

REGULATORY AND PLANNING COMMITTEE AGENDA

30 MAY 2012

AT 9.15AM

IN COMMITTEE ROOM 2, CIVIC OFFICES, 53 HEREFORD STREET

Committee: Councillor Sue Wells (Chairperson),
Councillors Helen Broughton, Sally Buck, Tim Carter, Jimmy Chen, Jamie Gough, Yani Johanson,
Glenn Livingstone and Claudia Reid.

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1. APOLOGIES

Nil.

2. DEPUTATIONS BY APPOINTMENT

Nil.

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3. PROTOCOL AGREEMENT TO LICENCE SITES FOR TELECOMMUNICATION PURPOSES

General Manager responsible:	General Manager, City Environment DDI 941-8608
Officer responsible:	Unit Manager, Asset and Network Planning
Author:	Tony Liu, Leasing Consultant and Weng-Kei Chen, Asset Policy Engineer

PURPOSE OF REPORT

1. To:
 - (a) Seek approval from the Council for the granting of delegated authority to the Corporate Support Unit Manager to negotiate and conclude:
 - (i) new telecommunication protocol agreements, that reflect the current legislation, with Telecom and Vodafone, whose existing agreements have expired
 - (ii) vary the existing unexpired agreement with 2 Degrees, or surrender and grant a new agreement, for the purpose of providing for legislative changes arising from the Telecommunications Amendment Act 2011.
 - (b) Inform the Council of the financial impact arising from the new Telecommunications Amendment Act 2011.

EXECUTIVE SUMMARY

2. Christchurch City Council entered into protocol agreements to licence sites for telecommunication purposes with a number of Telco operators between 2001 and 2008.
3. There are currently four protocol agreements with three Telcos: Vodafone, Telecom, 2 Degrees and with a smart electricity metering company Arc Innovations.
4. Under the current protocol agreements, the Council permits the network operators to utilise its street assets (street lights, traffic lights, etc) for the purpose of erecting their respective devices. In exchange, the Council receives an annual licence fee per site. There are approximately 100 roadside cell sites in Christchurch and annual licence fees vary from \$4,000 to \$9,000 per annum plus GST per site depending on the specification of hardware attached to the street asset.
5. The protocol agreements for both Vodafone and Telecom expired in August and September 2011 respectively and need to be renewed, with this comes the opportunity to draft in the new legislation. The protocol agreements for Arc Innovations and 2 Degrees expire in 2017 and 2018 respectively. The new legislation needs to be incorporated into the 2 Degrees protocol agreement but does not impact on the Arc Innovations agreement.
6. Council staff have been in negotiations with Vodafone and Telecom who both expressed interest in entering into new protocol agreements with the Council. This negotiation was somewhat prolonged due to the Telecommunications Amendment Act 2011 (the Act) which came into effect on 1 July 2011. This amendment does not permit local authorities to request for payment for wireless works on roads.
7. It is necessary to amend the terms and conditions of the new protocol agreements, to reflect legislative changes due to the Act while retaining the current practice and process for site approval on the Council's roads and property.

FINANCIAL IMPLICATIONS

8. There are no direct financial implications arising from the purpose of this report and the resolution sought. However, associated with this matter Buddle Findlay, the Council's legal

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advisers, have confirmed that the Council has lost the ability to charge an annual licence fee for telecommunication purposes on legal roads as of 1 July 2011 in accordance with the Act. This issue is being considered by the Council's Finance and Business Performance Team and will be dealt with in the Annual Plan and Long Term Plan (LTP) processes.

9. Despite the legislative changes, Vodafone and Telecom have both indicated their commitment in honouring the existing annual licence payments to the Council until the respective site's term expires progressively until 2018.

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

10. Yes.

LEGAL CONSIDERATIONS

11. The Telecommunications Amendment Act 2011 which came into effect on 1 July 2011.
12. Sections 153 and 135 of the Act have been under scrutiny and forms a key part of the negotiation of the protocol agreement. Section 153(1) of the Act states:

