



Ashburton District Council

AGENDA

A **MEETING** of the **ENVIRONMENTAL SERVICES COMMITTEE** will be held as follows:

Date: Thursday 28 April 2011

Time: 1.30 pm

Venue: Council Chamber
5 Baring Square West
Ashburton

B LESTER
Chief Executive

MEMBERS:

Cr R J Kilworth (Chair)
Cr L J Leadley (Deputy Chair)
Cr I J Burgess
Cr D G McLeod
Cr P W Reveley
Cr J Sparks
Cr A B Totty
Cr R S Wilson
Mayor A R McKay (ex officio)

AGENDA

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20 April 2011

Ashburton District Council Report

File No 5/1/11/2
Date 28 April 2011
Report to Environmental Services Committee
From Senior District Planner
Subject Woodham Properties Subdivision – Naming of Road

5 Woodham Properties Subdivision – Naming of Road

5.1 Summary

To recommend the naming of a proposed road in the Woodham Properties subdivision, off Alford Forest Road, Ashburton.

5.2 Recommendation

- 1 **That** the report be received.
- 2 **That** the new road in the subdivision of 211 – 233 Alford Forest Road (approved by resource consent SUB09/0021 be named Robert Woodham Place (refer to Appendix for a plan identifying the road).
- 3 **That** the Developer be responsible for erecting name plates at the entrance to the subdivision on Alford Forest Road to indicate the name of the road and that this is done after consultation with and to the satisfaction of the Council's Rooding Manager.
- 4 **That** the Developer be responsible for paying to the Council all costs associated with the manufacture and erection of all necessary name plates.

5.3 Background

On 1 May 2009, resource consent was granted for a subdivision comprising 10 allotments in the Business 3A zone and Rural A zone for business / commercial activities. A cul-de-sac is proposed in the subdivision, the naming of which is the subject of this report.

In accordance with the Council's policy on road naming, three options were put forward for consideration being Robert Woodham Lane, Robert Woodham Crescent and Woodhams Mill Lane. The use of 'lane' was not considered appropriate as a private right of way must be called a 'lane', in accordance with the Council's policy and the proposed access is a road, not a right of way. Furthermore, a Crescent is considered to have a separate entry and exit and therefore the naming of the road as a Crescent is not appropriate. The Rooding Manager suggested that a no exit road such as this be named Place or Drive, consistent with elsewhere in the district. The applicant therefore submitted the following road names in order of preference –

1. Robert Woodham Place
2. Robert Woodham Drive
3. Woodhams Mill Place

Robert Woodham (deceased) is the father of John Woodham and husband of Ann Woodham who are developing the property. He was also a prominent member of the Ashburton community throughout his life. The name, Woodham Mill, reflects the immediate previous owners of a former mill that operated on the site prior to the site's redevelopment.

Comments were invited from the Emergency Management Officer who did not have any concerns. The recommendation reflects the preferred road name offered by the developer, staff not having any preference.

5.4 Options and Risks Considered

The names put forward for the proposed road within the subdivision are as follows as shown on the Plan accompanying this report.

1. Robert Woodham Place
2. Robert Woodham Drive
3. Woodhams Mill Place

5.5 Statutory Implications

Any resource consent for subdivision that creates a new road to be vested in Council shall comply with subdivision rules 6.6.5.2.2 (j) and (k) of the District Plan, which states –

(j) All new roads vested upon subdivision of land shall be given distinctive names not already in use within the area covered by the District Council. The name shall be agreed to by the Council.

k) Where any new road or road extension is to be vested in the Council or a named private access is provided, the applicant shall pay to the Council a financial contribution for the manufacture and erection of all necessary name plates which must be displayed at the intersections of all other roads. The financial contribution shall be the actual cost of the name plate.

5.6 Consultation

Not applicable.

5.7 Strategic Links

The following Community outcome from the LTCCP is relevant –

Outcome 3: A community with a strong sense of identity and heritage, which welcomes new residents and encourages diversity

- *Our district has a strong sense of identity and people who participate in community life. Ashburton District is a community that attracts and retains new residents.*
- *Our community recognises and preserves the cultural and social heritage of our district.*

5.8 Financial

Rule 6.6.5.2.2 (k) of the District Plan states –

Where any new road or road extension is to be vested in the Council or a named private access is provided, the applicant shall pay to the Council a financial contribution for the manufacture and erection of all necessary name plates which must be displayed at the intersections of all other roads. The financial contribution shall be the actual cost of the name plate.

Prepared By:

M STEVENSON
Senior District Planner

Approved by:

J MCKENZIE
Environmental Services Manager

Ashburton District Council Report

File No 6/9/9
Date 28 April 2011
Report to Environmental Services Committee
From Senior District Planner
Subject Draft National Policy Statement on Indigenous Biodiversity

6 Draft National Policy Statement on Indigenous Biodiversity

6.1 Summary

A draft Proposed National Policy Statement on Indigenous Biodiversity has been released for submissions, which provides the Council with the opportunity to comment. The NPS has been prepared out of recognition that indigenous biodiversity is in a state of decline. The proposed NPS provides national direction to councils in maintaining indigenous biodiversity, reflecting its importance in the RMA. **Pages 19-31**

The report includes as an appendix draft comments, which Committee's approval of is sought.

