

8. BYLAW REVIEW PROGRAMME FOR THE NEXT TEN YEARS



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PURPOSE OF REPORT

1. This report sets out a timetable for the review of bylaws over the next ten years. The report proposes the establishment of a standing subcommittee to provide a regular meeting time for Council involvement in bylaw reviews, and thus make bylaw review processes and timeframes more predictable.

EXECUTIVE SUMMARY

2. On 23 April 2009, the Council agreed to “*adopt a ten-year bylaw review programme to coordinate the review of bylaws across the Council to avoid bottlenecks, local body elections and LTCCP consultation...*” This decision followed a review of the bylaws review process following a major review of bylaws in 2008.
3. Staff have developed a timetable for the review of bylaws over the next ten years, which is set out in Table One, and summarised in **Attachment 1**. The timetable reflects the statutory deadlines for completing each review, the estimated time required to undertake each review, the need to stagger reviews (effectively carrying out some reviews earlier than required by statute) so there are not too many being undertaken at any given time, and the timing of LTCCP processes, local body elections and the Christmas breaks. The review programme only includes existing bylaws and bylaws that are currently under development. In practice, there is likely to be some movement in the timetable over time in order to reflect new developments and changing Council priorities.
4. Indicative timeframes for completing the main stages of a bylaw review are set out in Table Two. The total time varies from 50 to 58 weeks depending on the nature of the bylaw. The estimated timeframes reflect past experience and recognise that Councillors and staff are likely to have other work priorities competing for their time.
5. On 23 April 2009, the Council agreed that “*a seminar will be presented to relevant staff and Councillors at the beginning of each bylaw review.*” This step has been included in the generic review process. In the past, subcommittees or working parties have also been established on an ad hoc basis to provide Councillors with the opportunity to consider the issues in more detail before proposals are developed. It is proposed that a standing ‘bylaws’ subcommittee now be established to provide a regular meeting time for Councillor involvement in bylaw reviews and make bylaw review processes and timeframes more predictable. The subcommittee would be charged with presenting recommendations to the Regulatory and Planning Committee for consideration.

FINANCIAL IMPLICATIONS

6. Any budget implications of the bylaw review programme will be addressed through the Annual Plan process and the next LTCCP.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

7. As above

LEGAL CONSIDERATIONS

8. Section 158 of the Local Government Act 2002 requires local authorities to review a bylaw made under that Act, or the Local Government Act 1974, within five years of first being made (or by 1 July 2008 if made prior to 1 July 2003). Section 159 of the Local Government Act 2002 requires a further review of each bylaw within ten years of the date of the previous review.

9. Five-year reviews have been completed, or are nearing completion, for all of the Council's existing bylaws. The Council is now obliged to review each bylaw within ten years of the previous review. This programme provides a framework.

Have you considered the legal implications of the issue under consideration?

10. The statutory deadline for the review of each bylaw has been taken into account in developing the bylaw review programme.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

11. The bylaw review programme contributes to 'city planning and development: city and community long-term policy and planning' and 'democracy and governance: city governance and decision-making' in the 2009-19 LTCCP. The bylaws themselves contribute to a number of activity management plans; these links will be made explicit at the time of each bylaw review.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

12. As above

ALIGNMENT WITH STRATEGIES

13. There are no Council strategies that relate to the process of making and reviewing bylaws. However, there are a number of strategies that are relevant to the subject matter of bylaws, which will be taken into account in the review of each bylaw.

Do the recommendations align with the Council's strategies?

14. As above

CONSULTATION FULFILMENT

15. Consultation is not required for the purpose of this paper. Consultation will be undertaken during each bylaw review.

STAFF RECOMMENDATION

That the Regulatory and Planning Committee recommends that the Council:

- (a) Note the bylaw review programme for the next ten years, as set out in Table One of this paper and in Attachment 1.
- (b) Note the main stages of a bylaw review, as set out in Table Two of this paper.
- (c) Note that each bylaw review is likely to take 50 to 58 weeks to complete, depending on the nature of the bylaw.
- (d) Agree to establish a standing subcommittee of the Regulatory and Planning Committee to provide a regular ongoing opportunity for Councillors to be involved in bylaw reviews.
- (e) Agree to the following terms of reference for the subcommittee:

To work with staff on the review and development of bylaws and to present recommendations to the Planning and Regulatory Committee for consideration.

