

### 3. CHRISTCHURCH CITY PUBLIC PLACES AND SIGNS BYLAW 2003

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The purpose of this report is to commence the process of adopting a new Public Places and Signs Bylaw.

#### BACKGROUND

The current Christchurch City Public Places and Signs Bylaw 1992 confers certain administrative powers on specific Council officers. The Council officers concerned are the Environmental Services Manager, the Building Control Manager, the City Streets Manager, the Administration Officer and Community Managers.

As a result of corporate restructuring the Council no longer has an Administration Officer nor Community Managers. It is therefore necessary to alter the current bylaw to record who may now exercise the powers conferred on these former officers. Rather than specifying the titles of the officers responsible for exercising various powers, as has been the practice in the past, it is considered preferable to specify that the powers are exercisable by the Council. The Council may then, by ordinary resolution, delegate those powers to the appropriate officers within the Council. This will avoid the necessity of having to alter the bylaw on every occasion that the officers' titles are altered.

Instead of altering the current bylaw it is considered preferable to make a new bylaw (attached). This is because of the considerable number of alterations (including consequential alterations) which will be required to alter the current bylaw. A similar exercise was undertaken in 2001 in respect of the Christchurch City Water Related Services Bylaw.

A report will be prepared for the May 2003 meeting of the Regulatory and Consents Committee setting out the various powers under the proposed bylaw in respect of which delegations will be sought from Council.

The opportunity has also been taken to update Clause 23 of the current bylaw and to renumber the clauses in numeric order.

Clause 23 refers to the Fisheries Act 1983. Since the bylaw was made that Act has been extensively amended. The provisions referred to the bylaw are now contained in the Fisheries Act 1996. Clause 24 of the proposed bylaw reflects this change.

The current bylaw was, some time ago, altered by the addition of Clause 5A. This clause has been renumbered in the proposed bylaw as "Clause 6" and each of the subsequent clauses has been renumbered accordingly.

The offence provisions for the current bylaw are contained in Clause 13 of the Christchurch City General Bylaw 1992. Clause 13(2)(i) of the General Bylaw provides that every person commits an offence who fails to comply with any condition of a licence granted by the Council under any bylaw. The Christchurch Public Places and Signs Bylaw 1992 not only provides for the issue of licences but also provides for the issue of permits, consents and permissions by the Council. These permits, consents and permissions may also be issued subject to conditions. Unfortunately the General Bylaw omits to provide that the breach of any condition of a permit, consent or permission also constitutes an offence. Provision has therefore been made in the proposed bylaw (Clause 59(2) and the 2<sup>nd</sup> Schedule) to amend the General Bylaw in this regard.

Every instance in which the proposed bylaw differs from the current bylaw has been highlighted in grey.

The procedure for making the proposed bylaw is still that set out in the Local Government Act 1974 and will remain so until 1 July 2003. However since 24 December 2002 Territorial Authorities have been required to comply with the provisions of Part 6 of the Local Government Act 2002 when making decisions. In particular they are required to comply with the requirements of sections 77 and 78 of that Act. Section 77 requires the consideration of all other reasonably practicable options for achieving the objective of the decision. Section 78 requires the consideration of the views of persons likely to be affected by or have an interest in the decision. The degree of compliance with these sections depends upon the Territorial Authority's assessment of the significance of the matters affected by the decision.

It is suggested that the changes which would occur as a result of making the proposed bylaw are of a minor administrative nature only. Bearing this in mind, together with the fact that the proposed bylaw must be made by way of the special order procedure pursuant to the Local Government Act 1974 (which necessarily involves public consultation), it is the author's view that the Council would be justified in deciding, pursuant to section 79 of the Local Government Act 2002, that compliance with sections 77 and 78 is achieved.

- Recommendation:**
1. That the Council, having regard to the minor nature of the changes that would occur by the making of the proposed bylaw and to the fact that it must be made by way of the special order procedure pursuant to section 716B of the Local Government Act 1974, resolve that it considers, pursuant to section 79 of the Local Government Act 2002, that it has complied with sections 77 and 78 of the latter Act in respect of its decision to make the proposed bylaw.
  2. That, in accordance with the special order procedure in section 716B of the Local Government Act 1974, the Council, at its meeting on 24 April 2003, resolve to make the proposed bylaw, such resolution to be confirmed at the subsequent meeting of the Council on 22 May 2003.