6.2 Recommendation

- | |
|--|
| <ol style="list-style-type: none">1 That the report be received2 That the draft submission on the National Policy Statement on Indigenous Biodiversity be adopted and submitted to the Crown as the Council's submission. |
|--|

6.3 Background

A draft National Policy Statement on Indigenous Biodiversity was released on 29 January 2011 for consultation with the period for submissions closing on 2 May 2011.

The National Policy Statement provides a policy direction at a national level on matters of national significance and may require councils to include specific objectives and policies from the NPS in their plans, without a formal process as would normally be required for a plan change under Schedule 1 of the Resource Management Act. The draft NPS seeks to provide clarity on the role of councils in managing biodiversity, and help to achieve a balance between the "protection of biodiversity, the interests and values of tangata whenua, the rights and responsibilities of landowners and the broader national interests that may be at stake".

Attached as Appendix 1 are draft comments on the NPS, with the draft NPS attached in Appendix 2. **Pages 32-38**

6.4 Options & Risks Considered

The options are for Environmental Services Committee to –

1. To accept the draft submission as Council's.
2. To accept the draft submission, with amendments and additions as appropriate.
3. To not accept the draft submission and for a revised submission to be drafted.

6.5 Statutory Implications

Section 45 of the Resource Management Act prescribes the purpose of National Policy Statements and whether it is desirable to prepare an NPS. Upon being issued, the Council is required to give effect to the NPS.

6.6 Consultation

The Draft NPS on Indigenous vegetation is open to submissions until 2 May.

6.7 Strategic Links

The relevant Community Outcomes from the Long Term Council Community Plan include –

Outcome 2: Natural and developed environments are sustained for the enjoyment of current and future generations

Our towns and rural areas are developed in ways that respect the local environment and meet the needs of the community.

6.8 Financial

There are no financial implications of making the submission on the NPS.

Prepared By:

M STEVENSON
Senior District Planner

Approved by:

J McKENZIE
Environmental Services Manager

Appendix 1 Proposed Draft Response to the NPS on Indigenous Biodiversity by the Ashburton District Council.

The Proposed National Policy Statement on Indigenous Biodiversity is supported in principle as it provides national direction in managing biodiversity and provides for consistency between Councils in giving effect to Part II of the Resource Management Act.

The Ashburton District Plan gives effect to the draft NPS by identifying areas of significance and methods to support the objective of maintaining indigenous biological diversity. However, there are some points that Ashburton District Council wish to make that may require amendments to the NPS as drafted.

Application

It is noted from section 4 (Application) that the NPS does not apply to public conservation land. While it is recognised that the RMA does not apply to Department of Conservation (DoC) managed land in some areas, there are potentially significant values that warrant protection through District Plans to ensure DoC are as accountable as other landowners. Large areas that have previously been identified as significant are now DoC managed following tenure review and it is therefore important that methods are in place at a District level. To not apply the NPS to DoC managed land could see inconsistency in the application of the NPS.

Policy 2

Policy 2 identifies criteria which are more appropriately described as ecosystem types, being either vegetation associated with a specific ecosystem types or specific environments e.g. habitats of threatened and at risk species. This criteria is supported given the debate that has taken place over criteria used by different ecologists. However, there is need to ensure the criteria set at a national level remains relevant and that if there is new research undertaken that the criteria is updated.

While implicit, it needs to be clear that not all criteria need to be met for an area to be significant, and that one criterion is as important as another in the list.

Policy 4

Policy 4 in requiring Councils to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna in their District Plans necessitates an assessment of all areas that are potentially significant. This has serious implications for resourcing, including time of staff and costs such as employing suitable expertise.

The process of reviewing sites in can take years. Before assessing the values of areas of indigenous vegetation there is a need to build relationships with landowners and relevant agencies to ensure their buy-in. Otherwise, the process can be time consuming and costly with a number of Councils including Ashburton District having been through mediation in the Environment Court.

The evaluation of costs associated with this policy under Section 7.6.3 states the cost for local authorities should not be high, having regard to District Plans that already identify sites and the review cycle of plans. However, the costs associated with undertaking such a review have been overlooked and further consideration needs to be given to the costs arising from an ecological survey/ assessment of all areas.

It should also be noted that there will be landowners who are not willing to participate in the process and without access to sites Councils are unable to meet the statutory requirement proposed to identify areas.

Some Council's have taken a non-regulatory approach to the protection of Significant Natural Areas, with sites being identified but not forming part of their District Plan. This has been key to landowner's buy-in, and there is concern that Policy 4 will see a return to processes that are litigious and do not achieve the outcomes sought.