BACKGROUND

Rationale for a ten year bylaw review programme

16. On 23 April 2009, the Council resolved to: “adopt a ten-year bylaw review timetable which coordinates the review of bylaws across the Council in order to avoid bottlenecks, local body elections and LTCCP consultation...by December 2009.” The resolution stemmed from a review of the bylaws review process following a major review of bylaws in 2008.
17. The primary reason for having a ten-year bylaw review programme is that the Local Government Act 2002 requires local authorities to review bylaws at least every ten years. There is a need for some flexibility, however, as any new bylaws must be reviewed within five years (and then every ten years thereafter) and a bylaw review may be initiated before the statutory deadline for other reasons (for example, legislative changes, operational changes or political reasons).

Objectives

18. The aims of the ten year timetable are to:
 - (a) Coordinate the bylaw reviews across units (i.e. to avoid multiple bylaw reviews needing to be done simultaneously by one unit)
 - (b) Manage bylaw reviews so that the timing does not clash with LTCCP consideration, consultation and adoption processes
 - (c) Manage bylaw reviews so that the timing does not clash with local body elections
 - (d) Ensure bylaw reviews are initiated early enough so that adequate time is allowed for all the stages to be completed within one Council term, and
 - (e) Meet statutory review requirements.

The ten year timetable

19. The proposed bylaw review programme for the next ten years is set out in the following table. Attachment 1 sets out the programme in calendar form and shows the number of reviews that would be underway at any given time.

Table One: Bylaw review programme 2010-2020

Bylaw	Statutory deadline	Proposed completion date	Comment
Trade Waste Bylaw 2006	1 January 2016	November 2015	Need to bring forward to end of previous year
Licensed Waste Handling Facilities Bylaw 2007	1 October 2017	September 2017	
Water Related Services Bylaw 2008	19 June 2018	November 2014	Need to stagger reviews due in 2018
Cleanfill Licensing Bylaw 2008	1 November 2018	November 2014	Need to stagger reviews due in 2018
Waste Management Bylaw 2009	1 February 2019	November 2018	Need to bring forward to end of previous year
Urban Fire Safety Bylaw 2007	15 October 2017	November 2014	Need to stagger reviews due in 2018
Marine and River Facilities Bylaw 2008	19 June 2018	November 2017	Need to stagger reviews due in 2018 Could be impact if Foreshore and Seabed Act is repealed
Parks and Reserves Bylaw 2008	19 June 2018	June 2016	Need to stagger reviews due in 2018

Bylaw	Statutory deadline	Proposed completion date	Comment
Traffic and Parking Bylaw 2008	19 June 2018	November 2017	Will be 2010 amendment to align with Road User Rule changes (e.g. grass verges and berms) Need to bring forward fundamental review to 2017 to stagger reviews
General Bylaw 2008	19 June 2018	June 2016	Need to stagger reviews due in 2018
Public Places Bylaw 2008	19 June 2018	November 2017	Need to bring forward to avoid LTCCP process
Stock Control Bylaw 2008	19 June 2018	November 2017	Need to bring forward to avoid LTCCP process
Dog Control Bylaw 2008	19 June 2018	June 2016	Need to stagger reviews due in 2018 Possible impact if review of Dog Control Act impacts on either the policy or bylaw-making powers or requirements
Alcohol Restrictions in Public Places Bylaw 2009	1 July 2019	June 2019	Possible impact if law changes to make intoxication and/or drinking in public an offence (Law Commission review)
Likely new speed limits bylaw	February 2020	June 2019	New bylaw due to be adopted in February 2010 Need to bring forward so within single Council term
Possible new cemeteries bylaw	Mid-late 2021	November 2020	Assume new cemeteries bylaw in mid-late 2011 Need to bring forward to avoid LTCCP process

20. The timetable only includes existing bylaws and bylaws currently under development. Other possible bylaw reviews relate to any new bylaw the Council may adopt to regulate signs advertising brothels or to control, restrict or prohibit the "cruising" of vehicles.

Key assumptions

21. The timetable reflects:
- The statutory deadlines for completing each review
 - The estimated time required to undertake each bylaw review
 - The need to stagger reviews, particularly those due in 2018, so there are not too many reviews underway at any given time, and
 - The timing of LTCCP processes, local body elections, and the Christmas break.
22. The timetable also assumes that the bylaws under review in any one year will all be adopted at the last Council meeting of the year (June in election year), unless a statutory deadline requires that it be reviewed sooner within that year.

