

3. PROPOSED AMENDMENTS TO DOG CONTROL POLICY

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The purpose of this report is to outline the work of the Dog Control Working Party and report on proposals for amending the current Dog Control Policy for adoption by the Council. Once adopted these proposals will be put out for consultation under the provisions of the Dog Control Act 1996.

CONTEXT

At its meeting on 21 November 2002 the Council resolved that a review of the list of restrained and prohibited areas for dogs be undertaken by a working party comprising representatives of the Animal Control Team, Parks and Waterways Unit, City Streets Unit, Director of Policy's office and Councillors Sue Wells, Iswhar Ganda and Chrissie Williams.

The working party has met four times since that date and initially determined a range of issues that it considered needed to be addressed. It was agreed that the policy defined four types of areas in relation to dogs (a) prohibited, (b) areas in which the dogs were required to be on leashes at all times, (c) areas where dogs were required to be under effective control either by leash or voice control and (d) special dog exercise areas.

The working party considered that there may be confusion amongst both dog owners and the public as to which categories applied to which areas. It was noted in many cases this was not made adequately clear by signage (or lack of it). There was also a perceived lack of promotion of the dog control policy and bylaw requirements.

In addition, the Parks and Waterways Unit also proposed a list of ecologically sensitive sites which they considered should be made prohibited areas in order to protect wildlife.

In the case of prohibited and restrained areas the working party agreed on a process to examine either additional areas or amendments to existing areas, and to recommend changes. It was considered the reasons for requiring changes must be understandable to both dog owners and the public.

LEGAL CONSIDERATIONS

The Council is required under section 10 of the Dog Control Act 1996 to adopt a policy in respect of dogs in its district. Subsections 10(3) and 10(4) set out the matters that must be included in such a policy. The matters that it may include in such policy as follows;

- (3) *Every policy adopted under this section-*
- (a) *Shall specify the nature and application of any bylaws made or to be made under section 20 of this Act; and*
 - (b) *Shall identify any public places in which dogs are to be prohibited, either generally or at specified times, pursuant to a bylaw made under section 20(1)(a) of this Act; and*
 - (c) *Shall identify –*
 - (i) *Any particular public places; and*
 - (ii) *Any areas or parts of the district, in which dogs (other than working dogs) in public places are to be required by a bylaw under section 20(1)(b) of this Act to be controlled on a leash; and*
 - (d) *Shall identify those areas or parts of the district in respect of which no public places or areas are to be identified under paragraph (b) or paragraph (c) of this subsection; and*
 - (e) *Shall identify any places within areas or parts of the district specified in paragraph (c)(ii) of this subsection that are to be designated by a bylaw under section 20(1)(d) of this Act as dog exercise areas in which dogs may be exercised at large; and*

- (f) *Shall include such other details of the policy as the territorial authority thinks fit including, but not limited to, details of the policy in relation to –*
 - (i) *Fees or proposed fees; and*
 - (ii) *Owner education programmes; and*
 - (iii) *Dog obedience courses; and*
 - (iv) *The classification of owners; and*
 - (v) *The disqualification of owners; and*
 - (vi) *The issuing of infringement notices*
- (4) *In adopting a policy under this section, the territorial authority shall have regard to-*
 - (a) *The exercise and recreational needs of dogs and their owners; and*
 - (b) *The need to minimise danger, distress, and nuisance to the community generally.*

The first dog control policy was adopted by the Council on 23 April 1997, following the special consultation procedure required under the Act, and was amended on the 26 August 1999. A copy is attached (Attachment 1). The Council adopted the Christchurch City Dog Control Bylaw 1997 on 27 June 1997.

At the first meeting, the Dog Control Working Party discussed the need to undertake a review of the Dog Control Policy, through the special consultative procedure. The purpose was to change the list of prohibited and restrained areas contained in the bylaw given that the bylaw (clause 8) appeared to make provision for changes to the schedules to occur. Advice was sought from the Legal Services Manager on this. His legal opinion states the following.

"In my view, the scheme of section 10 of the Dog Control Act is that the Council can only make bylaws to prohibited dog areas, restrained dog areas or dog exercise areas where those areas have been already identified in the Dog Policy.

If the proposal now is to vary the prohibited dog areas, restrained dog areas or dog exercise areas already identified in the Dog Policy, then that can only be done by first amending the current Dog Policy in accordance with the provisions of section 10, which includes notification of the proposed amendment to all registered dog owners, and then if the Policy is amended, clause 8 of the Bylaw can be used to vary the prohibited dog areas, restrained dog areas or dog exercise areas identified in the Bylaw".

DOG CONTROL WORKING PARTY CONSIDERATIONS

Changes that the Dog Control Working Party have proposed are attached as Attachment 2.

The Working Party considered that dog owners and the public need to easily understand the requirements and reasons for the amended policy, which would aid in increasing compliance and preventing accidental infringements.

Several matters were raised during discussions regarding compliance with the current requirements and the reasons why this might be a problem. The policy and bylaw clearly states that dogs on any roadways including footpaths and berms, must be leashed at all times. However, evidence suggested that significant numbers of both dog owners and the public were not aware of this requirement.

Street signage and further educational efforts were options considered in educating these groups on this requirement. The amount of appropriate signage in other areas where there was prohibition or a requirement for dogs to be leashed, was seen to be a problem in some cases. These are both issues that require further consideration for the on-going implementation of the Dog Control Policy and the bylaw.