The Operative District Plan for Ashburton District identifies areas of significant indigenous vegetation and/or significant habitats of indigenous fauna. There is a question of whether the policy necessitates a review of sites and/or areas that have not previously been assessed to determine their significance. Also in terms of timeframes, Section 7.6.1, which describes the intent of the policy, states that "*there is a need to provide a timeframe for the identification of and habitats according to the criteria of Policy 2*". However, the Policy states 'decision-makers must include in their plans...the criteria of Policy 2a-d and 2e'. Clarification is sought on this and if it is the intent that sites are identified within 5 years that this is made more explicit within the Policy.

The requirement for criteria of the Regional Policy Statement to be incorporated into the District Plan is supported in ensuring consistency across the region in identifying what is ecologically significant. However, it is important that the criteria are developed with all stakeholders to ensure their buy-in to assessment of areas of significance.

Policy 5

The Policy in allowing effects to be managed by methods outside district plans raises the question of how these methods can be effective if sites are identified in a District Plan as required by Policy 4. It is recognised there are methods outside a District Plan such as covenants but the question arises of how the District Plan then manages the effects of sites in the absence of methods within the plan.

The management of effects of activities must be done in such a manner that there is 'no net loss' of biodiversity, 'no net loss' being defined as "no overall reduction in ...". Given the term refers to net loss, the definition should make it clear there may be gains and losses if this is the intent.

The proposed definition of 'no net loss' does not have regard to the gains achieved through protecting areas such as fencing or a covenant, which may have long term effects on maintaining biodiversity but are not factored into the assessment of achieving 'no net loss'.

Furthermore, is it unclear how the policy of ensuring no net loss is to be monitored with their being multiple indicators of biodiversity, reflecting its diversity.

The introduction of biodiversity offsets as a 4th element following the avoidance, remedying and mitigation of adverse effects, is recognised as having a role in managing effects on biodiversity. However, in managing effects it is suggested that where effects cannot be avoided, remedied or mitigated, "*neither option* (of accepting/ tolerating the effect or declining an application) is *necessarily in the best interests of New Zealand*". Whether intentional but declining an application may be in the best interests where a proposal cannot avoid, remedy or mitigate adverse effects. Councils are faced with proposals that compromise the objective of maintaining indigenous vegetation and there is a need to establish a bottom line.

If biodiversity offsets are to be established as a 4th means of managing effects, there is a need for stronger guidance on assessing biodiversity offsets. This is most important in terms of when offsetting is appropriate and what measures are appropriate, and while this can only come about through application, such guidance is required early on.

Policy 6

Policy 6 provides for the maintenance of biodiversity outside areas of significance and is supported. The need for flexibility in applying the policy is considered appropriate having regard to the distinct features that make up each District.

Policy 7 and Policy 8

Both policies are supported in their intent. However, as stated earlier it needs to be recognised that those whose properties would be affected may not support the identification of areas of significance within RMA documents and therefore may not wish to take the opportunity to give input when there are other methods of protection that can achieve a similar outcome.

Appendix 2 Draft NPS on Indigenous Biodiversity

1. Title

This National Policy Statement is the Proposed National Policy Statement on Indigenous Biodiversity.

2. Commencement

This national policy statement comes into force on the 28th day after the date on which it is notified in the Gazette.

3. Interpretation

In this National Policy Statement, unless the context otherwise requires –

Act means the Resource Management Act 1991.

Biodiversity has the same meaning as biological diversity as included in the Act.

Biodiversity values means those attributes of an ecosystem that determine an area or habitat's importance for the maintenance of biodiversity nationally. Biodiversity values include species composition, habitat structure and ecosystem function.

Biodiversity offset means measurable conservation outcomes resulting from actions which are designed to compensate for more than minor residual adverse effects on biodiversity, where those effects arise from an activity after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground with respect to species composition, habitat structure and ecosystem function.

Community means a group of organisms growing or living together in a given area.

Customary use means, according to tikanga, the extractive use of indigenous plants or animals by tangata whenua for traditional uses including food gathering, carving, weaving, and rongoa (traditional medicine).

Ecosystem means an ecological community together with its environment, functioning as a unit; an interacting system of living parts and non-living parts such as sunlight, air, water, minerals and nutrients.

Habitat means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle or as part of its seasonal feeding or breeding pattern.

Indigenous species means a species or genetic variant found naturally in New Zealand, including migrant species visiting New Zealand on a regular or irregular basis.

Indigenous vegetation means any local indigenous plant community through the course of its growth or succession consisting primarily of native species and habitats normally associated with that vegetation type, soil or ecosystem or having the potential to develop these characteristics. It includes vegetation with these characteristics that has been regenerated with human assistance following disturbance or as mitigation for another activity, but excludes plantations and vegetation that have been established for commercial harvesting.

Land environment means a region or area classified under the Land Environments of New Zealand system.

Matter has the same meaning as defined in section 141 of the Act.

Provisions means objectives, policies, methods, rules or ancillary information (such as criteria) included within a regional policy statement or district or regional plan.

Restoration and enhancement means the active intervention and management of degraded biotic communities, landforms and landscapes in order to restore biological character, ecological and physical processes.

Maintenance means 'no net loss' as achieved by the protection of existing areas and habitats and/or the restoration and enhancement of areas and habitats as may be required through biodiversity off-sets or other initiatives.