"Despite anything in this Act or in any other enactment, no local authority or other person who has jurisdiction over any road may require the payment, by or on behalf of a network operator, of any amount of or in the nature of rent in respect of any line, wireless works, or other works constructed in, on, along, over, across, or under that road."
13. Section 135 of the Act states:
 - (1) Except as provided in subsection (2), a net work operator may –
 - (a) Construct, place, and maintain lines or wireless works in, on, along, over, across, or under any road; and
 - (b) For any of those purposes, open or break up any road and alter the position of any pipe (not being a main) for the supply of water or gas; and
 - (c) Alter, repair, or remove those lines or wireless works or any part of those lines or wireless works.
14. A network operator must exercise the powers contained in Section 135(1) in accordance with any reasonable conditions that the local authority or other person who has jurisdiction over that road requires.
15. Telco operators can construct wireless works on legal roads as of right subject to reasonable conditions under Section 135(1) and no local authority may require the payment in the nature of rent in respect of any wireless works constructed on that road under Section 153(1).
16. Buddle Findlay is currently engaged by the Council in preparing the new protocol agreement for Vodafone and Telecom reflecting the changes in the Act. The new protocol will retain the approval process of cell sites on the Council's roads and properties.

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

17. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

18. Yes.

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

19. Yes – renewal and replacement of street lighting systems.

ALIGNMENT WITH STRATEGIES

20. Yes – Greater Christchurch Urban Development Strategy.

Do the recommendations align with the Council's strategies?

21. Yes – It contributes to the plan for managing urban development, enhancing open spaces and creating more liveable centres.

CONSULTATION FULFILMENT

22. Not applicable.

STAFF RECOMMENDATION

That the Committee recommend the Council pass the following resolution:

That the Corporate Support Unit Manager be granted delegated authority:

- (a) To negotiate and enter into new Protocol Agreements with Telecom and Vodafone, to replace their existing expired Protocol Agreements and that these new agreements reflect the legislative changes under the Telecommunications Amendment Act 2011.
- (b) To negotiate and conclude either a variation to the existing Protocol Agreement with 2 Degrees, or a surrender, and enter into a new agreement for the purpose of incorporating legislative changes under the Telecommunications Amendment Act 2011.

BACKGROUND

23. In 2001 the Council entered into Protocol Agreements with Vodafone and Telecom for their cellular network rollouts. The purpose of these protocols was to enter into partnership with the companies in managing the cell sites on public spaces and enable their rollout to be eventuated in a timely manner.
24. The public spaces are mainly on roads where there is a presence of street furniture. The main aim is to minimise the amount of street furniture on roads and the replacement of street lighting and traffic signal poles in appropriate locations are sensible options.
25. The selection criteria for roadside sites are as shown in **Attachment 1**. Following approval of the site, resource consent for that particular site will need to be lodged. Installation for the approved site will only commence following the granting of resource consent.
26. The approval process shown in **Attachment 1** generally works well with increasing understanding of the radio frequency field and the resource management requirements for the cell sites by the communities. There were few occasions that resident groups raised their concerns and where possible Telcos did make some way to accommodate their concerns either relocation to their less desirable site, undergrounding of existing overhead services or special pole design.
27. The introduction of National Environment Standard (NES) in 2008 for permitting low telecommunication facilities in certain places on legal roads without the need of a resource consent also provides further assistance to the process of the Council's approval for roadside cell facilities. The brief summary of the NES's requirement is shown in **Attachment 2**.

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28. The relationships with the Telcos and the Protocol Agreement that supports them has worked well. There are good processes around how applications are dealt with, including site selection. It is not intended to change these as they have worked successfully for a number of years and for numerous applications across the city. This resolution is sought to simply replace expired agreements and modify the existing ones to align with the changes to Sections 135 and 153 of the Act.
29. In order to provide the Council a quick snapshot of the indirect financial implications due to recent legislative changes, the table below illustrates how much revenue the Council receives in the current financial year plus the revenue projection for the next seven financial years. It also shows the estimated annual losses per financial year as a result of the Telecommunications Amendment Act 2011.

Financial Year	Total Revenue (Roadside cell-sites only)	Loss per Year
2011/12	\$846,203.88	
2012/13	\$831,020.88	\$15,183.00
2013/14	\$813,694.27	\$17,326.61
2014/15	\$469,278.76	\$344,415.51
2015/16	\$200,473.65	\$268,805.11
2016/17	\$155,419.24	\$45,054.41
2017/18	\$147,723.04	\$7,696.20
2018/19	\$0.00	\$147,723.04

30. Overall, the accumulative revenue loss in the next seven financial years is estimated to be around \$850,000. As per table above, there will be no roadside cell-site annual licence fees payable to the Council from the 2018/19 financial year onwards in regards to roadside cell-sites only.

EXPRESSION OF INTERESTS – ISSUES TO CONSIDER

When determining the likely location of the cell facilities the following issues need to be taken into account.