Time taken to undertake each bylaw review

23. Indicative timeframes for completing the main stages of a bylaw review are set out in Table Two below. The total time varies from 50 to 58 weeks depending on the nature of the bylaw. While some of the stages may be completed in less time than indicated, the estimates reflect past experience and the likelihood that Councillors and staff will have other work priorities competing for their time.

Table Two: Estimated timeframes for main stages of a bylaw review

Stage	Tasks to be completed	Who?	Estimated timeframe	Reasoning
1	Review of existing bylaw/s and preparation of clause by clause analysis	Staff	4-6 weeks	Initial thinking, rationalisation of clauses, understanding of legal powers and peer review.
2	Councillor/ Community Board workshop or seminar	-		Needs to be organised/booked weeks/months in advance
3	Bylaw reviews (or development) require different degrees of elected member involvement. This could be via a subcommittee.	Councillors	8-16 weeks	Depends on whether the bylaw is largely social, social/technical or technical (see discussion below)
4	Report drafted, including statement of proposal, summary of information, and draft bylaw	Staff	4-6 weeks	Considerable amounts of information to prepare and peer review to occur.
5	Proposed bylaw considered by the Regulatory and Planning Committee	Councillors	4-6 weeks	This includes sign-off and lodging with Democracy Services.
6	Proposed bylaw adopted by Council for consultation	Councillors	3 weeks	Three weeks between the Committee and the Council.
7	Public consultation	Staff	6 weeks	The LGA requires at least one month's public consultation. Several weeks post-Council are needed for printing, public notices and so on (certainty required).
8	Summary and analysis of submissions	Staff	2-4 weeks	Depends on the number of submissions.
9	Hearing of submissions and deliberations	Councillors	1-3 weeks	Depends on how many are heard and how many changes to the proposal need to be discussed.
10	Hearing panel report prepared	Staff	2-4 weeks	Report prepared on behalf of the hearing panel. Has to be agreed by the panel.
11	Adoption of new bylaw	Councillors	3-4 weeks	Includes lodging with Democracy Services.
12	Implementation (including communication and signage)	Staff	Variable	Some activity is required immediately (i.e. public notices, sometimes signage, other communications).
	Total		50 to 58 weeks	

Risks

24. In practice, there is likely to be some movement in the timetable to reflect new developments and changing priorities. For example:
- (a) Councillors may not reach agreement on a proposal quickly (either at subcommittee stage, or at Regulatory and Planning Committee or Council meetings).
 - (b) Councillors may decide against a proposal that has been consulted on, following submissions, and that decision may then require further analysis and consultation to be undertaken.
 - (c) Legislative changes may impact on the timetable – either through new bylaw-making powers or through legislative amendments requiring a review ahead of statutory deadlines.

- (d) Operational changes may necessitate the review of bylaws ahead of their statutory review requirements.
 - (e) A bylaw review may be initiated for political reasons.
 - (f) A low priority may be given to bylaw review processes due to other Council priorities.
25. There may also be occasions where it is appropriate for the Council to depart from the standard process for developing or reviewing a bylaw. For example, subcommittee consideration is not proposed for the current review of the Banks Peninsula District Public Places and Signs Bylaw 2004 as the major parts of the bylaw have already been revoked and other aspects are covered by other bylaws.

Councillor involvement in bylaw reviews

26. On 23 April 2009, the Council agreed that “*a seminar will be presented to relevant staff and Councillors at the beginning of each bylaw review.*” In practice, this will occur after staff have undertaken preliminary information gathering and analysis, and is represented as stage 2 in Table Two above.
27. Councillors may also wish to consider the issues in more detail before proposals are developed (for example, through a subcommittee). In the past, subcommittees or working parties have been established on an ad hoc basis, following a recommendation to the Regulatory and Planning Committee.

Opportunity for a standing bylaws subcommittee

28. There is an opportunity to establish a ‘standing’ or permanent subcommittee to address bylaw-related issues, such as bylaw reviews. This would provide for a regular meeting time and make bylaw review processes and timeframes more predictable. It would also remove the need for reports to the Regulatory and Planning Committee to establish or disestablish subcommittees or working parties for each bylaw review.
29. A subcommittee promotes “the open and public transaction of business” in line with the Local Government Official Information and Meetings Act 1987 (LGOIMA). However, if aspects of a bylaw review or the development of a bylaw are deemed sensitive, a ‘bylaws subcommittee’ seminar or workshop could be organised to allow for the free and frank discussion of those specific matters. Seminars and workshops are, by nature, public excluded. Alternatively, if there is a good reason for excluding the public, the grounds within the LGOIMA may be used to restrict attendance at a meeting of the subcommittee.
30. It is proposed that the terms of reference for the subcommittee be as follows:

To work with staff on the review and development of bylaws and to present recommendations to the Planning and Regulatory Committee for consideration.