No net loss means no overall reduction in:

- a. the diversity of (or within) species
- b. species' population sizes (taking into account natural fluctuation), and long-term viability

c. area occupied and natural range inhabited by species
d. range and ecological health and functioning of assemblages of species, community types and ecosystems.

Public conservation land refers to land administered by the Department of Conservation for whatever purpose. It excludes land administered under conservation legislation by other parties.

Threatened species means a species facing a very high risk of extinction in the wild and includes nationally critical, nationally endangered and nationally vulnerable species as identified in the New Zealand Threat Classification System lists.

At risk means a species facing a longer-term risk of extinction in the wild (either because of severely reduced or naturally small population size or because the population is declining but buffered by either a large total population or a slow rate of decline) as identified in the New Zealand Threat Classification System lists.

Any term or expression that is not defined in this National Policy Statement, but that is defined in the Act, has the meaning given to it by the Act.

4. Application

This national policy statement applies to land owned by any person except that it does not apply to public conservation land.

This national policy statement does not apply to the coastal marine area. Biodiversity in the coastal marine area should be managed in accordance with relevant policies of the New Zealand Coastal Policy Statement.

This national policy statement is not intended to be a statement of all that is required in order to fulfil obligations under section 6(c) of the Act. Instead it requires the recognition that at least one of the reasons an area or habitat may be significant for the purposes of section 6(c) is for its contribution to maintaining biodiversity.

5. Matter of national significance

The matter of national significance to which this national policy statement applies is the need to maintain New Zealand's indigenous biological diversity.

6. Objective

To promote the maintenance of indigenous biological diversity by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, and to encourage protection and enhancement of biodiversity values more broadly while:

- supporting best practice of local authorities
- recognising the positive contribution of landowners as guardians/kaitiaki of their land
- recognising that the economic, social and cultural well-being of people and communities depends on, amongst other things, making reasonable use of land.

7. Policies

POLICY 1

For the purpose of this national policy statement, an area of significant indigenous vegetation or a significant habitat of indigenous fauna is an area or habitat whose protection is important for the maintenance of indigenous biological diversity.

POLICY 2

In considering the effects of any matter, local authorities shall, in addition to any area of significant indigenous vegetation or a significant habitat of indigenous fauna identified in, or by, provisions of any relevant regional policy statement, or regional or district plan, regard the following as significant indigenous vegetation or significant habitat of indigenous fauna:

- a. the naturally uncommon ecosystem types listed in Schedule One
- b. indigenous vegetation or habitats associated with sand dunes
- c. indigenous vegetation or habitats associated with wetlands
- d. land environments, defined by Land Environments of New Zealand at Level IV (2003), that have 20 per cent or less remaining in indigenous vegetation cover
- e. habitats of threatened and at risk species.

POLICY 3

Any regional policy statement notified after the date on which this national policy statement takes effect, shall, in addition to any other provisions it has or is required to have relating to section 6(c) of the Act, include criteria for the identification of areas of significant vegetation and significant habitat of indigenous fauna that include, as a minimum, the areas and habitats identified in Policy 2a–d.

POLICY 4

District plans and any relevant regional plans shall identify, using (where practical) maps and/or schedules, areas of significant indigenous vegetation and significant habitats of indigenous fauna. In identifying these areas, decision-makers must include in their plans the criteria of the relevant regional policy statement and, within five years of this national policy statement taking effect, the criteria of Policy 2a–d (to the extent that these may be broader in scope than those of the relevant regional policy statement) and 2e (to the extent that existing information enabling the application of this criteria is available).

For the purpose of this policy, a relevant regional plan is a regional plan that controls activities that could adversely affect areas of significant vegetation and significant habitat of indigenous fauna.

POLICY 5

In addition to the inclusion in plans of any other provisions that the plan has or is required to have relating to section 6(c) of the Act, local authorities must manage the effects of activities through district and relevant regional plans (or be satisfied that the effects are managed by methods outside of district or regional plans) to ensure 'no net loss' of biodiversity of areas of significant indigenous vegetation and significant habitats of indigenous fauna by:

- a. avoiding adverse effects
- b. where adverse effects cannot be avoided, ensuring remediation
- c. where adverse effects cannot be remedied, ensuring mitigation
- d. where adverse effects cannot be adequately mitigated, ensuring any residual adverse effects that are more than minor, are offset in accordance with the principles set out in Schedule 2.

For the avoidance of doubt, in accordance with the principles of Schedule 2, there are limits to what can be offset because some vegetation or habitat and associated ecosystems, is vulnerable or irreplaceable. In such circumstances off-setting will not be possible and local authorities will need to take full account of residual adverse effects in decision-making processes.

POLICY 6

To promote the maintenance of biodiversity outside of identified areas of significant indigenous vegetation and significant habitats of indigenous fauna, and to support the resilience and viability of populations and species assemblages within identified areas and habitats, decision-makers should:

- a. recognise the contribution that all remaining areas of indigenous vegetation make to the maintenance of indigenous biodiversity and encourage the retention of as many elements as possible
- b. recognise the full range of potential adverse effects on indigenous biodiversity including, but not limited to, population fragmentation, degradation of non-living components (eg, water and soil), interruption to breeding cycles and migratory pathways, and increased exposure to invasive introduced plant and animal species that pose a threat to indigenous biodiversity.