1. Preference is not to introduce additional poles in the road environment. However, there are occasions the Assessment Team will support an additional pole where the Council considers a desire to improve the lighting level of that particular area or installing a camera to monitor traffic movements.
2. Preference is for cell facilities to be along the frontage of business zones or public space, rather than in residential areas.
3. For cell facilities on site in **Living Zones** where legal road is less than **25 m** in width:
 - Preference is to maintain a distance of at least 20 m from residential boundary and a further 20 m from any preschool activities.
 - To carry out public consultation where the pole is higher than the existing streetlighting pole or is larger in diameter size from the rest of the street lighting poles.
4. Co-location of cell facilities may need to be considered and addressed where there are already existing cell facilities in close proximity. Note Cl 15.3 No Exclusivity in the Agreement to Licence Sites for Telecommunications Purposes.
5. Consideration needs to be taken into account of the existing road environment in particular when the facilities are adjacent to public reserve or in the vicinity of residential sites. Mitigating measures could be provided to compensate the potential adverse visual effect of the cell facilities. These measures could be the introduction of new or additional landscaping, visual art piece design on support structures, decorative street light fittings, undergrounding existing overhead utility services in close proximity etc.
6. Information on the cabinet, pole and cell panels dimensions must be provided in the application. Visual presentations for these facilities are desirable.
7. The Assessment Team may require Telco to consult with affected stakeholders prior to considering the **site agreement**. Affected stakeholders will include resident or business groups and including immediate residents or occupiers of the properties along the street or streets.

DESIGN CONSIDERATIONS

Designer needs to take the following into account in the design.

1. *Pole Design*

Preference is for a slim-line design similar to the various type of poles that are already present on the roading network. Pole design that are different and higher than the normal street lighting standards will be required to be painted preferably light grey – Resene Silver Aluminium Code 11MA50 with clear lacquer coating. When a decorative street light fitting is proposed, Council will advise Telco the type and colour of street lighting poles and fittings.

2. *Cabinet and Cell Panels Design*

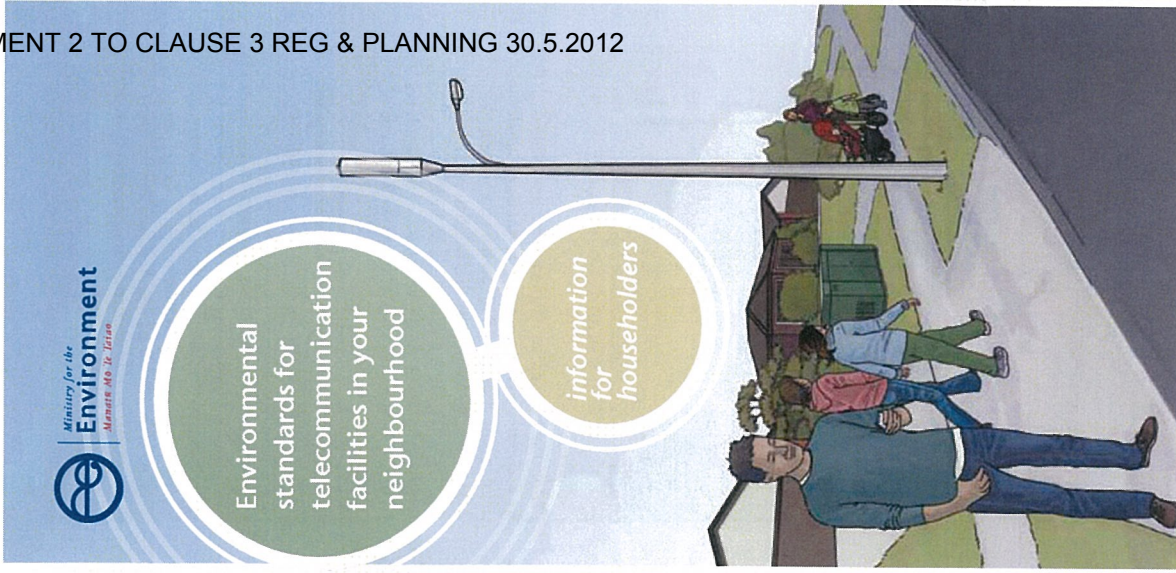
When there is a design change to the existing cellular network a pre-approval is required.