Time required for subcommittee consideration

31. The time required for subcommittee consideration will depend on the nature of the bylaw. In general terms, there are three main categories of bylaw:
- (a) Bylaws covering **social issues** – these tend to be of high public and Councillor interest and can be controversial. A long period of subcommittee time is required to enable Councillors to consider the issues and reach agreement on bylaws covering social issues (approximately 16 weeks).
 - (b) Bylaws that are **technical and cover social issues** – these tend to be of moderate to high interest and can be controversial, particularly as the technical aspects (e.g. any constraints on possible options) may be difficult to understand or communicate. A medium to long period of subcommittee time is required to enable Councillors to consider the issues and reach agreement (approximately 12 weeks).

- (c) Bylaws that are largely **technical** – these tend to be of low to moderate interest, as the technical aspects may be difficult to understand or communicate. The technical nature of these bylaws can mean that options are limited and may not allow much opportunity for Councillor or public input. A short to medium period of subcommittee time is required to enable Councillors to consider the issues and reach agreement (approximately 8 weeks).

32. Table Three indicates which existing bylaws fall into each category.

Table Three: Types of bylaws

Bylaws covering social issues	<ul style="list-style-type: none"> ▪ Alcohol Restrictions in Public Places Bylaw ▪ Dog Control Bylaw ▪ Public Places Bylaw ▪ Brothels Bylaw
Bylaws that are technical and cover social issues	<ul style="list-style-type: none"> ▪ Waste Management Bylaw ▪ Marine and River Facilities Bylaw ▪ Parks and Reserves Bylaw ▪ Stock Control Bylaw ▪ Traffic and Parking Bylaw ▪ Cemeteries Bylaw ▪ Urban Fire Safety Bylaw
Bylaws that are largely technical	<ul style="list-style-type: none"> ▪ Cleanfill Licensing Bylaw ▪ Water Related Services Bylaw ▪ Trade Waste Bylaw ▪ Licensed Waste Handling Facilities Bylaw ▪ General Bylaw ▪ Speed Limits Bylaw

Constraints on Councillors' time

33. There are some constraints on the time Councillors have available for bylaw review processes, bearing in mind LTCCP processes, local body elections and Christmas breaks. Table Four illustrates the opportunities and constraints for Councillor involvement in bylaw reviews during the standard three year cycle. This cycle has been taken into account in developing the bylaw review programme.

Table Four: The three year cycle

	J	F	M	A	M	J	J	A	S	O	N	D
Year One	First meeting of new Council usually in late Feb											Christmas break
Year Two	LTCCP – adoption of draft, consultation, hearings, deliberations and final adoption											Christmas break
Year Three	Christmas break						Three months before the election – major decisions not usually made			Local body elections	New Council term – prioritised agenda items	

Update on current bylaw reviews

34. Work is currently underway on four bylaw reviews. The following table provides an update on the status of these reviews. In addition, staff have started work on a possible bylaw to control, restrict or prohibit cruising, under a new bylaw-making power introduced under the Land Transport (Enforcement Powers) Amendment Act 2009.

Table Five: Current bylaw reviews

	Current status and timing
Christchurch City Brothels (Location and Signage) Bylaw 2004	Review nearing completion. Hearing panel report to be considered by Council on 10 December 2009. Further work on a new bylaw may be required.
Christchurch City Speed Limits Bylaw 2005 Banks Peninsula District Council Speed Limits Bylaw 2005	Review nearing completion. Hearing panel report likely to be considered by Council on 10 December 2009.
Christchurch City Bylaw No 110 (1980) Cemeteries Banks Peninsula District Council Cemeteries Bylaw 1996 Waimairi District Bylaw No 1 (1983) Cemeteries	Working party has been established for this review. Work is currently on hold until a draft management plan for cemeteries is prepared. This is likely to be ready in late 2010 or early 2011.
Banks Peninsula District Council Public Places and Signs Bylaw 2004	Paper to be considered by Regulatory and Planning Committee on 3 December 2009. Subcommittee consideration not proposed for this review.