

PART 1 - SEMINAR

3. BYLAW REVIEW PROCESS - TIMETABLE AND DECISION-MAKING

General Manager responsible:	General Manager Strategy and Planning DDI 941-8177
Officer responsible:	Alan Bywater DDI 941-6430
Authors:	Terence Moody – Principal Adviser (Environmental Health) Teena Caygill – Policy Analyst (Bylaws)

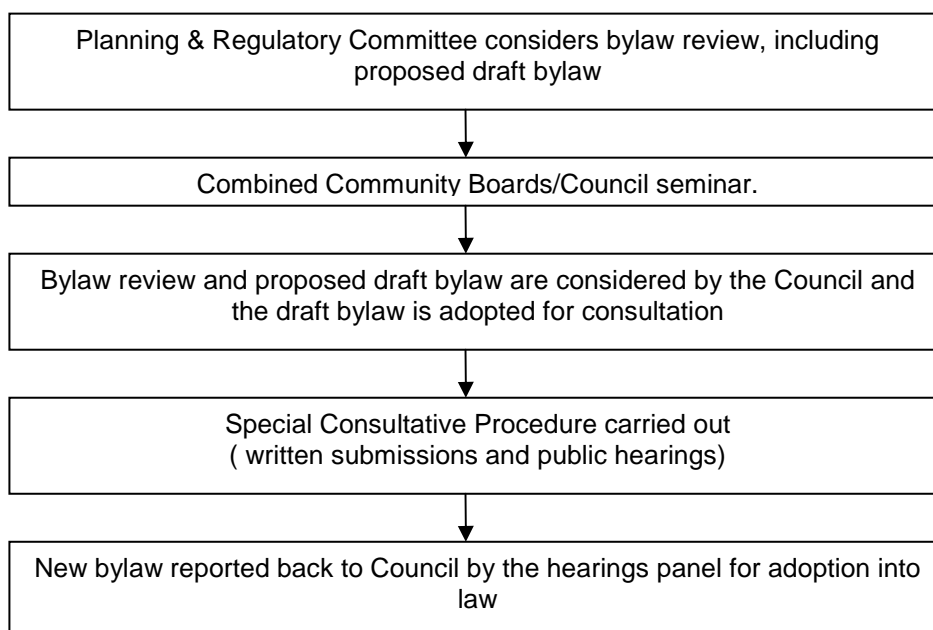
PURPOSE OF REPORT

1. The purpose of this report is to determine the timetable and decision-making processes to be used in reviewing bylaws.

(Note: this report and process is about reviewing the existing bylaws to meet statutory requirements and **not** about the creation of new bylaws.)

DECISION-MAKING PROCESSES FOR MAKING, AMENDING OR REVOKING BYLAWS

2. The process to review certain bylaws is set out in ss 158 and 160 of the Local Government Act 2002. A review of a bylaw requires that the Council make the determinations in s.155 and then whether the bylaw is to be continued without amendment, amended or revoked, or revoked and replaced, the Special Consultative Procedure must be used. The Local Government Act 2002 sets out the procedural requirements for making, amending or revoking bylaws (ss 155 and 156). In each case, the Special Consultative Procedure must be used as set out in ss 83 and 86.
3. It is important that the decision-making processes used by the Council facilitate the timely completion of the bylaw reviews, given the tight statutory timeframes and the potential impact from failing to achieve these statutory timeframes.
4. The involvement of Community Boards in the review of bylaws prior to the Council considering a proposed bylaw is both desirable and helpful in ensuring that all local issues have been adequately considered.
5. The suggested process to consider the bylaw reviews is as follows:



6. The proposed schedule for reviewing bylaws is attached as Appendix A. **It should be noted that there is no room for flexibility in the timelines to complete the review of a number of these bylaws within the statutory timeframes. There is no available time to visit any stage in decision-making more than once, nor to postpone making a decision at any stage.** At a number of points in this timeline the requirements of staff in terms of preparing material, organising hearings etc is very challenging.

7. The early stages of the timeline are particularly important and any disruption to these have significant and magnified subsequent impacts. **It is critically important that proposed bylaws are approved or decisions to revoke bylaws are made by the Council at its 28 February 2008 meeting for the Dog Control Policy and Bylaw, Public Places Bylaw, the Swimming Pools Bylaw, the Banks Peninsula Amusement Devices Bylaw, the Banks Peninsula Nuisances Bylaw and the Water Related Services Bylaw. Similarly, that a proposed Traffic and Parking Bylaw is approved by the Council at its 13 March 2008 meeting.**

It should be noted that the bylaw review programme in 2009 is being arranged to avoid the major LTCCP period (i.e. most of the first half of 2009). This of course limits the times in which bylaw reviews can be carried out in 2009 to achieve the statutory timelines.