3. *Placement of Poles*

- Chosen light standard to be resited as appropriate preferably back to property boundary and minimum clear footpath width of 1.5 m must be maintained for normal footpath and 2.0 m for high pedestrian areas (mainly in business zones). Telco designers need to carry out lighting level assessment for the chosen location and improvement to the light level complying to the lighting code will form a condition of approval.
- Chosen traffic signal or sign pole to be resited as appropriate to the requirement of Transport and City Streets Unit.
- On all urban roads where speed limit is 50 km/h rigid structures shall be set back at least 3 m from traffic lanes to ensure a safe environment for road users. Greater distance from traffic lane will be required for roads where speed limit is above 50 km/h.
- In all cases Council may require safety mitigating measures be provided eg installing guard rails, frangible bollards, planting etc.

4. *Placement of Cabinets*

- On all urban roads where speed limit is 50 km/h rigid structures shall be set back at least 3 m from traffic lanes to ensure a safe environment for road users. . Greater distance from traffic lane will be required for roads where speed limit is above 50 km/h.
- Chosen site needs to consider common law on property's rights of access onto legal road and safety of road users.
- Minimum clear footpath width of 1.5 m will be required for normal footpath and minimum clear width of 2.0 m for high pedestrian areas (mainly in business zone).
- In all cases Council may require safety mitigating measures be provided.



Further information
 National Environmental Standards for Telecommunication Facilities: Users' Guide
www.mfe.govt.nz/laws/standards/telecommunication-standards.html

Cellsites
 Information about cell sites and health is available at:
www.nrli.moh.govt.nz/faq/cellphonesandcellsites.asp

Cellphones
 Information about the safety of cellphones is available at:
<http://www.nrli.moh.govt.nz/publications/is21.asp>

For more information on resource consent notification see the Ministry for the Environment's booklet, Your Rights as an Affected Person, available at:
<http://www.mfe.govt.nz/publications/rma/everyday/affected/>

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newzealand.govt.nz

Can locals have a say about where telecommunication equipment is installed?

Through the district plan process, you can have your say about your local environment and what it's used for. If a district plan identifies special areas or values the community wants to protect or manage, telecommunication companies have to comply. For example, your district plan might require telecommunication operators to apply for resource consent if they want to locate cabinets and antennas in or near landscape, coastal marine, or heritage areas.

In fact, even though the NES permit some types of low-impact roadside facilities, resource consent is still required for most activities. For example, new free-standing cell towers are not covered by the NES; instead, they are regulated through councils' district plans. The rules in the district plan will state whether resource consent is required (note, though, that radiofrequency fields are covered by the NES).

Is there a consultation process?

The telecommunication activities allowed under the NES are considered low impact; therefore, consultation is not required. For those activities that do require a resource consent, sometimes the written approval from neighbouring property owners may be required or consultation may be required with affected parties (in the resource consent process, it's described as 'notification').

Remember that, before the NES was introduced, your local district plan may already have allowed some low-impact activities to go ahead without consultation (such as installing mobile phone antennas on existing street lights or building new cellphone towers). In these cases, nothing has changed with the introduction of the NES.

How do I know that the radiofrequency fields generated from telecommunication masts/antennas will not harm me or my family?

The radiofrequency fields generated by antennas must comply with the New Zealand standard (NZS 2772.1:1999 Radio-frequency Fields Part 1: Maximum Exposure Levels 3kHz to 300GHz). The standard sets exposure limits based on international guidelines that, in order to protect people's health, are very conservative. These guidelines are published by the International Commission on Non-ionizing Radiation Protection (ICNRP) and endorsed by the World Health Organization; they were reaffirmed in late 2009 by the ICNRP in light of recent research findings.

To comply with the New Zealand standard all sources of radiofrequency fields in an area – not just the fields generated from a new antenna need to be assessed. This ensures that the cumulative effect of all antennas is considered.

The Ministry of Health has measured exposure levels around several hundred cell sites across New Zealand. The maximum exposures in public areas were found to be typically less than one-hundredth (1 per cent) of the limit allowed in the New Zealand standard. Measurements continue to be carried out on approximately 10 cell sites per year.



Telecommunication facilities like cellphone towers, antennas and roadside equipment cabinets are common sights in nearly all New Zealand communities. National environmental standards have been introduced that allow some low-impact telecommunication facilities to be located in certain places without a resource consent from the local council. This guide explains the national environmental standards: what they do, why they have been introduced, and how they affect you in your daily life.

