

9. PROPOSED TIMEFRAME FOR THE REVIEW OF OPERATIONAL POLICIES RELATING TO THE PUBLIC PLACES BYLAW 2008



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PURPOSE OF REPORT

1. To seek approval from Council on the proposed timeframes for the staged review of the operational policies that relate to the Public Places Bylaw 2008 and agreement on the level of consultation to be undertaken in relation to each group of policies.

EXECUTIVE SUMMARY

2. On 2 February 2009, the Regulatory and Planning Committee agreed to appoint a working party to work with staff to discuss the review of operational policies that relate to matters covered by the Public Places Bylaw 2008. The members of the Public Places Policies Working Party are Crs Wells, Wall, Shearing and Johanson.
3. A new operational policy is to be developed from a review of 12 existing policies. The policies all relate to the clauses in the Bylaw that regulate commercial activities and obstructions in public places (clauses 6 and 7).
4. The policies were developed before the amalgamation of Banks Peninsula District Council and the Christchurch City Council, and all were developed before the adoption of the new Bylaw. The policies need to be reviewed to ensure that they are still necessary, that they are appropriate and that they are fit for purpose. The review of the policies will:
 - Rationalise the current policies, where needed
 - Establish whether current practice and needs align with the policies
 - Assess whether any new matters need to be included
 - Establish whether the policies align with the bylaw
 - Take account of internal (Council) needs and external (stakeholder) needs
 - Result in redrafted policies that are coherent, stand-alone documents.
5. In addition to these 12 policies, related operational issues have been identified that would benefit from being included in or adopted into the new operational policy, resulting in some new areas of consideration.
6. Staff have been working, in liaison with the working party, on reviewing these policies for more than six months. However the review process is complicated and incorporates a crossover of many issues, historical decisions, new matters and a range of units within the Council. It also includes consideration of the issues that vary across the district, including those in the central city, Christchurch suburbs and Banks Peninsula townships. Progress has been slower than initially anticipated for these reasons.
7. This report recommends a staged approach to the review of these 12 policies, as set out in the attachment and below. The intention is to have one single policy that covers all policy aspects of the Public Places Bylaw at the end of this process, however, the volume of information is not practical to be considered at one time, so splitting the reviews into smaller groups is proposed.

Request for consideration of a staged timeframe for review of the Public Places related policies

8. At its recent meeting (24 August 2009), the working party asked staff to prepare a timetable for the review of the 12 policies that sit under the Public Places Bylaw 2008, including restructuring the grouping of the reviews, and to present this information directly to the Council at its September meeting.

9. This timetable straddles the current Council term and the next Council term, post October 2010. Because of this, staff are proposing a split in the policy review timetable to allow some parts of the review to progress within the current Council term, and others to be completed within the next Council term. It is not possible at this stage to complete all policy review aspects within the current Council term.
10. It is proposed that the following three groupings of policies and related issues be reviewed within the current council term (with completion by June 2010):

Structures on streets

- Policies
 - Airspace over Public Roads - Granting Rights
 - Footpath Extensions to Expand Cafes onto the Roadway
 - Legal Road as Licensed Premises, use of
 - Structures on Streets (Ramp, Retaining Walls, Garage, Parking Platform Etc)
- Issues/extras
 - Poster bollards

Street Trading (Stage 1) - Central City¹

- Policies
 - Street Trading Policy
 - Stalls in Cathedral Square and City Mall
 - Stall Site Licensing Policy
 - Victoria Square and Victoria Square Amphitheatre (use of)
- Issues/extras
 - Mobile traders, travelling shops, hawkers

Street Trading (Stage 2) - Banks Peninsula Townships²

- Policies
 - Banks Peninsula District Council Stalls/Market Policy
- Issues/extras
 - Signboards, particularly the revoked parts of the BPDC Public Places and Signs Bylaw.

11. The remaining policies and issues would be scheduled for review post election, with staff progressing the review work during the July 2010 to January 2011 period. The remaining policies and issues are:

Street Trading (Stage 3) – Completion

- Policies
 - Busking Conditions
- Issues/extras
 - New policy area – street appeals and soliciting for membership
 - Street trading and stall licensing in Christchurch suburbs (central city and Banks Peninsula already completed)
 - Any remaining matters from the first two street trading stages.