- c. encourage the retention of existing vegetation, whether indigenous or not (but not including recognised pest plants), that provides:
 - i. habitat for indigenous species
 - ii. seasonal food sources for indigenous species
 - iii. ecological linkage between areas and habitats identified in accordance with Policy 4
 - iv. a buffer to indigenous vegetation for areas and habitats identified in accordance with Policy 4
- d. when the retention of existing vegetation and habitat will not achieve sustainable management, encourage measures that mitigate and offset adverse effects on indigenous species during, and subsequent to, removal or modification of that vegetation or habitat through harvest or clearance or other activity that may threaten the survival of affected species populations
- e. encourage the planting of naturally occurring, locally sourced indigenous species and the creation of habitats for indigenous species as well as plant and animal pest control
- f. encourage the establishment of additional indigenous riparian vegetation as a means of increasing connectivity and enhancing freshwater habitat for indigenous species
- g. ensure human-made structures do not adversely impact on indigenous species by interfering with their natural migratory movements
- h. consider both regulatory incentives (such as bonus development rights in exchange for protection and enhancement of vegetation and habitats) and non regulatory incentives, (such as technical advice and practical help) to support and encourage landowners to make appropriate land management decisions.

POLICY 7

To recognise and provide for the role of tangata whenua as kaitiaki, when developing and implementing regional policy statements and regional and district plans local authorities shall provide for:

- a. tangata whenua values and interests to be incorporated in to the management of biodiversity
- b. consultation with tangata whenua regarding the means of protecting and enhancing areas and habitats identified in accordance with Policy 4 that have particular significance to tangata whenua
- c. active involvement of tangata whenua in the protection of cultural values associated with indigenous biological diversity
- d. customary use of indigenous biodiversity according to tikanga.

POLICY 8

During the development of biodiversity-related provisions of regional policy statements, district plans and relevant regional plans (including prior to notification), local authorities will consult with, and provide reasonable opportunity for, the input of:

- a. those whose properties would be affected by the proposed plan
- b. the public
- c. tangata whenua.

Ashburton District Council Report

File No 6/4/8
Date 28 April 2011
Report to Environmental Services Committee
From Building Services Manager
Subject Fencing of Swimming Pools Act 1987 – Exemptions under Section 6

7 Fencing of Swimming Pools Act 1987 – Exemptions under Section 6

7.1 Summary

The Ashburton District Council is required by the Act 1987, to take all reasonable steps to ensure that this Act is complied with within its district. It is possible for some swimming pools to be exempted from the requirements of the Fencing of Swimming Pools Act by resolution. This report seeks to establish policy that the Council will accept and make decisions on applications for exemptions to all or parts of the Fencing of Swimming Pools Act.

7.2 Recommendation

- 1 **That** the report be received.
- 2 **That** Option 2 be adopted with all of the proposed recommendations.
- 3 **That** the Fee Schedule for the 2011 / 2012 year be amended to include an application fee of \$210.00 to cover one site inspection, administration, filing costs, plus consideration of a report with recommendation by the Committee.

7.3 Background

The Fencing of Swimming Pools Act was enacted to protect young children from the risk of drowning by restricting access to unfenced swimming pools. The Act requires people with pools (including spa pools) to put fences around them to a height of 1.2 metres. When the Act took effect a significant statistical reduction of drowning by small children in swimming pools occurred in New Zealand.

A swimming pool is defined in the Act as 'an excavation, structure, or product that is used or is capable of being used for the purpose of swimming, wading, paddling, or bathing; and includes any such excavation, structure, or product, that is a spa pool'.

In 2006, New Zealand Standards released NZS 8500:2006 with the intention that it will replace the current schedule in the Fencing of Swimming Pools Act. This standard specifies that under certain conditions spa pools need not be fenced. However, until Parliament enacts the change to the Fencing of Swimming Pools Act, the responsibility for granting exemptions still rests with each Council as set out in Section 6 of the Fencing of Swimming Pools Act (below)

6 Special exemptions

- (1) A territorial authority may, by resolution, grant an exemption from some or all of the requirements of this Act in the case of any particular pool where the territorial authority is satisfied, having regard to the particular characteristics of the property and the pool, any other

- relevant circumstances, and any conditions it imposes under subsection (2) of this section, that such an exemption would not significantly increase danger to young children.
- (2) In granting an exemption under subsection (1) of this section, the territorial authority may impose such other conditions relating to the property or the pool as are reasonable in the circumstances.
 - (3) Any exemption granted or condition imposed under this section may be amended or revoked by a territorial authority, by resolution.

Approximately 50 territorial authorities throughout New Zealand allow for exemptions of some type on a 'case by case' basis. The exemptions generally call for some additional measures that are based on NZS 8500:2006 "Safety Barriers and Fences around Swimming Pools, Spas and Hot Tubs". Exemptions are non-transferable and can be rescinded at any time if the additional measures or conditions are not adhered to.