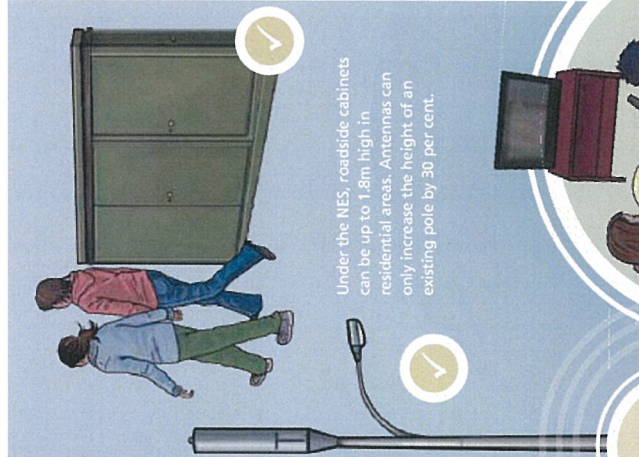
What are national environmental standards?

National environmental standards (NES) are regulations made under the Resource Management Act 1991. They set standards for managing aspects of the environment, such as ensuring clean air and good drinking water or for managing the way some activities are allowed to occur such as maintenance of electricity transmission lines. The standards are administered and enforced by city, district or regional councils in the same way as rules in their own district or regional plans. Because all councils are enforcing the same environmental standards, consistent approaches and decision-making processes apply across the whole country.

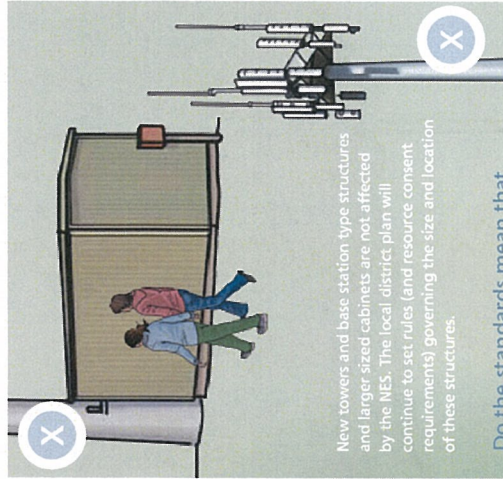
What do the national environmental standards for telecommunication facilities allow?

The NES for telecommunication facilities came into force on 9 October 2008. They describe certain telecommunication activities that can occur without a resource consent, providing they meet specific terms and conditions. If not, the telecommunication operator must apply for resource consent to the local council. The activities allowed by the NES are:

1. Radiofrequency fields generated by all telecommunication antennas (such as cellphone towers).
2. The erection of equipment cabinets at the roadside. These can contain equipment for telephones (both landlines and mobiles), cable television and internet.
3. The addition to existing roadside structures (such as light poles) of antennas used for wireless internet connections and mobile phones (including new technologies that can transmit television, internet and radio to mobile phones and smart-phones).
4. Noise levels from roadside cabinets, up to specified noise limits.



Under the NES, roadside cabinets can be up to 1.8m high in residential areas. Antennas can only increase the height of an existing pole by 30 per cent.

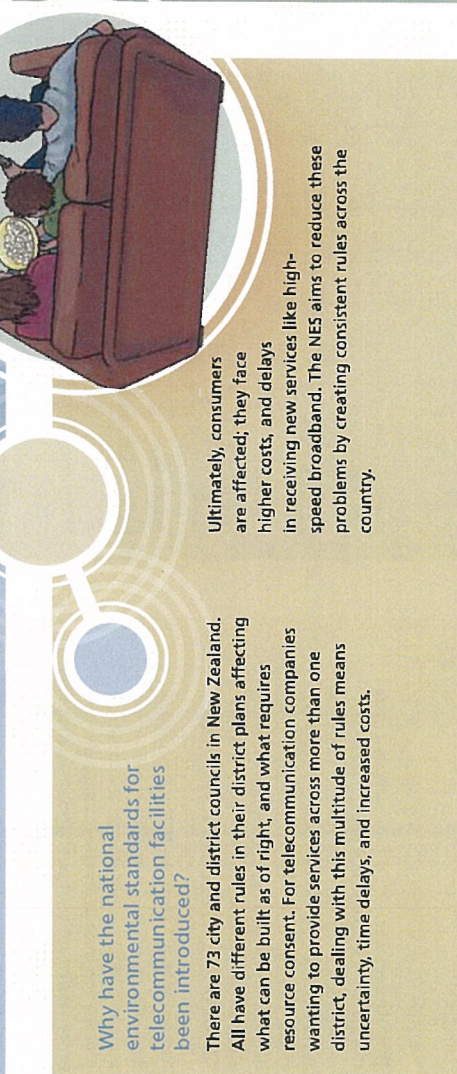


New towers and base station type structures and larger sized cabinets are not affected by the NES. The local district plan will continue to set rules (and resource consent requirements) governing the size and location of these structures.

