

15. STREET STRUCTURES AND ACTIVITIES POLICIES AND BYLAWS

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The purpose of this report is to seek the Committee's approval to undertake a review of all current Street Policies, Bylaws and licence agreements relating to street structures and associated activities in the Special Purpose (Pedestrian Precinct) Zone (but specifically Cathedral Square and the City Mall), as well as other high pedestrian streets. Depending on the outcome of the review, this may lead to the preparation of a comprehensive policy for the licensing of structures in these areas. This approval is sought in part to resolve a reference against the proposed plan relating to the rules for structures in the Special Purpose (Pedestrian Precincts) Zone. Officers, the City Plan References Subcommittee and Central City Streets Subcommittee consider that the control of such structures is better dealt with by Council through its licensing and bylaw making powers.

It is recognised that authority for such a review must go to the full Council via this Committee.

PROPOSED CITY PLAN RULES

The Proposed Plan has zoned pedestrian malls as the Special Purpose (Pedestrian Precincts) Zone. This covers five significant pedestrian precincts within the city identified as Cathedral Square, City Mall, Worcester Boulevard, New Regent Street and New Brighton Mall. With the exception of the latter, these precincts are generally surrounded by the Central City Zone and are important pedestrian areas which contribute to the retail focus and character of the central city. In addition to Council owned land in these areas, also included is the land containing the Christchurch Cathedral, which is a listed historic building. The New Brighton Mall serves a similar pedestrian function in relation to the New Brighton commercial area.

The zone provisions include two rules as follows:

“5.3.1 Scale of building

Any building shall not exceed 5m² in area.

5.3.2 Height

The maximum height of any building shall be 3 metres.”

These rules are community standards and non-compliance with these is deemed to be a discretionary activity (restricted). These simple 'bulk' rules seek to control a variety of effects, the nature of which are contained in the assessment matters for these rules:

- “(a) Any adverse effects on the safety and flow of pedestrian movement.*
- (b) The need for the building to be located in the zone, alternative sites, and the degree to which it meets a public need.*
- (c) Any adverse visual effects, including any obstruction of views along the open spaces.*
- (d) Any proposed landscaping and the extent to which it will mitigate any adverse visual effects.*
- (e) The design and appearance of the building.*
- (f) The scale of the building in relation to other buildings, including the Christchurch Cathedral and those in adjoining zones.”*

As such the rules provide a limited form of protection for the zone in terms of the location and nature of buildings that would comply with the rules. The assessment matters allow consideration of these and other matters for buildings that do not comply with either of the rules and therefore require resource consent.

Any building that complies with both of the zone rules stated previously, does not require a resource consent and can establish as a permitted activity, subject to the Council's own policies and bylaws discussed below. The City Plan does not provide specific exemption for temporary buildings, therefore any large buildings erected for a short period would require resource consent. An example would include the ski jump used for the Montana Winter Carnival. The City Plan does allow smaller buildings, such as stalls, and as such the only other control over these is through the policies and bylaws.

REFERENCE

A reference from AB Investments Ltd (RMA 366/99) has been lodged with the Environment Court, which seeks that rule 5.3.1 be amended to read as follows:

“The placement or erection and the location of any building (irrespective of size) for a period greater than 6 months shall be a discretionary activity.”

The referrer is seeking greater control over buildings erected in the zone, however the City Plan Subcommittee is of the same view as the Panel who heard the original submissions to the Proposed Plan that there is no need for additional controls in the Plan when existing policies and licensing mechanisms are available. Mr Carrie has been involved with the policies for activities in the zone and discusses these below. The referrer has indicated that it will withdraw its reference if the Council authorises a review of relevant licensing policies and so on.

EXISTING PROVISIONS

There are three principal provisions for the control by the Council of the effects of activities and associated structures on or above legal street.

1. The Christchurch City Plan/Resource Management Act

Structures in Special Purpose (Pedestrian Precincts) - Rules 5.3.1 and 5.3.2 as discussed above.

Structures in Special Purpose (Road) Zones – S4.2. Rules for the adjoining zone apply for any building or part of a building which extends across the road boundary **excluding** rules relating to ‘sunlight and outlook of neighbours, street scene, separation from neighbours, screening from neighbours, special setback provisions, landscaping and visual amenity shall not be applied to that part of the building which occupies the Road Zone’ (Note that this exclusion does not apply to the *Special Purpose (Pedestrian Precincts) Zone*).

