of powers and functions under that Act be made to the Civic Planning Team Leader.</p>	<p>Remains delegated to the Planning Team Leader. Amendment to section and position title.</p>
<p>(Can also be exercised by Environmental Services Policy and Approvals Manager, Planning Administration Manager or Resource Management Manager, Team Leader Subdivisions or Area Development Officers).</p>	<p>Under Planning Team Leader. Position titles amended to reflect new positions and also positions rationalised.</p>

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<p>B. Delegations under the Resource Management Act 1991:</p> <p>(1) To lodge submissions on behalf of the Council in respect of any proposed district plan, variation to a proposed district plan or change to a district plan administered by Council.</p> <p>(2) To require further information or to commission a report, in order to consider a request for a plan change, pursuant to clause 23 of the 1st Schedule of the Resource Management Act 1991 (can also be exercised by the Team Leader City Plan).</p> <p>(3) To determine which persons and bodies shall be served with a copy of any proposed district plan, or change to a district plan, or variation to a proposed district plan, or requirement for a designation.</p> <p>(4) To carry out the following powers, duties, and functions:</p> <p>(a) To make submissions on individual notified regional land use consent and water, discharge and coastal permits where:</p> <ul style="list-style-type: none"> • There are special matters of metropolitan importance; or • There are special matters of importance to the local community or local environment; or • There are technical skills or knowledge which the Council can contribute to achieving a better outcome for the community (also delegated to the Urban Development Policy Leader). 	<p>Remove redundant delegations to the Environmental Policy & Approvals Unit Manager (B).</p>
<p>((e) to (i) can also be exercised by Environmental Services Policy and Approvals Manager, Resource Management Manager, Planning Administration Manager, Team Leader Subdivisions, Planning Team Leader or Area Development Officers.)</p>	<p>Under Planning Administration Manager. Amended to reflect new titles and also rationalise positions.</p>
<p>SENIOR PLANNER – CITY PLAN</p> <p>Any two or more officers who, for the time being, hold any of the following positions are authorised to jointly consider, and resolve by consent order, any reference to the Environment Court against a decision of Council on submissions to the Proposed City Plan, where the reference relates to an alteration of minor effect or the correction of a minor error.</p> <p>Authorised Positions:</p> <p>Team Leader – City Plan Senior Planner – City Plan Senior Planner – Planning Policy Senior Planner – Conservation Planning Planner – Planning Policy (Project Team Leader – Business)</p>	<p>Deleted as position superseded by reorganisation in Strategy and Planning Group.</p>

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<u>TEAM LEADER CITY PLAN DISTRICT PLANNING TEAM LEADER</u>	
<p>1. To determine which persons and bodies shall be served with a copy of an proposed District Plan, or Change to a District Plan, and to arrange public notification of, pursuant to clause 5 of the First Schedule of the Resource Management Act 1991.</p>	<p>Delegations allocated to new positions following restructuring. Delegations 1 and 2 deleted as they are a repeat of delegations 3 and 4 (now renumbered 1 and 2). New delegation 2 amends to include reference to requirements for heritage orders.</p>
<p>2. To lodge submissions on behalf of the Council in respect of any proposed District Plan, Variation to a proposed District Plan or Change to a District Plan administered by the Council.</p>	<p>Renumbered delegation 3 deletes reference to an obsolete term and amends authorised positions following a staff restructuring.</p>
<p>31. To require further information, or to commission a report, in order to consider a request for a plan change, pursuant to clause 23 of the First Schedule of the Resource Management Act 1991.</p>	<p>Renumbered delegation 4 has been amended to allow the delegates to appoint commissioners during the interregnum following any Council triennial election.</p>
<p>42. To determine which persons and bodies shall be served with a copy of any proposed District Plan, or Change to a District Plan, or Variation to a Proposed District Plan, or Requirement for a designation <u>or Requirement for a heritage order.</u></p>	
<p>(can also be exercised by the Environmental Services Manager).</p>	
<p>53. Any two or more officers who, for the time being, hold any of the following positions are authorised to jointly consider, and resolve by consent order, any <u>reference appeal</u> to the Environment Court against a decision of Council on submissions to the <u>Proposed City Plan</u> or <u>Banks Peninsula District Plan</u>, where the reference relates to an alteration of minor effect or the correction of a minor error.</p>	
<p>Authorised Positions: Programme Manager, District Planning <u>District Planning Team Leader</u> <u>Principal Advisor, Planning</u> <u>Team Leader – City Plan</u> <u>Senior Planner – City Plan</u> <u>Senior Planner – Planning Policy</u> <u>Senior Planner – Conservation Planning</u> <u>Planner – Planning Policy (Project Team Leader – Business)</u></p>	
<p>6.4. That the Council delegate to the <u>District Planning</u> Team Leaders <u>City Plan</u> the power during the interregnum to appoint independent commissioners and any two or more persons declared elected as Councillors following the Electoral Officer's declaration of the <u>election</u> results <u>in October 2004</u> for any triennial Council election as commissioners to:</p>	
<p>1. Consider and resolve any consent orders requested in respect of any proceedings before the Environment Court arising out of the Council's decisions on the City Plan; and</p>	
<p>2.1. Exercise any of the powers presently delegated to the <u>City Plan References-District Plan Appeals</u> Subcommittee; and</p>	
<p>3.2. Exercise the following powers presently delegated to the Council Hearings Panel:</p>	
<p>1(c) The power to hear and consider submissions on any variation and to recommend decisions to Council, and</p>	
<p>1(f) The power to lodge an appeal to the Environment Court against the decision of a requiring authority, and</p>	
<p>1(t) The power to agree to an alteration to a designation-</p>	

