

8. LICENCE FOR THE OCCUPATION OF LEGAL ROAD - TABLES AND CHAIRS

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The purpose of this report is to outline the changes which have been made to the precedent 'Deed of Licence for Occupation of Legal Road' to reflect issues arising from the recently adopted Public Streets Enclosure Policy and to seek delegated authority for the Property Manager to enter into licence agreements for this activity on behalf of the Council.

CONTEXT OF THE REPORT

In September 2002 the Council introduced a policy for the use of weather protection structures and furniture in licensed public areas for outdoor dining in the city known as the Public Streets Enclosure Policy. This policy was developed after consultation and in conjunction with many of the licensees.

Street dining had at the time been occurring for sometime in Christchurch and after initial trials for this activity it was decided that it would be prudent to place some controls around the activity in order for it to continue and be managed in a positive and consistent manner. The policy was developed bearing in mind private and commercial benefits and to balance the environmental and community benefits and disbenefits of these uses of licensed public space.

Clearly the new policy required the wording of the licence documentation to be amended so that the policy intent could be actioned and enforced. The Council in November 2002 gave delegation for the Property Manager to act in the event that enforcement action is required in relation to the implementation of the policy. The review of the licence is dealt with in this report.

RELEVANT CURRENT POLICY

In September 2002 the Council adopted the Public Street Enclosures Policy as referred to in this report.

A DESCRIPTION OF THE PROPOSAL

The implementation of the Public Streets Enclosure policy has created a need to review the licence that was previously developed for the occupation of road for tables and chairs. This new licence documentation required controls that would mirror the policy in terms of the new requirements for complying furniture and the parameters around the enforcement of such. To be separately circulated is a copy of the new licence, which tracks the changes from the original licence to occupy legal road.

It is intended that the new licences entered into will be for a four-year term with no right of renewal. At the end of the term a new licence agreement will be required for this activity to continue.

ISSUES FOR CONSIDERATION

The Council now has a policy which differs from the existing provisions of the current licence for the occupation of legal road. This new licence will provide the Council and with a mechanism (in its capacity as a landowner rather than regulatory authority) to control and manage the Public Streets Enclosure Policy.

The majority of the licence holders are operating on expired licences, which Council officers have rolled over on a month-to-month basis pending the completion of the new document. Rents are still being paid.

Council officers now intend to have new licences signed with each licensee. The Council has 62 licences in place for the occupation of legal road for street dining of which 41 are expired. There are some five new licence applications requiring processing.

The rental to be paid will be calculated utilising the following formula:

Leased Area	Rental Calculation (per Annum + GST)
0 m ² - 30 m ²	30% of Prime Rental Rate
30 m ² - 60 m ²	30% of Prime Rental Rate to 30 m ² Plus: 26% of Prime Rent 30 m ² - 60 m ²
60 m ² - 100 m ²	30% of Prime Rental Rate to 30 m ² Plus: 26% of Prime Rental Rate 30 m ² - 60 m ² Plus: 20% of Prime Rental Rate 60 m ² - 100 m ²
100 m ² - 200 m ²	30% of Prime Rental Rate to 30 m ² Plus: 26% of Prime Rental Rate 30 m ² - 60 m ² Plus: 20% of Prime Rental Rate 60 m ² - 100 m ² Plus: 15% of Prime Rental Rate 100 m ² - 200 m ²

While the prime rental rate within this calculation is to be calculated by independent registered valuation. The prime rental rate means the rate that would be payable by an independent third party for the area which is within five metres of the front, inside, ground floor area of the premises leased or owned by the Licensee for the Licensee's Business. For the purposes of this definition, the "front" shall be deemed to be that part of the premises leased or owned by the Licensee for the Licensee's Business which adjoins or faces onto the land.

Changes to the licence

The licence has been changed so that it is consistent with the Public Streets Enclosures Policy and therefore provides definitions and controls around the furniture and structures on legal road.

Permitted furniture is that furniture which has been approved by the Council either at officer level, if it complies with the policy, or by the Central City Streets Subcommittee if it considers there is merit in doing so. This process is outlined in the policy. The new licence provides that furniture and structures which have not been approved can be removed by the Council at the licensees cost. This furniture will be shown by photo in the third schedule of the licence.

In addition to this, because of the noise complaints received in the past due to outdoor dining activities, the Council has included a provision that it can terminate the licence at its sole discretion because of noise. This is particularly prudent because in some cases where there are a number of street licences it may be difficult to determine exactly which premises this noise comes from and therefore it gives the Council the power to terminate or suspend all licences pending further investigation.

CONCLUSIONS

This report pertains to a relatively simple administrative issue. The Public Streets Enclosure Policy has brought about a need to change the existing licence for the occupation of legal road for tables and chairs. This change to the licence places controls and enforcement parameters around the permitted furniture, which is the key issue to the policy.

Recommendation: That the Property Manager is given delegated authority to enter into Deeds of Licence for the Occupation of Legal Road - Tables and Chairs where the arrangements are based on the terms and conditions as outlined in this report, such minor changes to the standard licence as the Property Manager (in consultation with the Director of Legal Services and Secretariat) consider appropriate from time to time.