The criteria for introducing prohibitions on certain ecologically sensitive areas would include disturbance of waterfowl breeding or nesting areas and the protection of native plantings. In other public spaces, the criteria would include the need to protect areas with high pedestrian use, especially those well used by young children.

These would all be balanced, as far as possible, with providing dog owners with opportunities to exercise their dogs as required under the Act.

Wildlife protection in ecologically sensitive areas was one of the main reasons for additional controls in these areas. Andrew Crossland, Park Ranger, advised the Working Party that Christchurch is known internationally for its wildlife and has one of the highest bird populations of any comparative area in New Zealand.

Up to 30,000 water birds congregate on the Avon-Heathcote Estuary at certain times of the year and thousands more are found on other Christchurch wetlands. A large number of these birds migrate to Christchurch to breed in our wetlands.

Many water birds are vulnerable to disturbance and predation because they nest, feed and roost on the ground. These include native birds such as native ducks, wading birds, gulls, penguins and pukeko. In light of this, there are several areas in Christchurch where dogs can cause devastating harm. Andrew Crossland advised the Working Party that to protect Christchurch's important nesting, feeding and roosting sites, dogs need to be either prohibited from them or leashed depending on the setting. This would protect a small, but important, number of key sites and core habitats. It would not prevent people from walking/running their dogs along beaches or most Christchurch tracks.

The additional prohibited and leashed areas being proposed by the Working Party, relating to wetlands and Estuary areas, are based on such criteria.

Some changes are also being proposed to protect the public from nuisance, and to the extent such rules can, from harm from dogs. The changes recommended in such cases are limited in number but it is considered that they can be justified and the reasons understood by the majority of responsible dog owners. In this category it will be recommended that children's' playgrounds should be totally prohibited areas, with no exemption for dogs to pass through. It is also recommended that the wording of the beach prohibitions currently in force be changed to take out the dates and times, and instead make a simpler 'daylight hours during daylight saving' provision.

Some other matters have been raised by staff in regard to changes in other parts of the Dog Control Policy. These relate to matters relating to registration, reflecting changes made since the Policy was adopted, the criteria for using infringement notices, and some other wording changes to reflect changing operational circumstances. Under the Proposed Additional Policies section of the Dog Control Policy, which was adopted by the Council in 1997, there have been changes since that date. It is proposed to amend the policy accordingly.

POLICY AMENDMENT – SPECIAL CONSULTATIVE PROCEDURE

Section 10 of the Dog Control Act 1996 requires local authorities to use the special consultative procedure when undertaking amendments of the Dog Control Policy and subsequent bylaw. The process that will need to be followed by this Council as a result is as follows;

DATE	PROCEDURAL TIMELINE
14 March 03	Regulatory and Consents Committee – To consider amendments to draft Dog Control Policy and recommend amendments to Council for public consultation.
27 March 03	Council Meeting.
April 03	Policy preparation for special consultative procedure.
2 June 03	Draft Dog Control Policy Statement available for public inspection (sent out with dog registration reminders and promoted in accordance with the Communication Plan to also reach non-dog owners).
18 July 03	Closing date for submissions.
August 03	Submissions heard on Draft Dog Policy.
28 August 03	Report to Council: <ul style="list-style-type: none"> - Adoption of Draft Dog Control Policy with any amendments as a result of hearings, - Statement of Proposal for Dog Control Bylaw.
25 September 03	Council meeting – First notice of motion for Dog Control Bylaw.
October 03	Dog Control Bylaw available for public inspection and submissions in accordance with Communication Plan.
November 03	Submissions heard on Draft Dog Control Bylaw.
20 November 03	Council adopts Dog Control Bylaw.
28 November 03	Dog Control Bylaw becomes operative.

CONCLUSIONS

The Dog Control Working Party has carefully considered the matters set down by the Council for considering changes to the Dog Control Policy and has recommended those limited changes they consider justifiable and reasonable to meet the requirements of the Dog Control Act 1996.

This is particularly in regard to the requirement under section 10(4) to have regard to “The exercise and recreational needs of dogs and their owners”; and “The need to minimise danger, distress, and nuisance to the community generally.”

During the consideration of these matters a number of factors were considered regarding education of both the dog owning community as well as the general public on the requirements of the Act, the Council’s Dog Control Policy, and the bylaw requirements.

It has been determined that Policy 14 relating to warning signs appears to be less well implemented than appropriate and some signage, when provided, can be confusing or misleading.

The major areas of requiring dogs to be on leashes at all times, roads (which includes footpaths and private ways), have little signage and this was seen to be a problem. The matter of providing adequate and appropriate information of the requirements of the Policy and bylaws as to the status of areas would seem to be a matter that requires to be addressed if it is expected to gain further compliance with the requirements.

Staff

- Recommendation:**
1. That the proposed changes to the Dog Control Policy (Attachment 2) recommended by the Dog Control Working Party be adopted by the Council for consultation under the Dog Control Act 1996.
 2. That the Dog Control Working Party be delegated authority to hear any submissions arising from the proposed changes to the Dog Control Policy and Bylaw and that the working party make its recommendations directly to the Council.

Chairman’s

- Recommendation:**
1. That the recommendations above be adopted.
 2. That all elected members note the exacting procedural timeline outlined in the report and that any Councillors seeking to make changes to the Draft Dog Control Policy (attached) attend the March meeting of the Regulatory and Consents Committee for this purpose.