Signboards

- Policies
 - Signboards in Public Places Policy

¹ Central City is defined as within the four Avenues

² Town centre zones, as listed in chapter twenty six of the Banks Peninsula District Plan – Akaroa, Lyttelton, Governors Bay, Diamond Harbour, Church Bay and Little River.

Public Street Enclosure Policy and Fees Charged

Request for the consideration of the level of consultation recommended for the policy group reviews

12. There are three groups of policies that are timetabled for review by June 2010. These groups are:

Structures on Streets

Street Trading (Stage 1) - Central City

Street Trading (Stage 2) - Banks Peninsula Townships

13. Initial analysis of these policies and the potential review requirements of each group have been considered in relation to the Council's Policy on Determining Significance, and the level of formal consultation that may be required has been considered.

14. The following levels of consultation are recommended to be implemented for each set of policies:

Structures on Streets

- Pre consultation with internal stakeholders and Community Boards
- Pre consultation with identified key stakeholders (current leasees/licence holders; developers proposing such developments; etc)
- No formal consultation

Street Trading (Stage 1) - Central City

- Pre consultation with internal stakeholders and the Community Board
- Pre consultation with identified key stakeholders (potentially current leasees/licence holders; business and residents associations in the central city; directly affected parties as identified through the pre consultation activity)
- Formal consultation post adoption of draft policy for consultation

Street Trading (Stage 2) - Banks Peninsula Townships

- Pre consultation with internal stakeholders and the Community Boards
- Pre consultation with identified key stakeholders (local businesses and residents associations; local development/promotion/tourism group(s); directly affected parties as identified through the pre consultation activity)
- Formal consultation post adoption of draft policy for consultation.

FINANCIAL IMPLICATIONS

15. Funding for formal consultation processes.

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

16. Not applicable.

LEGAL CONSIDERATIONS

17. The relevant legal considerations here relate to the level of consultation that is appropriate for these policies in order to ensure that the Council seeks community views in a way that complies with the Local Government Act and with the Council's new Policy on Determining Significance.
18. Under the Policy on Determining Significance, the review of these policies is more likely to be something which the Council must treat as significant, because it is not a matter that flows consequentially from an LTCCP or Annual Plan process or other public hearing. There has been no public hearing in relation to the proposed changes/proposed new policies.

19. However, the position is not entirely clear, because it could be regarded as a decision that flows consequentially from the special consultative procedure on the Public Places Bylaw. Considering the general approach to determining significance therefore, it seems that some of the policies and proposed changes will not attract a high degree of interest and/or have much of an impact, while other policies may do.
20. The greatest impacts will be on individuals/businesses, rather than there being any effect on Council's capacity to perform its role. For some policies there are also impacts on social and economic wellbeing.
21. The Legal Services Unit considers that eight out of 12 of the policies being reviewed are likely to be, or could potentially be, significant (that is, that they will or may have a high degree of significance). The other four policies are likely to be of low or medium significance. Making an assessment across the three areas that the Working Party has determined provide appropriate groupings for the policies (Structures on Streets, Street Trading - stages 1 and 2, and Signboards), the recommendation is that, at this point in time, Structures on Streets is of low to medium significance, Street Trading is significant, and Signboards is also likely to be significant.
22. The Council's Policy on Determining Significance does not require that Council carry out a special consultative procedure in relation to the review of these policies (ie those that are considered to be significant or potentially significant), but the Council must determine, in light of the decision-making requirements in the Local Government Act 2002, how to gather the best information about community views on the new policy, in proportion to the significance of these matters.

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

23. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

24. None applicable.

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

25. Not applicable.

ALIGNMENT WITH STRATEGIES

26. Not applicable.

Do the recommendations align with the Council's strategies?

27. Not applicable.

CONSULTATION FULFILMENT

28. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Adopt the proposed timetable for the staged review (as set out in the attached document) of policies that relate to the Public Places Bylaw 2008.
- (b) Adopt the proposed level of consultation (as set out in paragraph 14) for each set of policies to be reviewed by June 2010.