‘Display of Outdoor Advertisements S10 Rules 3.4.1 – 3.5.4 as they relate to verandah signs.

‘Weather Protection’, Central City Zone – Rule 2.2.4 required verandah frontages.

2. Bylaws, permits and licences through the provisions of the Local Government Act 1974.

The *Christchurch City Public Places and Signs Bylaw 1992* regulates the use of public places within the city. In particular it controls trading, the display of goods and advertising devices, signs visible from public places, verandahs and obstruction to pedestrians. It also prohibits that certain activities in public places without a licence from the Council. Those activities include trading and the storage of goods. The *Christchurch City General Bylaw 1990* contains general provisions applicable to the issuing, suspension and cancellation of licences under all other Council bylaws.

For the purpose of administering the *Christchurch City Public Places and Signs Bylaw 1992* in a consistent manner the Council has adopted certain policies which are referred to below.

3. Council Policy

‘Stalls in Cathedral Square and City Mall’ – number, design and appearance, also for City Market.

‘Footpath Extensions to expand Cafes onto the Roadway’ – locational criteria, streetscape, rentals.

‘Signboards in Public Places’ – free-standing street sign boards.

‘Street Trading Policy’ – limits central city locations, locations and type of trading related to existing outlets, numbers and types of stalls in Cathedral, Square and City Mall.

'Street Enclosures Policy' – enclosure controls for outdoor dining.

'Airspace over Public Roads Policy' – commercial and functional needs, controls on locations, types of buildings, obstruction of views, classification of specific inner-city streets, design and appearance.

'Art in Public Places Policy'.

DISCUSSION

The provisions detailed above may not be complete, but do indicate the diverse (and confusing) range of controls currently applicable to structures and associated activities in the Special Purpose (Road) Zones, Special Purpose (Pedestrian Precinct) Zones and legal road. The City Plan Rules take precedence over the Bylaws. The principle regulatory control of activities on legal road is through the licensing and permit provisions of the Bylaws. Many relevant bylaw provisions and policies lack sufficient criteria or direction for consistent administration. Licensing agreements have in many cases been developed as necessary to address a number of more specific requirements, generally outside a Policy framework.

Reviewing the Bylaws, Policies, Permits and Licenses for street activities and structures would provide an opportunity to assess the effectiveness of existing controls and provide a guide for developing a comprehensive City Policy framework. The City Plan Reference discussed above only applies to Rules in the Special Purpose (Pedestrian Precinct) Zones. Consideration should be given, however, to the usefulness of reviewing the present range of controls and policies for all structures and associated activities on legal roads. Realistically, the review would focus on Bylaws and Policies and not attempt to address City Plan matters at this time, apart from those rules affected by the Reference. There is also an opportunity to include a number of related Policy initiatives, which are being undertaken including verandah, landscape and street furniture design policies and central city street signage.

CONCLUSION

There is a need to review and rationalise the wide range of controls applicable to structures and associated activities on legal roads. This review would identify the most effective form and scope of control outside the City Plan and provide a possible resolution of the outstanding AB Investments reference on Rules 5.2 and 5.3. The review would also identify any need for and the scope and form of a Comprehensive Streets Policy. It would also have the added benefit at this time of avoiding litigation in the Environment Court seeking to introduce into the Proposed City Plan greater controls over structures in the pedestrian precinct zone.

This matter was considered at the meeting of the Central City Streets Subcommittee on 31 October 2002 and the recommendation of the Subcommittee is appended below.

Subcommittee

Recommendation: That it be recommended to the Sustainable Transport and Utilities Committee that:

1. An urgent review be undertaken of current bylaws and policies relating to street structures and associated activities for:
 - (a) The Special Purpose (Pedestrian Precincts) Zone,
 - (b) All other streets with high pedestrian traffic.
2. For the purpose of assisting the City Plan reference from AB Investments Ltd (RMA366/99) the Council shall undertake a comprehensive review of bylaws and policies relating to the Special Purpose (Pedestrian Precincts) Zone and that the review shall include consultation with affected landowners and other interested parties.

3. Also Included in the review shall be:

- (a) Consideration of policies and bylaws re: Street signage, street furniture and verandahs.
- (b) Consideration of the effects of existing policies and bylaws on blind and disabled people.
- (c) Consideration of the effects of existing policies and bylaws as a means of encouraging colour, life and vitality in the inner city.