

NOTICE IS HEREBY GIVEN THAT THE MONTHLY MEETING OF THE REGULATORY AND PLANNING COMMITTEE, WILL BE HELD IN THE COUNCIL CHAMBERS, 29 CIVIC AVENUE, GORE, ON TUESDAY 11 NOVEMBER 2008, AT THE CONCLUSION OF THE OPERATIONS COMMITTEE

**Stephen Parry
CHIEF EXECUTIVE**

5 November 2008

A G E N D A

1. National Environmental Standards for Telecommunications Facilities
(Pages 1-2)
2. Proposed National Policy Statement for Renewable Electricity Generation
(Pages 3-7)
3. Proposed National Policy Statement for Freshwater Management
(Pages 8-19)
4. Gravel Extraction – River Road
(Page 20)
5. Resource Consent Processing
(Pages 21-22)

6. Significant Trees Register (Pages 23-25)
7. Contaminated Sites (Page 26)
8. Dog Control Policy and Practices (Pages 27-31)
9. Building Consent Schedule (Pages 32-34)

REGULATORY AND PLANNING COMMITTEE AGENDA

NOVEMBER 2008

1. NATIONAL ENVIRONMENTAL STANDARDS FOR TELECOMMUNICATIONS FACILITIES

(Memo from Planning Consultant – 28.10.08)

National Environmental Standards for Telecommunications Facilities have been gazetted by Government. They came into force on 10 October 2008. In summary, the standards provide for the following:

- An activity (such as a mobile phone transmitter) that emits radio-frequency fields is a permitted activity provided it complies with the existing New Zealand Standard (NZS2772.1:1999 Radio-frequency Fields Part 1: Maximum Exposure Levels 3kHz-300GHz).

Prior to installing any structure that will emit radio-frequency fields notice is required to be given to the territorial authority. That notice is to include a report showing compliance with NZ2772.1. If the emission from the site is more than 25% of that allowed by the Standard a further report is required to be submitted within three months of the installation becoming operational. If there is non-compliance with the Standard then the installation is to be treated as a non-complying activity.

- The installation of telecommunications equipment cabinets along roads or in the road reserve is a permitted activity, subject to specified limitations on their size and location.

If the site is beneath a tree protected in the district plan, on land adjoining a heritage building protected in the district plan or on a landscape protected in the district plan then resource consent is required as a restricted discretionary activity, with assessment only allowed on those matters for which there is non-compliance.

- Noise from telecommunications equipment cabinets located alongside roads or in the road reserve is a permitted activity, subject to specified noise limits.

Those limits generally mirror the standards set in the Gore district plan.

- The installation of masts and antennas on existing structures alongside roads or in the road reserve is a permitted activity, subject to specified limitations to height and size.

These limitations set a maximum allowable increase in the size of the structure, compared to that originally installed.

The regulations substitute existing district plan rules. A plan change is not required to substitute that part of a district plan affected by the regulations. The district plan is therefore deemed to be amended. An update will be made to the district plan and to the copy on the Council web site in due course.

It is noted that had these provisions been in force earlier then it would not have been necessary for Telecom Mobile to have applied for resource consent to extend the cell site in East Gore. That application was notified and subject to a hearing.

In effect, the regulations take out of consideration in any resource consent process arguments related to the effects of emissions from cell sites. In Gore, and elsewhere in New Zealand, telecommunication sites (cell, wireless telephone and internet) were being opposed because of perceived risks to the health of people in the vicinity. The Standard now provides for any site complying with the New Zealand Standard to be permitted.

RECOMMENDATION

THAT the report be received.

2. PROPOSED NATIONAL POLICY STATEMENT FOR RENEWABLE ELECTRICITY GENERATION

(Memo from Planning Consultant – 28.10.08)

- ↳ The Government has notified a National Policy Statement for Renewable Electricity Generation. A copy of the Statement is attached. The proposed Statement is intended to provide a more favourable decision-making environment for such developments, with an increase in regard to the benefits of renewable energy generation and a shift away from prime regard being given to any adverse effects of such development.

