

7. SKATEBOARDING - PROVISION OF INFRINGEMENT FEES

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Corporate Plan Output: Enforcement (Bylaws)	

The purpose of this report is, at the request of the Police, to consider amending the Christchurch City Public Places and Signs Bylaw 1992 to provide for infringement fees for persons contravening the Bylaw in relation to skateboarding in public places in an inconsiderate manner or skateboarding in a prohibited area (Victoria Square).

INTRODUCTION

The Council at its meeting on 24 September 1997 confirmed the following amendment to the above bylaw to come into force on 1 January 1998:

“3. PLAYING AT GAMES

- (1) Subject to clause 3(2), no person shall play at any game or ride in or upon any toboggan, cart, trolley, skateboard, roller skate or similar device in any road or public place, in such a manner or at such a time as may cause damage to property owned by the Council or may cause annoyance, danger or inconvenience to residents or members of the public in the vicinity.*
- (2) The Council may from time to time by resolution publicly notified in a newspaper circulating in the City prohibit the use of skateboards in any public place or any part of a public place or any road or any part of a road.*
- (3) The Council shall mark any such prohibited public place or road by erecting such signs, markings or notices as the Council sees fit.*
- (4) No person shall use a skateboard in any public place or road prohibited by the Council pursuant to sub-clause (2) of this clause.”*

The Council at its meeting of 25 February 1998 then passed the following resolutions:

“That initially the Council resolve to prohibit skateboarding in the area of Victoria Square as defined on the attached map, such prohibition to come into force once the Washington Reserve Skate Park is operational for street skateboarding activities.

That the Council provide support for the preparation of a skateboarding pamphlet and for a major skating event in the city.

That the design of public spaces and objects take into account the possible effects of skateboarding.

That the Hagley/Ferrymead Community Board be asked to provide the Principal Environmental Health Officer with details of the area within the Sumner Village Business Precinct, where the Business Association had sought the skateboarding ban.”

The skate park at Washington Reserve was officially opened on 6 June 1998 and the Council resolved at its meeting of 24 June 1998 that Victoria Square be added as a schedule to the Public Places and Signs Bylaw as an area where skateboarding was prohibited in accordance with Clause 3(2) of the bylaw.

ENFORCEMENT ISSUES

At the time of the original consideration of the question of prohibiting the use of skateboards in certain areas, the problem of enforcing such a prohibition was considered. The Committee was advised in 1997 of the difficulties that would be faced by Council staff in attempting to enforce a prohibition, and that the assistance of the Police would be necessary if the prohibition was to be successful.

Information from Wellington City, who had introduced a similar provision to prohibit skateboarding in Cuba Mall, was that the Police would act on complaints subject to their availability. The local District Commander confirmed that local Police would assist in enforcing bylaws with the proviso that their response is always prioritised to more serious incidents.

In practice, since the prohibition has been in place, there has been no effective enforcement action. Council officers who have spoken to skateboarders have not received a positive response and the Police were reluctant to become involved in a Council bylaw matter.

THE LAND TRANSPORT ACT

Since 1 March 1999, skateboards have been defined as "vehicles" under the Land Transport Act 1998.

More recently the Police have been using the provisions of this Act in various parts of the country to issue infringement notices where skateboarding is prohibited or restricted by local bylaws. The Act provides for an Infringement Fee of \$750 (or such lesser amount as may be set by bylaws). It should be noted also that the maximum fine that could be imposed if a prosecution was taken under the bylaw is \$500.

Inspector James of Police National Headquarters has suggested that the Council may wish to consider setting a fee in the bylaw that would mean the "lesser amount as set by a bylaw" provision would apply instead of \$750 which is agreed by all to be excessive for the nature of the offence.

It was also suggested that if such a fee was to be included in the bylaw, then a fee of \$35 for a child and \$70 for an adult would be sufficient to present a deterrent factor without being so high as to be unreasonable. The bylaw in that case would also need to include definitions of "child" and "adult" and it is suggested that these be the same as in the Children, Young Persons, and their Families Act 1989 (child meaning a person under the age of 14 years).

DISCUSSION

It must be clearly understood that the infringement notices, and any fees associated with them, are a Police matter and not a Council matter. If the fee is not paid and the matter goes to a Court hearing, then this is for the Police to action, not the Council.

The Council has previously resolved that Victoria Square is an area where skateboarding is prohibited, and the Public Places and Signs Bylaw (as amended in 1997) states that no person shall ride a skateboard in any road or public place in such a manner as may cause annoyance, danger or inconvenience to residents or members of the public in the vicinity (maximum fine if prosecuted of \$500). It is not a case of putting young people in court for pursuing their sport. Rather, it is providing that, for the small number who deliberately choose to ignore the law (especially in relation to the 'banned' area of Victoria Square), then the Police can issue an infringement notice with a lesser penalty than the \$750 contained in the Land Transport Act, or the maximum of \$500 if prosecuted under the bylaw.

This matter has been referred to the Children's Advocate and the Youth Advocate and their comments are [attached](#). The comments by the Youth Advocate in relation to when a young person could be deemed to be an "adult" are acknowledged and it is suggested therefore that the \$70 infringement fee for an 'adult' should apply to persons over 17 years of age.

- Recommendation:**
1. That the Christchurch City Public Places and Signs Bylaw 1992, as amended by the Christchurch City Public Places and Signs Alteration Bylaw 1997, be further amended by making provision for infringement fees for persons contravening the bylaw in relation to skateboarding in public places or prohibited places. (Note: at present, the only prohibited area is Victoria Park.)
 2. That the infringement fees be set as follows:
 - For riding a skateboard in any road or public place in such a manner as may cause annoyance, danger or inconvenience to residents or members of the public in the vicinity - \$35 for a child; \$70 for an adult.
 - For riding a skateboard in any area where the riding of skateboards is prohibited (currently only Victoria Square) - \$35 for a child; \$70 for an adult.
 3. That the Council's Legal Services Manager be requested to draft the amendment for Council's consideration.

Chairman's

Recommendation: That the proposed Bylaw amendment be approved.