

13. **REVOCATION OF CHRISTCHURCH CITY ANIMALS (OTHER THAN DOGS) AND BANKS PENINSULA KEEPING OF POULTRY, ANIMALS AND BEES BYLAWS**



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PURPOSE OF REPORT

1. The purpose of the report is to advise the Council of the outcome of the special consultative procedure which was undertaken in respect of the proposed revocation of the Christchurch City Animals (Other than dogs) Bylaw 2000 and the Banks Peninsula Keeping of Poultry, Animals and Bees Bylaw (“the bylaws”) and to recommend that the Council now revoke those bylaws.

EXECUTIVE SUMMARY

2. At its meeting on 15 June 2006 the Council approved a draft to revoke “the bylaws” as above. At that meeting the Council resolved to commence the special consultative procedure under the Local Government Act 2002 (“LGA 2002”) required to undertake the revocations.
3. The period during which the public were invited to make submissions was between 21 June 2006 and 9 August 2006. Two submissions were received, although one was received significantly after the due date. It should be noted, however, that both submissions supported the revocations. These are attached and marked Attachment 1.

FINANCIAL AND LEGAL CONSIDERATIONS

4. Section 156(1) of the LGA 2002 provides that the Council must follow the special consultative procedure set out in section 86 of the LGA 2002 when revoking a bylaw. This procedure has now been completed in respect of the above bylaws. Two submissions were received in regard to the matter both in favour of the revocation. Subsequently the Council may now formally adopt the revocation.
5. The Legal Services Unit advises that under the LGA 2002, the revocation of these bylaws can be done by Council resolution and does not need a Bylaw to revoke the bylaws. Section 86(2) of the LGA 2002 requires that for the purposes of the special consultative procedure process, the statement of proposal must include a copy of the draft bylaw when making or amending a bylaw. No draft bylaw is required to be included in the statement of proposal when the proposal is to revoke a bylaw.

STAFF RECOMMENDATIONS

It is recommended that the Council resolve:

- (a) To revoke the Christchurch City Animals (Other than dogs) Bylaw 2000 and the Banks Peninsula Keeping of Poultry, Animals and Bees Bylaw.
- (b) That public notice of the revocation of the bylaws be given in ‘The Press’ and the “Christchurch Star’ newspapers and on the Council’s website.
- (c) That the bylaws be removed from the list of Christchurch City Council and Banks Peninsula bylaws on the Council’s website.

BACKGROUND REVOCATION OF CHRISTCHURCH CITY ANIMALS (OTHER THAN DOGS) AND BANKS PENINSULA KEEPING OF POULTRY, ANIMALS AND BEES BYLAWS

6. In the normal course of events the Animals (Other than dogs) Bylaw and the Banks Peninsula District Council bylaw would be due for review sometime before June 2008. However, the Council at its meeting on the 30 June 2004 on the draft Long-Term Council Community Plan decided;

*(b) That staff review the current bylaw with a view to including provisions for the control of the number of cats that a household may retain and to effective penalties for breaches of the bylaw.*³
7. In the case of a review all the matters included in section 155 must be considered, including whether a bylaw is the most appropriate way of addressing the problem. As any reviewed bylaw is likely to remain in force for a period of at least five years, but could be as long as 10 years following review, this opportunity has been taken to re-examine all provisions. In undertaking these bylaw reviews the approach that has been taken follows that of the Ministry of Economic Development *Code of Good Regulatory Practice*.⁴
8. The Christchurch City bylaw currently in force, as introduced in 2000, consolidated similar titled bylaw provisions previously in force in the territorial authorities that were amalgamated into the present Christchurch City in 1989. At the time of developing the bylaw the opportunity was taken to simplify the provisions compared with previous bylaws but still retain a bylaw applying over the whole City. At the time it was realised that central government legislation, introduced since previous bylaws had been made, regulated many of the matters which had been the subject of bylaw controls. The City Plan, then notified, also contained matters that previously would have been included in such bylaws.
9. It is considered sufficient legal powers exist for the control of nuisances and matters of animal welfare under national legislation such as the Health Act 1956; the Animal Welfare Act 1999; the Building Act 1991; The Agricultural Pests (Exemption of Domestic Rabbits) Order 1994; Wildlife (Farming of Unprotected Wildlife) Regulations 1985; Animal Products Act 1999; Biosecurity (National American Foulbrood Pest Management Strategy) Order 1998 and the Impounding Act 1955. A legal opinion is as follows on the matter of covering matters covered by central government legislation.

Where the acts in question are already an offence under central government legislation it would be unwise for the Council, and indeed unnecessary, for Council to make a bylaw duplicating those offences.
10. In two years the Environmental Services Unit has dealt with 309 complaints related to animals, bees and poultry. About half of these referred problems with poultry or birds; about a third regarding animals or stock; and 20 percent regarding bees or wasps. The total complaints referred to 279 properties over the City over the two years, or 0.21 percent of the estimated 135,000 households at June 2005. It is therefore not a significant issue in Christchurch City. On the basis of the examination of the problems caused by the keeping of animals it appears these are generally minimal.
11. The additional controls over cats being sought result from a relatively small number of cases occurring in the City. In the year (September 2004 to August 2005) most complaints have related to what have been described as feral, semi feral, or abandoned cats. About 40 complaints at 33 properties have been dealt with by pest control services on behalf of the Council. Given that it is estimated that there are 60,000 households keeping cats and about 20,000 with two or more cats, there are in the order of 88,000 cats kept in the City. The complaint rate is therefore very small about 0.05% of cat keeping households and of the total number of cats. No further controls are therefore considered necessary.

³ Annual Plan Subcommittee Report, clause 24, Christchurch City Council, 30 June 2004

⁴ Ministry of Economic Development, *Code of Good Regulatory Practice*, Quality of Regulation Team, Competition and Enterprise Branch, November 1997

12. The Banks Peninsula District Council (BPDC) bylaw is New Zealand Standard 9201, Chapter 13:1972 and as such reflects the time it was prepared by the Standards Association of New Zealand. It contains prescriptive requirements for matters such as licensing of the keeping of pigs; construction of pigsties; cleanliness of pigsties, and the disposal or transport of manure and pigswill. The use of stables for human habitation is not permitted, and conditions regarding poultry keeping including structures for such purposes are set down. Licensing of the keeping of bees in other than rural areas is required. These are matters that were taken out of the Christchurch City Council Bylaw in the 2000 review. It has been difficult to obtain information of the number of complaints received by BPDC, but anecdotally they appear to have been limited, at least in recent times. Given the form of the bylaw it is unlikely that such conditions would still exist in modern settlements.

Conclusions

13. It is considered there are sufficient powers under central government legislation to control nuisances arising from the keeping of animals, and indeed to control animal welfare issues that may arise from time to time. In reality the nuisance sections of the Health Act 1956 are used to control such matters and these are wide enough to control matters that have been the subject of complaint. These provisions also cover the problems caused by noise from animals although noise provisions of the Resource Management Act 1991 are likely to apply.