In summary, the proposed statement provides for:

1. RMA decision-makers to have regard to:
 - a. the benefits of renewable electricity generation facilities.
 - b. “the reversibility of adverse environmental effects of renewable electricity generation facilities”
2. When imposing conditions of consent on renewable energy resources a range of factors are to be taken into account, including the implication of the location and the practicality of constraints.
3. District Councils, by 13 March 2012, are required to notify changes to their district plan to provide for renewable electricity generation facilities and associated investigations.

Submissions on the Statement closed on 31 October. There appeared to be no pressing issue impacting on the interests of the Gore District Council. As a consequence no submission has been lodged or is recommended. Submissions lodged are to be notified on 21 November with an opportunity to support or oppose the original submissions by 19 December. A hearing will be held next year, with a Board of Inquiry reporting back to Government at the conclusion of its deliberations.

RECOMMENDATION

THAT the report be received.

3. PROPOSED NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT

(Memo from Planning Consultant – 28.10.08)

- ✦ The Government has prepared a National Policy Statement for Freshwater Management and it has been publicly notified. A copy of the Statement is attached.

The Proposed Statement sets out objectives and policies on the:

- Quality of fresh water in New Zealand's rivers, lakes, wetlands and groundwater systems, including effects on the quality of freshwater arising from land-use intensification and land-use change
- Demand for fresh water
- Flows and levels of fresh water in rivers, lakes, wetlands and groundwater systems.

The Resource Management Act 1991 currently places the prime responsibility for the management of water quality and water quantity with regional councils. The objectives and policies of the proposed Statement however indicate that territorial local authorities will be required to take action in the future. For example, Objective 5 seeks to “*control the effects of land-use development and discharge of contaminants to avoid further degradation of Freshwater Resources*”. Objective 2 requires better integration of consent processes at a regional and district level.

At face value the proposed Statement will require land use consent for intensification of land use activities, for example, dairying, and for regard to be given to the potential impacts on water resources. Joint consents with Environment Southland would be likely.

A Board of Inquiry has been established. The Terms of Reference of that Board provide for it to consider how effect can be given to the objectives and policies of the proposed Statement in regional and district plans, and through resource consent processes. All regional and district Councils will be required under the proposed Statement to initiate formal changes to their RMA policy statements and plans to give effect to the Statement. That will be a cost to the individual Councils, and in the case of the Gore District Council result in costs of \$10,000 - \$30,000 being incurred.

The outcome of the Board of Inquiry will not be specific rules to include in regional and district plans, but rather a check list of matters that are required to be dealt with. Hopefully, the

submission process will more clearly identify the types of matters that are required to be included in district plans, and the range of land uses that are presently permitted in rural areas that will then require consent.

Submissions close to the proposed Statement on 19 December 2008. Council needs to determine whether it wishes to lodge a submission to the proposed Statement.

RECOMMENDATION

THAT either:

The Council receive the report and take no further action; or

THAT the Council resolve to lodge a submission to the proposed Statement.

(If Option 2 is resolved then it is suggested that two Councillors be appointed to consider the document and work with the Council's Planning Consultant to prepare that submission.)

4. GRAVEL EXTRACTION – RIVER ROAD

(Memo from Planning Consultant – 29.10.08)

The Roding Manager is becoming increasingly concerned at the impact of heavy vehicles on gravel roads, particularly those carting gravel. His focus is predominantly on River Road where there are several gravel extraction activities. In one case two operators work from different parts of the same site. One of those operators recently sought land use consent to increase the volume of material to be taken from the site. The Roding Manager requested that a fair and reasonable regime be adopted to contribute towards the cost in the short term of maintaining River Road, and in the long term to enable upgrading of that road, given an anticipated increase of heavy vehicles carrying gravel in the future.

It was considered unfair that the consent holder seeking an increase in the volume being taken from the site should be asked to make a contribution that differed from that made by the other. As a consequence, both consent holders Downer EDI Works and The Roding Company has met with the Roding Manager and agreed to pay a levy based on the volume of material being extracted from the site. The condition now applying to both land use consents states:

A levy of 49 cents plus GST shall be paid for each cubic metre extracted. The rate of the levy shall be adjusted annually on 1 September each year in line with changes to the New Zealand Transport Agency cost indices.

It is intended to include this type of condition on all new and existing gravel extraction resource consents using unsealed Council roads as the opportunity arises.

RECOMMENDATION

THAT the information be received.