8. The third and fifth stages in the flow diagram above are those in which the risk of the process being held up and potentially resulting in failure to achieve the statutory timelines is greatest due to Council meeting schedules. It is therefore important to try to resolve the significant issues involved in the review of each bylaw prior to it being formally considered as a proposed bylaw at the Council meeting. This means that the discussion and consideration given to each of the bylaws at the Planning and Regulatory Committee is very important. Similarly, resolving any issues that arise at the combined Community Boards/Council seminars **at the time** will be critical.
9. A table is provided below of the schedule of hearings during the first half of 2008.

Week	Hearings to be scheduled
28 April – 2 May 2008	Public Places Bylaw Water Related Services Bylaw Banks Peninsula Nuisances Bylaw
5 May – 9 May 2008	Dog Control Policy and Bylaw
12 May – 16 May	Annual Plan
19 May – 23 May 2008	Traffic and Parking Bylaw
26 May – 30 May	No hearings Parks and Reserves Bylaw
2 June – 6 June	Marine Facilities Bylaw General Bylaw

10. At the final stage in which the final bylaw is considered and approved, it will be difficult for the Council to depart in any material way from the recommendations of the hearings panel, without the risk of failing to achieve the statutory timeframes. For this reason, the selection of and consideration by hearings panels also becomes a very important part of the process.
11. To minimise the risk of a divergence of views between the hearings panel and the majority of the Council on any bylaw, one option available is to select the entire Council as the hearings panel for each bylaw. However, the programme of hearings in the period late April to early June is significant and it may not be feasible for the whole Council to act as a hearings panel for all the bylaws and continue its other work.
12. The Council could select a separate hearings panel for each bylaw and thereby share the work load relatively evenly amongst its members.
13. Alternatively the Council could establish one hearings panel to hear all the bylaw submissions. Given the volume of bylaw hearings, what may be more practical in this case is creating two hearings panels with fixed membership that could share the various bylaw reviews between them. This has the advantage of developing some detailed knowledge on bylaw issues within these two panels, as well as the members becoming used to working with one another in a hearings process.

14. In the weeks 28 April to 2 May and 2 to 6 June, it is likely to be necessary to have hearings for more than one bylaw taking place in parallel. On these occasions, it is likely to be necessary to have two separate hearings panels working simultaneously.
15. It is suggested that to ensure as many of the Councillors as possible are involved in arriving at the hearings panels' recommendations, thereby reducing the risk of a divergence of views between the hearings panel and the Council, that the hearings panels be made up entirely of Councillors (rather than including Community Board Members or other nominated people).

FINANCIAL IMPLICATIONS

16. The review of bylaws can be carried out within existing budgets.
17. The Council should consider the impact of each bylaw review on the costs of enforcement, signage, education, etc, as part of the review of each bylaw.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

18. The review of bylaws can be carried out within the budgets indicated in the LTCCP.

LEGAL CONSIDERATIONS

19. The legal issues around bylaw reviews have largely been canvassed in the accompanying background report on the bylaw reviews.
20. The Local Government Act 2002 requires bylaw reviews to follow the Special Consultative Procedure. A minimum period for consultation of one month is required by the Act, and all submitters who wish to must be given the opportunity to present their submission verbally.
21. Under the Local Government Act 2002, schedule 7, clause 32(1)(b), the Council cannot delegate the power to make a bylaw to a committee or other subordinate decision-making body, community board, or member or officer of the local authority. Consequently, the final decisions on the making of bylaws must be made through a Council meeting.
22. Many of the bylaws will be automatically revoked on 1 July 2008 (depending on the legislation or parts of legislation under which they were created) and if not reviewed, will not be able to be legally enforced after that time.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

23. The timetables and processes outlined in this report are consistent with the Democracy and Governance Group of activities in the LTCCP which states '*The Council provides opportunities for public participation in decision-making, and it receives and processes the community's input to ensure effective decision-making*'.

ALIGNMENT WITH STRATEGIES

24. The overall timetable and process is not directly applicable to any specific strategy. The content of the individual bylaws relate to and play important roles in contributing to a number of the Strategic directions.

CONSULTATION FULFILMENT

25. Not applicable to this report. Clearly, consultation is an important part of the process to review bylaws.

STAFF RECOMMENDATION

It is recommended that the Committee:

1. Approve and recommends to Council that:
 - (a) the bylaw review timetable attached as Appendix A be adopted.
 - (b) the Council select two hearings panels for the purpose of carrying out bylaw hearings up to the end of July 2008 and divide up the bylaw reviews between them.
- 2 Identifies a suitable date in the week commencing 11 February 2008 for a combined Council and Community Board seminar on the bylaw reviews the Committee will have considered at its 29 January and 7 February 2008 meetings i.e. Public Places Bylaw, Dog Control Policy and Bylaw, Banks Peninsula Nuisances Bylaw; Swimming Pools and Banks Peninsula Amusement Devices Bylaws, Water Services Bylaw and Traffic and Parking Bylaw.