7.4 Risks and Options Considered of an Exemptions Policy

Risks associated with this issue are:

- Swimming/Spa pools that are required to be fenced and have features that make simple fencing difficult are often not addressed appropriately.
- Swimming/Spa Pools can pose significant dangers to children without suitable safety precautions put in place.
- By imposing difficult and rigid fencing requirements where the danger to young children has not been demonstrated there is a risk owners may circumvent the Fencing of Swimming Pools Act altogether increasing the risk to children drowning.

Options available:

1. Option 1: Do not accept applications for exemptions and allow no exemptions to the requirements of the Fencing of Swimming Pools Act, require that all swimming/spa pools, ornamental ponds and other excavations and structures as defined by section 2 of the Fencing of Swimming Pools Act fully comply with that act.
2. Option 2: Allow for the application for a special exemption from portions of the Fencing of Swimming Pools Act. Each application is to be reviewed by appropriate Council staff and a report be forwarded to the Committee for consideration with a staff recommendation. Each report will:
 - a. Include an assessment of the property and consider what risks maybe involved and the feasibility of full compliance with the Fencing of Swimming Pools Act. (Assessments should include site observations, sketches of relevant features, and photographs)
 - b. Consider will be what conditions should be required to insure that risks to children under the age of 6 years are not subjected to undue risk. NZS8500:2006 "Safety Barriers and Fences Around Swimming Pools, Spas and Hot Tubs" shall be used as a guideline for conditions that may be required. In this way the Council is relying on a published and current New Zealand Standard for guidance.
 - i. Considerations can include-
 1. Lockable lids for spa pools with additional signage
 2. Where doors from the dwelling are not self closing the addition of a automatic pool cover and/or an alarm to all doors giving access to the pool area along with additional signage and high latches (1500mm).

7.5 Statutory Implications

There are no relevant Council policies that pertain to this matter. However, pursuant to section 6(1) of the Fencing of Swimming Pools Act 1987, the Territorial Authority may grant an exemption from all or some of the requirements of the Fencing of Swimming Pools Act.

7.6 Consultation

No special consultative procedures have been undertaken. No affected parties have been identified at this time.

7.7 Strategic Links

Outcome 1: A thriving and diverse local economy that provides the foundation for a quality lifestyle

Outcome 5: Healthy, active people enjoying a good quality of life in a caring and safe community

- d. Young people are supported to lead healthy and safe lives and are active participants in community life.

7.8 Financial

All applications for exemptions would require an application fee and be processed and billed on a time and cost basis by the applicant who would be non-refundable whether or not the exemption is granted.

Application fees for Fencing of Swimming Pools Act exemptions around the country vary from \$120.00 to over \$1500. It is recommended that ADC set the application fee at \$210 to cover one site inspection, administration filing costs, plus consideration of a report with recommendation by the Committee.

Prepared By:

M FIELDS

Building Services Manager

Approved by:

J McKENZIE

Environmental Services Manager

8. ACTIVITY REPORTS

8.1 Variances Report – Period ending March 2011

Attached

8.2 Building Services

8.2.1 Staff

Staff changes to the Building Department

- Liz Davidson – Building Systems Administrator and Quality Control Administrator will be leaving the department the first week of May.

8.2.2 Building Consents

The number of building consents issued during March was 93. This is an increase of three building consents from the same month in the previous year. The number of applications received for the month was 95; this is a decrease of 25 applications from the same month in the previous year. The most notable decrease for the month was in the number of applications for solid fuel heaters last year compared to this year with 11 fewer applications for the month during the month.

These numbers show an upward trend of applications from the number of applications being processed since the month of September last year when there were 62 consents issued for the month. Current indications for the month of April are that we should continue this trend with 61 applications received by 18 April.

Month	Building Consents Received	Building Consents Issued	% Processed within 20 Days	Inspections Carried Out	CCC Issued within 20 Days of Application
December	67	59	100%	338	100%
January	50	60	100%	268	100%
February	76	66	100%	337	95%
March	95	93	100%	392	100%

Pages 39-40

8.2.3 Building Consent Processing Times

Building consent applications are being processed within the 20 day timeframe without the need of utilising outside contractors. Applications have typically been processed in 16-18 days due to some processing staff being required for inspections.

8.2.4 Project Information Memoranda (PIM's)

There was one application for a standalone PIM during the month which was processed and issued within the 20 day timeframe.

8.2.5 Inspection Times

Inspection waiting times during the month have ranged between 3-5 days. The numbers of inspections have increased steadily since the beginning of the year with Building Officials averaging nearly 120 inspections per month each. Along with the number of inspections there has been an increase in travel between inspections.

8.2.6 Certificates of Acceptance

There were no new certificates for the month.