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<p>That the Council resolve that, for the following purposes:</p> <p>(a) Section (5)(1)(g) of the Unit Titles Act 1972 (b) Section 221(2) of the Resource Management Act 1991.</p> <p>The Principal Administrative Officer of the Council <u>or the person authorised to sign consent notices</u> shall be the Team Leader Subdivisions, or any Subdivision Officer.</p>	<p>Remains delegated (9) to Team Leader Subdivisions.</p>
<p>That pursuant to section 34(4) 34A of the Resource Management Act 1991 the Council delegates to Team Leader Subdivisions, or to any Subdivision Officer, the power to vary or cancel any condition imposed on a Consent Notice pursuant to section 221(3) of the Resource Management Act 1991.</p>	<p>Remains delegated (10) to Team leader Subdivisions.</p>
<p>That the Council resolve, pursuant to section 34(4) 34A of the Resource Management Act, that for the purposes of sections 223, 240(3) and 5(b), 241(4)(b) and 243(f)(ii), the authorised officer shall be the Team Leader Subdivisions or any Subdivisions Officer.</p>	<p>Remains delegated to Team Leader Subdivisions (11).</p>
<p>The power, pursuant to Section 34(4) of the Resource Management Act, to lodge submissions on behalf of the Council in respect of any proposed District Plan, or Change to a District Plan, administered by the Council.</p>	<p>Delegation 1 to Programme Manager Liveable City and Programme Manager Healthy Environment deleted and re-allocated to General Manager Strategy and Planning and Programme Manager District Planning.(Council Hearings Panel also has this power.)</p>

FINANCIAL IMPLICATIONS

18. There are no direct financial considerations.

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

19. There are no LTCCP budgetary implications.

LEGAL CONSIDERATIONS

20. The statutory requirements of the Resource Management Act 1991 as amended by the Resource Management (Simplifying and Streamlining) Amendment Bill 2009.

21. In addition to resolving on the new and amended delegations recommended in this report, it is also recommended that the Council confirm all existing delegations made under the Resource Management Act 1991, in light of the extensive changes made by the Amendment Bill, so there is no doubt in the future that the Council intended that those other delegations are to be continued.

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

22. Yes. The recommended delegations will meet the powers of delegation in the Act as amended by the Bill.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. Page 156 of the 2009-2019 LTCCP – Level of Service under Democracy and Governance.

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

24. Yes. Supports the level of service that Council and Community Board decisions comply with statutory requirements.

ALIGNMENT WITH STRATEGIES

25. Not applicable.

Do the recommendations align with the Council's strategies?

26. Not applicable.

CONSULTATION FULFILMENT

27. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Approve the new delegations and amended delegations set out in the above tables 1-3.
- (b) Confirm all existing delegations made by the Council under the Resource Management Act 1991.

COMMITTEE RECOMMENDATION

It is recommended that the Council:

- (a) Approve the new delegations and amended delegations set out in the above tables 1-3 with the following amendments:
 - i. Table 1: Delegations (zo), (zp) and (zy) to be delegated to the Council.
 - ii. Table 1: Update reference regarding delegation (zo) from section 145(1) of the Resource Management Act to section 142(1).
 - iii. Table 1: Update reference regarding delegation (zx) from section 145(1) of the Resource Management Act to section 149(F).
 - iv. Table 2: Delegation (j) regarding section hearings and decisions under section 357A of the Resource Management Act to be delegated to the Resource Management Officer Subcommittee.
- (b) Confirm all existing delegations made by the Council under the Resource Management Act 1991, as recorded in the attached document.
- (c) Agree that the Regulatory and Planning Committee review the governance structure of and delegations to the Council Hearings Panel.

PART B - REPORTS FOR INFORMATION

6. RESOURCE MANAGEMENT AMENDMENT ACT BILL 2009 - SUMMARY OF KEY CHANGES

The Committee received and discussed a list of key changes from staff regarding relevant changes to the Resource Management Act 1991 as a result of the Resource Management Amendment Bill 2009, which was enacted on 1 October 2009.

The Committee decided to receive this report for information.

The Committee suggested to staff to investigate effective communications around the more important changes to the Act.

22. 10. 2009

Regulatory and Planning Committee 1.10.2009

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7. PLANNING ADMINISTRATION MONTHLY REPORT (JANUARY TO AUGUST 2009)

The Committee received a monthly report to provide information about resource consent applications received and processed by the Planning Administration and Subdivision teams. It contained information from January to August 2009.

The Committee decided to receive this report for information and instructed staff not to provide a report for its December meeting.

The meeting concluded at 1.09pm.

CONSIDERED THIS 22ND DAY OF OCTOBER 2009

MAYOR