Do the standards mean that telecommunication companies could site masts/antennas and cabinets anywhere they choose?

No. The NES applies only to equipment cabinets and antennas located at the roadside, on legal road, and it places a limit on the number and size that are permitted. All other cabinets and antennas – including those on private land, buildings and new cellphone towers – will continue to be subject to the local district plan, and most will still require resource consent.

In addition, if a telecommunication company wants to install equipment in, on or under a road, they are required by law to notify the relevant road controlling authority (RCA). For most smaller roads, the RCA is the local council. For state highways and motorways, the RCA is the New Zealand Transport Agency. Under the Telecommunications Act, the RCA can require the telecommunication company to comply with specific conditions relating to road safety and access.



Why have the national environmental standards for telecommunication facilities been introduced?

There are 73 city and district councils in New Zealand. All have different rules in their district plans affecting what can be built as of right, and what requires resource consent. For telecommunication companies wanting to provide services across more than one district, dealing with this multitude of rules means uncertainty, time delays, and increased costs.

Ultimately, consumers are affected; they face higher costs, and delays in receiving new services like high-speed broadband. The NES aims to reduce these problems by creating consistent rules across the country.

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4. RECOMMENDATION FROM THE HAGLEY/FERRYMEAD COMMUNITY BOARD

The Hagley/Ferrymead Community Board received a deputation from Regan Nolan regarding the keeping of animals, including poultry, in residential areas. The Board report and staff memorandum were received by the Council at its 10 May 2012 meeting, where it resolved to refer the memorandum back to the Board. The Board considered this at their 16 May 2012 meeting where they decided to refer this item to the Regulatory and Planning Committee. **Attached** is an updated memorandum from Alan Bywater to reflect the Board's comments, and a memorandum from Jo Daly, Hagley/Ferrymead Community Board Adviser, outlining the Board's recommendation.

Christchurch City Council – Strategy and Planning Group

Memorandum

Date: 25 May 2012

From: Programme Manager, Strong Communities

To: The Chair, Regulatory and Planning Committee

Subject: Information on the development of a bylaw regarding the keeping of animals, including poultry, in residential areas.

At the Hagley Ferrymead Community Board meeting of 4 April 2012, it was **decided** that the Board recommend that the Council request staff provide information on the development of a bylaw regarding the keeping of animals, including poultry, in residential areas.

Previous consideration

The Council at its meeting of 30 June 2004 requested staff review the Christchurch City Animals (Other than Dogs) Bylaw 2000 and the Banks Peninsula Keeping of Poultry, Animals and Bees Bylaw. As a result of the review, and following a special consultative procedure, staff reported to Council on 5 October 2006 that it was considered that sufficient legal powers exist for the control of nuisances arising from the keeping of animals and matters of animal welfare under such legislation as the Health Act 1956, the Animal Welfare Act 1999, the Building Act 1991, the Agricultural Pests (Exemption of Domestic Rabbits) Order 1994, Wildlife (Farming of Unprotected Wildlife Regulations 1985, Animal Products Act 1999, the Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998, and the Impounding Act 1955.

A legal opinion was sought on the issue of covering matters covered by central government legislation:

Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, for the Council to make a bylaw duplicating those offences.

Furthermore, staff determined that there were few complaints related to animals, bees and poultry and this was not a significant issue in Christchurch City.

Consequently in 2006 staff recommended that the Council resolve:

- (a) To revoke the Christchurch City Animals (Other than Dogs) Bylaw 2000 and the Banks Peninsula Keeping of Poultry, Animals and Bees Bylaw.
- (b) That public notice of the revocation of the bylaws be given in 'The Press' and the 'Christchurch Star' newspapers and on the Council's website.
- (c) That the bylaws be removed from the list of Christchurch City Council and Banks Peninsula bylaws on the Council's website.

ATTACHMENT 1 TO CLAUSE 4 REG & PLANNING 30.5.2012

The Council resolved to accept the recommendations.