8.2.7 Dangerous, Earthquake Prone and Insanitary Building Policy

The Building Act 2004 required that ADC adopt a policy on Dangerous, Earthquake Prone and Insanitary Buildings with the district. On 29 June 2010, a policy was adopted complying with the requirements of the Building Act 2004. As set out in the Act that policy is required to be reviewed at intervals of not more than five years. A review of the policy is now underway and will be submitted for approval once completed. During the review, expert advice will be sought out and any changes to the policy will be measured and proposed.

8.3 Planning

8.3.1 Resource Consents

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• Subdivisions

Applications for subdivision and land use consents for the creation of 15 allotments with an average area of 1502m² and the associated residential development, off Golf Links Drive and adjacent to the Ashburton Golf Club, were notified with the period for submissions ending on 23 March 2011. One submission was received in opposition from the New Zealand Transport Agency. A hearing will be scheduled in the near future.

An application for the subdivision of a 1.2ha site on the corner of Allens Road and Carters Road, into two allotments of 9,850 m² and 2,340 m², was notified with the period for submissions ending on 10 March. No submissions were received and the application is currently on hold at the request of the landowner.

A subdivision of a 4ha site into two 2ha allotments on Johnston Road, west of the Rakaia township, was subject to a hearing before a Panel on 8 March 2011. The Council's decision to refuse the application was issued on 29 March 2011, on the basis that the proposed subdivision would result in adverse effects on the character of the surrounding rural environment, where the District Plan seeks a dominance of open space over buildings. The proposal was also considered to be contrary to the objectives and policies of the District Plan with regard to protecting amenity of the rural environment.

The application was decided in 86 working days, outside the statutory timeframe, and a refund is therefore due under the Resource Management (Discount on Administrative Charges) Regulations 2010. This was due to the decision being made that notification should not proceed in December close to the Christmas break and subsequently delayed processing of the application.

• Land use

A retrospective application for resource consent for a quarry off Ashburton Gorge Road is on hold, awaiting further information from the applicant including the written approval of affected parties.

An application for a residential unit on a 1.6 ha allotment on Arundel Rakaia Gorge Road, south of Mt Somers, was notified with the period for submissions ending on 29 March. This requires resource consent as the minimum allotment size for a dwelling in rural zones is 2 ha.

An application for increasing the scale and intensity of a meat processing business in Methven was notified on a limited basis to affected persons with the period for submissions ending on 23 February 2011. One submission has been received opposing the application, which will be heard on 2 May 2011.

An application for the development of four buildings for commercial activities including a Chipmunks Playland and Redpaths Electrical wholesalers, on the corner of Grey Street and East Street, was notified to affected parties on 13 April with the period for submissions ending on 12 May.

8.3.2 Monitoring / Enforcement

There continues to be correspondence from a tourism operator, who unlawfully put a sign adjacent to the State Highway some time ago and continues to question the need for resource consent. Action will be taken, should the sign be placed adjacent to SH1, to ensure the integrity of the District Plan is maintained.

8.3.3 District Plan Review

Hearings on the Proposed District Plan were held on 12 April. Submitters presented in support of their submissions on the Introduction, Signs, Hazardous Substances, and Aquatic Park chapters. Decisions on these topics will be released at the end of all hearings.

The next hearing is scheduled for the morning of 28 April when submitters have the opportunity to demonstrate that their submission is within the scope of the Proposed District Plan, or that their further submission is valid, having regard to the requirements under Schedule 1 of the Resource Management Act.

The next topic specific hearings are on 4 and 5 May when submitters have been invited to present in support of their submissions on the following chapters – Relocated Buildings/ Temporary Activities, and Definitions.

8.3.4 Draft Regional Policy Statement

The Regional Policy Statement (RPS) provides an overview of resource management issues affecting the Canterbury region, and sets out objectives, policies and methods to address these issues and achieve the integrated management of resources across the region. The RPS specifies requirements of territorial authorities to give effect to objectives and policies in the RPS and therefore the implications for Ashburton District Council are significant from a Planning and Operations perspective. The RPS is expected to be formally notified to the public in May 2011.

8.3.5 Baring Square East Project

Designs for the upgrade of Baring Square East are being progressed with input from traffic, stormwater and civil engineers as well as staff through a Town Centre Staff Reference Group that met on 14 April. Following technical input the designs will be presented to the Town Centre Subcommittee on 9 June. Funding will be sought for the implementation of these designs and other projects in the town centre as part of the review of the Long Term Plan.

8.3.6 Resource Consents granted under Delegation

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8.4 Regulatory

8.4.1 Air Quality

Enquiries with the Ministry for the Environment reveal that the amendment to the National Environmental Standard on Air Quality is to be approved by Cabinet this week and signed by the Governor General. This will give effect to the January announcement by the Hon Nick Smith - Minister for the Environment, when he announced later dates for compliance. It will not remove the confusion in the minds of Canterbury people, who will believe that the government's position (and announced dates for compliance), are the dates that apply to them. In fact the ECan 'Air Plan' remains unaltered with the original and earlier dates for compliance. Efforts are being made to convince ECan of the need to amend the Air Plan to achieve consistency with the National Environmental Standard. ECan Commissioner Bedford will be in Ashburton on 20 April 2011 to discuss this matter with the Air Quality Working Party.