5. RESOURCE CONSENT PROCESSING

(Memo from Planning Consultant – 29.10.08)

- ↳ Attached is the summary of resource consents being or recently processed.

In addition it is also reported that one abatement notice has been served on the owners of 140 Wentworth Street, East Gore. A wind mill operating on this site has been the subject of complaints from an adjoining neighbour. Council's Environmental health Consultants undertook an inspection of noise from the machine and determined that the noise was of a level and tone that created a nuisance. The abatement notice required the shutting down of the wind mill, and that has been done. The owner of the property is to meet with Council staff to discuss what action can be taken by him to enable re-erection of the wind mill.

RECOMMENDATION

THAT the information be received.

6. SIGNIFICANT TREES REGISTER

(Memo from Planning Consultant – 29.10.08)

Trees add significantly to the character of Gore, both those on the public roads and reserves and those on private land. At the time of preparing the district plan a number of trees were listed as being significant. Several land owners, and others with an interest, requested that additional trees be included on the list. Given that the district plan process was nearly complete at that time, the decision was made to defer identifying additional trees in the district plan.

In recent months a survey has been undertaken by Council staff and advisers to identify additional significant trees. Significance can arise because of one or more of the following:

- the age of the tree;
- the tree is an outstanding specimen; or
- the tree or group of trees makes a contribution to the character of the area

Having regard to these factors some 64 trees have been identified as potentially significant. The owners of the properties on which those trees are located have been written to and advised of that one or more trees on their property is considered significant. Given that consultation is being undertaken with land owners and no firm view reached on which trees will be recommended for inclusion on the significant tree register, it is not appropriate to list those trees being considered at this time. Rather the matter is being reported to Council so that there is awareness of the action being taken.

Listing is a measure of the importance Council places on identifying the most significant trees in our district and many land owners view with pride that a tree on their land is given such status. This is reflected in of the feedback received from many of the land owners. Some land owners however are expressing a contrary view, for example:

We do not want the tree listed. We will look after the tree as long as that part of the site is not required for redevelopment.

Listing will lower the value of my property because it could prevent subdivision and erecting additional buildings

We oppose our trees being listed. We will look after them, but if you try adding them to the register we will chop them down

Where a tree is deemed to be significant, the district plan enables the following to be undertaken without the need for any approval from Council:

(1) Minor trimming and maintenance of significant trees by hand-operated pruning shears or secateurs in accordance with accepted arboricultural practice.

(2) Emergency works on any significant tree to safeguard life or property, provided that written advice is given to the Gore District Council within one week of the works being undertaken.

The district plan requires approval from Council to remove or modify a significant tree. In considering any request, Council is required to have regard to:

- (1) Reasons for the proposed works and alternatives methods that could be adopted.
- (2) The health and quality of the tree and the effect that the proposed works will have on the tree.
- (3) An assessment of the values of the tree and the manner in which those values will be modified.
- (4) Impacts on the amenities of the locality.
- (5) Consultation undertaken with the Gore District Council Manager Parks and Reserves.
- (6) A description of the measures proposed to be taken to avoid, remedy or mitigate any adverse effects on the tree.

Where a significant tree is included in the district plan, Council staff are available, without cost to the land owner, to provide advice on the maintenance and care for the tree.

As noted above, land owners have been written to. The time for replying with any comments was 17 October. However, where a reply has not been received a further letter is being sent as a reminder, with a cut off of mid November.

Where land owners oppose their tree being included on the register further assessment will be carried out by staff before a final recommendation to Council. Any recommendation will be to include various trees on the register by way of a plan change. That will provide land owners with a right of objection. Where an objection is lodged then the matter can be referred to a Hearing Committee for consideration of that objection. A final determination can then be made as to which trees should be added to the register.

The current exercise also provides an opportunity for land owners to nominate before 25 November any trees they think as having special significance for inclusion on the register. This offer is only made to land owners themselves, not adjoining neighbours or the general public. If additional trees are put forward they can be assessed to determine whether they meet the criteria necessary for inclusion on the significant trees register.

It is hoped to report back to Council during the next round of Council meetings.

At this stage it is desirable for Council to appoint a hearing panel to consider the plan change in the second quarter of next year. A hearing of less than one day may be required, and a panel of three persons is considered appropriate. The persons appointed to that Panel will then be ruled out of any discussion of the issue when it is next reported to Council, and would be unable to discuss any issues related to the list of trees with members of the public.