It should be noted that whilst creating a bylaw could create specific rules about how far away from property boundaries poultry should be kept, it may not necessarily be an effective tool to control this situation. The enforcement tools under a bylaw are limited with the only enforcement action available being a prosecution and that in itself will not remove the poultry. Council would need to go through the costly and protracted process of applying through the courts for an injunction in order to have the poultry removed from the property.

Current situation

The figures for the last five years of nuisance complaint investigation involving poultry are fairly low and have declined over the last two years back to single figures. Environmental Compliance staff advise that figures for this current year are at a similar level as last year.

Year	Complaints About Birds/Poultry
2006/07	12
2007/08	14
2008/09	16
2009/10	10
2010/11	9

The Environmental Compliance Team investigates complaints about poultry from across Christchurch; most complaints are in relation to backyard fowl in residential areas.

In some instances, officers have persuaded keepers of poultry to reduce numbers or to relocate coops or runs where problems have arisen. No formal notices in relation to odour, flies or other nuisance have been issued over the last 5 years as complaints tend to be settled amicably by discussion.

Issues to consider prior to creating a bylaw

Prior to creating a bylaw, Council needs to determine that there is a significant problem to address. The concern of the resident regarding the keeping of chickens by her neighbour is that the coop is next to the fence dividing the properties. However the existence of a chicken coop or run next to or against a fence does not necessarily constitute a nuisance. In this instance Enforcement Officers have visited the premises on three occasions and they did not identify a nuisance on any of these occasions. If a nuisance such as noise or odour is identified, there are powers in legislation under which action can be taken.

A bylaw of the sort that is proposed would make locating a chicken coop incorrectly on an owner's section a criminal offence. This seems to be a response that is disproportionate to the scale of such actions.

As noted above, the tools for enforcing a bylaw are limited, with prosecution the only real option. Prosecution involves significant costs to the Council and also ties up Court time.

Conclusion

While bylaws can provide definitive guidelines on matters such as siting of coops and runs, as noted above, when the Council last considered the issue the view was that there were sufficient legal powers available to officers to deal with nuisances that might arise and hence the bylaws were revoked. In addition the enforcement powers under a bylaw are limited, expensive, and may not be effective in resolving problems that arise.

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From the number of complaints received the extent of problems appear to be relatively small and in many cases issues have been successfully resolved through advice provided by Enforcement Officers and subsequent discussion and negotiation between the parties involved.

On the basis of information collected in this preliminary examination, staff do not recommend the development of a bylaw regarding the keeping of animals, including poultry, in residential areas.

**Christchurch City Council
Democracy Services Unit**

MEMORANDUM

DATE: 23 MAY 2012
FROM: JO DALY, COMMUNITY BOARD ADVISER
TO: CHAIRPERSON, REGULATORY AND PLANNING COMMITTEE
COPY TO: ALAN BYWATER, PROGRAMME MANAGER STRONG COMMUNITIES
SUBJECT: **RECOMMENDATION FROM THE HAGLEY/FERRYMEAD COMMUNITY BOARD** - Development of bylaw regarding the keeping of animals, including poultry, in residential areas

At the meeting of the Hagley/Ferrymead Community Board held on Wednesday 16 May the Board received a briefing and supporting memo from Alan Bywater, Programme Manager, Strong Communities regarding the development of a bylaw to control the keeping of animals, including poultry, in residential areas.

A further item of correspondence from Regan Nolan on the matter had been circulated to Board members in advance of the meeting (refer **attached**).

After discussion, the Board decided on the motion of Yani Johanson, seconded by Tim Carter:

That the Board request the Council via its Regulatory and Planning Committee to consider options available, including a bylaw, to control the keeping of animals including poultry, in residential areas.

This memo presents the Board request to the Regulatory and Planning Committee for consideration at its meeting of 30 May 2012.



Jo Daly
**COMMUNITY BOARD ADVISER
HAGLEY/FERRYMEAD COMMUNITY BOARD**

ATTACHMENT

Statement from Regan Nolan:

At the time of the submission of my supporting documentation to Christchurch City Council for consideration at the 10th of May meeting, I had not received a copy of the Memo the Community Board requested requiring information on the development of a bylaw regarding the keeping of animals, including poultry, in residential areas. I would like to take the opportunity to offer a response to the Memo.

In relation to the decision made by the Programme Manager not recommending the development of a bylaw, I would have to respectfully disagree. The basis of the Programme Managers decision stems from the same information relied on in the review, and well as from the consultative procedure instigated at a Council Meeting in 2004. The decision to revoke the Animal Bylaws in 2006 came from this same information.