8.4.2 Environmental Health

Fourteen food premises were inspected under Food Hygiene Regulations, the overall standard was good. One new licence was approved.

Three food premises were visited regarding their food control plans and they are nearing completion.

Eleven mobile food shops were inspected during the Mayfield A&P show, all were satisfactory.

Complaints were attended to-

- Rotting grain and fly breeding at the old Flour Mill on West Street, the owners were notified and with the assistance of the Council's legal team the premises was cleaned by the owners.
- Several complaints were received regarding the odour from Lignotech in the industrial area. There are presently no health issues around this and complainants were referred to ECan as this is a problem with emissions to air.
- A complaint regarding an audible bird scarer was received. There was no breach of the code of practice and the noise was not considered to be excessive noise.
- Fifty two noise complaints were investigated by First Security.

William Liebisch attended the New Zealand Institute for Environmental health conference in Wellington and a training workshop on the new Food Bill, looking at the managing and audit of the proposed food control plans.

8.4.3 Community & Public Health

Summary of notifications for January 2011.

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8.4.4 Liquor Licensing

Applications received for the month of March 2011

On/Off / Club new:	1
On/Off/Club renewal:	2
Temporary Authority:	1
Specials:	6
Manager's certificates new and renewal	8
Total for month	18

On/Off/Club Applications being processed

- County Club- Club Licence renewal
- Charming Thai restaurant, new on licence
- Harrisons Bar/Café-On Licence renewal
- Topp Lodge - new On Licence for café/lodge
- Nosh Café on licence renewal.

Files referred to the LLA

- Hinds On -the -Spot Convenience Store. Reason - Not a grocery or supermarket therefore not entitled to hold an Off Licence.
- Allenton Liquor Store. Reason-public objections
(*Public hearing for these 2 on 18 April 2011*)
- Revival Bar and Café, Harrison Street- public objections.

Special Events

- Ashburton Celtic Rugby
- Mayfield District Lions MTB race
- Pendarves Rural Fire Brigade,
- International Farm management conference in Methven

Issues to be referred to next DLA meeting

- Renewal of County Club, club licence, hours exceed DLA Policy. Hours currently Monday to Sunday 9.00am to 1.00am the following day.

Other/FYI

- Twelve Wine Bar- proposed outdoor area in Tancred Street
- Security Guard legislation enacted 1 April, will affect licensed premises door staff

8.4.5 Water Monitoring

E-coli testing of all District Council water supplies continues to achieve good results with no issues. Private community water supplies that Council tests on behalf of their owners are testing well with no E-coli contamination.

The annual laboratory accreditation visit by International Accreditation NZ Ltd, on behalf of the Ministry of Health, was carried out on 31 March 2011. No issues were identified and registration and MOH approval continues for a further 12 months. This is the tenth successful year of operating an accredited water testing laboratory that provides monitoring services for Council water supplies and a number of private rural supplies, such as rural schools, food premises and camping grounds. I would recognise Richard Durie's valuable contribution to this important customer service over this ten year period (often working 7 days per week). Charlotte Spilman provides 'back up' so that Richard is able to take leave.

Methven and Rakaia wastewater plant sampling continues on a monthly basis with no issues to report.

Landfill monitoring bores around the closed Ashburton landfill are to have the immediate area around each one (six in total) cleared of blackberry, gorse, broom and weeds to keep them accessible for purging and sampling purposes. This work is to be carried out by a Council engaged contractor and will be supervised by Environmental Services Regulatory staff, until contractor becomes familiar with bore locations.

8.4.6 Animal Control

• Registration status

The annual breakdown is as follows:

Category - Known Dogs	Number
Dogs currently registered	6735
Known unregistered dogs	149
% of registered dogs	97.7%

• Court cases

A dog classified as menacing was not contained and charged at and bit a woman on the foot while she walking past the house. The owner was being prosecuted and the dog has been euthanized. The Judge dismissed the case when the person charged claimed that they were not the owner. This situation has caused a review of how we gather evidence and will require more detailed evidence collection, even in cases that appear to be straight forward such as this one.

The owner of a pitbull that attacked a five month old Shar Pei at the Ashburton Domain Oval is being prosecuted for failing to comply with the menacing dog classification and being the owner of a dog which has attacked a domestic animal. The Shar Pei died from its injuries despite receiving intensive veterinary care. The attack occurred in front of many concerned onlookers. This case is yet to be heard. The dog owner is considering pleading guilty, if they take this option, it will reduce Council's legal costs in pursuing the prosecution.

Action taken

- Dog Control Act Infringement Notices

Ten infringement notices have been served from 7 March to 14 April making a total of 126 since 1 July 2010.

- Impounding

Thirty one dogs have been impounded from 7 March till 14 April. There are currently two dogs in the pound (as at 14 April).

- Re-homing

Four dogs have been re-homed to new owners from 7 March to 14 April.

- Euthanized

Six dogs were euthanized due to being unsuitable for re-homing.

- **Dog & stock control report**

The contractor's report for March is attached.

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J McKENZIE
Environmental Services Manager