RECOMMENDATION

THAT the report be received,

AND THAT the Council appoint a Hearing Panel of three persons to consider the Plan Change following notification.

7. CONTAMINATED SITES

(Memo from Planning Consultant – 29.10.08)

The Minister for the Environment has recently written to all Councils regarding managing information on contaminate land under the RMA. The Ministry has highlighted to all local authorities that when managing the use of land it is important that information on the past use of hazardous substances and the presence of contaminants on land be taken into account. This follows subdivision for residential purposes at several sites.

The letter states:

The importance of this point is illustrated by a case study of sawmill sites that historically use entachorohenol (PCP). A technical report, released on the Ministry for the Environment's website, confirms that dioxin residues are likely to be found at sawmills sites that used PCP. The Ministry for the Environment interprets this report as indicating that the level of dioxin likely to be persisting in the soil means that unless checked for contamination and validated as remediated or managed, the land may not be safe for residential or lifestyle lock activities.

The Ministry has asked the Council to place information on databases and property files of the sawmill sites in our district provisionally identified as having used the hazardous substance PCP. This action is to alert staff of this information for consideration should residential or rural-residential use of the site is sought.

One site within the Gore District has been identified as a possible user of the hazardous substance PCP. That is the Niagara Sawmill Company site at Mataura. A copy of the report received will be placed on the relevant property file and forwarded to the land owner for their information. If the land is ever subdivided or redeveloped, the RMA requires a detailed assessment of the risk arising from the hazardous substance PCP and for this to be taken into account in reaching a decision on any consents sought.

RECOMMENDATION

THAT the information be received.

8. DOG CONTROL POLICY AND PRACTICES

(Memo from Chief Executive – 03.11.08)

Enclosed is the annual report on the Council's dog control and practices for the year ending 30 June 2008.

This is annual obligation contained in the Dog Control Amendment Act 2003.

RECOMMENDATION

THAT pursuant to Section 10A of the Dog Control Act 1996, the Gore District Council report on Dog Control Policy and Practices for 2007/08 be adopted.

REPORT ON THE ADMINISTRATION OF GORE DISTRICT COUNCIL'S POLICY AND PRACTICES IN RELATION TO THE CONTROL OF DOGS FOR THE YEAR 1 JULY 2007 TO 30 JUNE 2008

DOG CONTROL IN THE GORE DISTRICT

The total number of registered dogs in the Gore District as at 30 June 2008 was 3192. This is 99 dogs less than what was recorded at the same time the previous year. As our District is made up of several itinerant workers the number of registered rural dogs varies from year to year. The majority (ie approximately 60%) of these dogs are pets domiciled in the urban areas of the Gore District.

Dog control in the Gore district is performed by an independent contractor. This contractor, Mrs Rae Evans, employs one Animal Control Officer to assist her in delivering an effective dog control service to the Gore District.

DOG CONTROL ENFORCEMENT PRACTICES

During the year under review the Council received two formal complaints both in regard to the behaviour of dogs and/or their owners. The two complaints concerned dog bites, and barking dogs. The complaints were the subject of an investigation and action to address the concerns of the complainants was implemented.

One of these complaints involved two German Shepherds barking in Green St which resulted in an abatement notice being issued. The owner of the dogs requested a hearing to be held to defend the notice. This hearing was held on 5 March 2008, pursuant to Section 55(4) of the Dog Control Act 1996. As a result of this hearing a monitoring programme was put in place for a month to determine the level of barking. Following this monitoring programme, a decision was made to revoke the abatement notice.

There was also an incident in Mataura where two dogs killed four sheep. The dogs were subsequently caught and taken to the vets to be euthanased.

In December 2007 the Department of Internal Affairs circulated a discussion document to all Territorial Authorities to seek ideas on improving Public Safety under the Dog Control Act 1996. A working party of Councillors and the Councils Dog Control Contractor was formed to discuss and debate the policy options and develop responses on the issues profiled.

The Councils contractor is impounding an increased number of dogs that are not being claimed by their owners due to the cost of registering the dogs and pound fees. These dogs are rehoused if they are suitable otherwise they are taken to the vet for euthanasia.