The information the Programme Manager relied upon in part to come to the decision in the Memo is now between 6 to 8 years old and may not reflect in any way the changing patterns in today's society. To rely predominantly on a review which was done many years ago, and prior to the recent events in Christchurch, can in no way seem to be offering an accurate platform on which to base the decision. There is no way to know without further research and investigation if the findings of the review and consultative procedure would in fact result in the same opinion and outcome today.

The figures offered in the Memo in relation to the complaints about birds and poultry are from 2006 - 2011. These figures come after the revocation of the Animal Bylaws in 2006. When our situation arose I rang the Council on two occasions, only to be told both times that there was no remedy for our issue as the Animals Bylaws had been revoked and there are no regulations relating to the proximity to houses and boundaries of poultry and their coops. I reviewed the Bylaws on the Christchurch City Council website and found this was in fact the case. I believe the lack of formal complaints comes from the knowledge gained by residents through Council wishing to seek a remedy in relation to proximity of poultry, and subsequently finding out that they have in fact NO rights and NO remedy as there are no Animal Bylaws. It must also be said that most residents may not be quite as tenacious as I am known to be, and would perhaps be letting the matter rest without making a formal complaint as they know their ability to achieve an acceptable and fair outcome is most unlikely. Did the decision of the Programme Manager take in to consideration the potential difference between the number of formal complaints versus the number of inquiries by residents wishing to find a remedy and being told there was none available to them?

The number of complaints registered in the two years prior to the revocation of the Animal Bylaws in relation to animals, bees and poultry totaled 309, half of which were associated with poultry and birds. This is significantly different to the 9 – 14 complaints registered between 2006 – 2011, yet the problems caused by the keeping of animals other than dogs were deemed to minimal. Shouldn't all residents be afforded rights and remedies regardless of how minimal the issue was seen to be by Council? I can assure you that being woken up by poultry from 5am every day, and having no remedy against having to prepare my families meals 3 metres away

ATTACHMENT 2 CON'T

from where dust comes through the fence from the coop into the kitchen is not insignificant nor do I consider the issue minimal. I honestly believe the significant drop in formal complaints is solely due to the lack of remedies being afforded to complainants as a result of there being no Animal Bylaws.

It is to be noted that in the original review it stated establishing a bylaw could create specific rules in relation to how far away from boundary poultry could be kept. It also stated in the conclusion of the Memo, which reads, "Bylaws can provide definitive guidelines on matters such as siting of runs." Is this not precisely the issue at hand? The predicament we find ourselves suffering from, which all Cantabrians are at risk of facing, is in fact the proximity from our boundary and house that the coop and poultry sit. By the admission of the Programme Manager as well as in the original review and consultative procedure, Animals Bylaws, and in particular, Bylaws relating to proximity, can provide relief and remedy to neighbouring properties as well as clear criteria to Enforcement Officers.

The original review recommendation states that the only enforcement action available is prosecution. This seems to only refer to the removal of poultry. I am not seeking to have the poultry removed; I am seeking regulations in relation to the proximity and placement of poultry and other animals, not the removal of animals. The review also refers to the cost of prosecution and the potential lack of a positive outcome. If there was the existence of clearly defined Animal Bylaws by which all residents are bound and Enforcement Officers can act on, surely the need for costly and protracted court action would be diminished.

The growth of the self-sufficiency movement and increase in backyard poultry and other animals since the revocation of the Animal Bylaws in 2006 does not seem to be taken into consideration in the Memo. Was any research done by the Programme Manager in relation to the increase of ownership of poultry and other animals in Christchurch, the average size of dwellings or the average amount of animals per property? Surely the number of thriving websites developed in New Zealand since the revocation of the Bylaws in 2006 promoting and supplying backyard poultry coops in particular would have given an indication as to the dramatic increase in their popularity.

The simple fact remains that there is no power in the legislation to regulate the proximity of animals and their dwellings to neighbouring properties. Clear regulations within Animal Bylaws are essential in regulating the ownership of animals in residential areas. Bylaws provide equal rights to the owners of animals, as well as to neighbouring properties and objective criteria for Enforcement Officers. All animals have the potential to cause harm, nuisance, noise and disturbance in residential areas and Bylaws within Christchurch City Council should reflect the need to regulate these potential issues.

I thank you for your time and consideration, and ask that you support the development and adoption of Animal Bylaws.

Regan Nolan