During the year a total of 44 infringement notices were issued. No prosecutions were initiated by the Council for breaches of the Dog Control Act.

DOG REGISTRATION AND OTHER FEES

A comparison of the dog registration fees for the year ending 30 June 2007 with the previous year is as follows:

	06/07	07/08
Registration Fee – Urban Dog	\$110.00	\$110.00
a. Less - fenced on a controlled property	-\$20.00	-\$20.00
b. Less – no dog complaints, impoundments or infringements within a two year period	-\$30.00	-\$30.00
c. Less – neutered or spayed	-\$7.00	-\$7.00
Registration Fee inclusive of a, b and c	\$35.00	\$35.00
Licence Fee – three or more dogs	\$100.00	\$100.00
Registration Fee – Rural Dog	\$11.00	\$11.00
a. Add – dog complaints, impoundment or infringement within a 2 year period	\$15.00	\$15.00
Late Registration Fee		
Urban Dog	\$15.00	\$15.00
Rural Dog	\$5.00	\$5.00
Poundage		
First impoundment	\$80.00	
First impoundment: dogs with current GDC registration		\$50.00
Unregistered		\$80.00
Every subsequent impoundment	\$150.00	\$150.00
Destruction costs for known owners of dogs	\$50.00	\$50.00
Sustenance – per day		
Additional Fee for impounding or releasing dogs at weekends, public holidays or outside Council office hours	\$10.00	\$10.00
	\$30.00	\$30.00

The Council takes a vigilant approach in regard to non-registration of dogs. Dogs not registered are the subject of prosecution under the Dog

Control Act should owners not heed the urgings given via letter, personal visit and the issue of an infringement notice prior to these proceedings being instituted

DOG EDUCATION

The Council's contractor issues owners with information on how to prevent dogs barking incessantly and also offers advice on how to keep dogs from wandering. The Council's staff and Contractor put a concerted effort into clamping down on unregistered dogs in the District especially in the Matura area where wandering and unregistered dogs seem to be an ongoing problem. More regular patrols were carried out in Matura which appear to have made a positive difference with wandering dogs in the area.

MENACING AND DANGEROUS DOGS

In the year under review, one dog in the Gore district was deemed to be dangerous. The classification followed a complaint being received from a resident who had been bitten by the dog while visiting a property. The bite required hospital treatment.

There are nine dogs in the District classified as menacing under Section 33C (by breed) of the Dog Control Act 1996 and four under Section 33A (by behaviour).

STATISTICAL INFORMATION

Pursuant to Section 10A(2)(a) of the Dog Control Act 1996, attached is a schedule detailing relevant statistics covering dog control issues in the Gore District for the year ending 30 June 2008.

Stephen Parry

CHIEF EXECUTIVE

CATEGORY	AS AT 30 JUNE 2008	FOR PERIOD 1 JULY 2007 to 30 JUNE 2008
1) Total # Registered Dogs	3192	Not required
2) Total # Probationary Owners	0	0
3) Total # Disqualified Owners	0	0
4) Total # Dangerous Dogs		
➤ Dangerous by Owner Conviction under s33(1)(a)	0	0
➤ Dangerous by Sworn Evidence under s3(1)(b)	2	2
➤ Dangerous by Owner Admittance in writing Under s31(1)(c)	0	0
5) Total # Menacing Dogs		
➤ Menacing under s333A(1)(b)(i) – i.e. by Behaviour	4	4
➤ Menacing under s333A(1)(b)(ii) – i.e. by Breed Characteristics	0	0
➤ Menacing under s333C(1) – i.e. Schedule Breed 4	9	9
6) Total # Infringement Notices	Not required	44
7) Total # Complaints Received	Not required	2
➤ TA Complaint Category 1	Not required	
➤ TA Complaint Category 2	Not required	
8) Total # Prosecutions Taken	Not required	0

Complaints received –

- Residents in Green Street complaining about dogs at 17 Green Street constantly barking.
- A resident complaining about a dog bite on a property in High Street.

9. BUILDING CONSENT SCHEDULE

(Memo from Chief Executive – 03.11.08)

- ↳ A schedule of building consents issued in October is attached, together with comparisons of the previous two years.

RECOMMENDATION

THAT the information be received.