8. STRUCTURES ON ROADS POLICY 2010

General Manager responsible	General Manager City Environment, DDI 941-8608
Officer responsible	Asset and Network Planning Manager
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PURPOSE OF REPORT

1. The purpose of this report is to seek comments from Community Boards on the draft Structures on Roads Policy 2010 (**Attachment 1**).

EXECUTIVE SUMMARY

2. At the 5 March 2010 meeting of the Regulatory and Planning Committee the Committee resolved: *"That this issue lie on the table until staff have briefed Community Boards, and that it return to the Committee in April in light of these discussions".*

3. With the 2006 amalgamation of Banks Peninsula District Council (BPDC) and Christchurch City Council (CCC) some operational policies specific to each area remained in existence for the respective areas.

4. With the adoption of the Public Places Bylaw 2008 (the bylaw) the policies related to structures on roads were identified as needing review to ensure they appropriately give effect to the bylaw. The Council appointed Public Places Policies Working Party has worked with staff on the review of this and the other operational policies that relate to matters covered by the bylaw.

5. The proposed Structures on Roads Policy 2010 provides a single policy for the whole of the city and incorporates and replaces the following:

   (a) Current CCC policies:

      (i) Airspace over Public Roads - Granting Rights.

      (ii) Structures on Roads (Ramp, Retaining Walls, Garage, Parking Platform etc).

      Note: "Use of Legal Road as Licensed Premises policy": The ability of the Council to revoke a permit to occupy legal road as licensed premises as currently contained in this policy now forms part of each individual permit issued by the Council and is therefore not retained.

   (b) Current BPDC policies (all part of the Banks Peninsula Roading Policy):

      (i) Structures on Legal Roads in Urban Areas - License to Occupy Policy.

      (ii) Retaining Walls - Responsibility Policy.

      (iii) Fencing Policy.

   The proposed policy therefore provides clarity and consistency in the management of applications for structures on roads throughout the Council area.

6. For most of its content the proposed policy incorporates the current CCC policies with updated wording and minor changes. The provisions in the existing 'city' and 'peninsula' policies are overall similar in nature. There are also some additions e.g. the provisions relating to verandas and fences, and inclusion of the Banks Peninsula fences policy into the new policy for the whole city. Current provisions in both CCC and BPDC policies which addresses council operational procedures (and do not belong in policy statements) were not retained.

7. This policy addresses only structures of permanent nature on roads and therefore does not deal with temporary structures on roads such as those associated with restaurants and cafes occupying sidewalks, which is planned for consideration and consultation during 2011, nor with *'paper roads'* which is planned for consideration at a later stage.

8. In summary, the proposed policy achieves an overdue streamlining and consolidation of polices and introduces:

   (a) Provisions relating only to verandas previously in the Public Places Bylaw 1992;

   (b) Changed provisions relating to fences;

   (c) New provisions on the use of airspace over roads for architectural features; and

   (d) New provisions for infrastructural and other structures.

   Key stakeholder groups were contacted in writing about the proposed review and no concerns were raised.

9. It is not proposed to have a Special Consultative Procedure for the Structures on Roads Policy. The policy will become operative once adopted by the Council, and relevant stakeholders will be notified in writing.

FINANCIAL IMPLICATIONS

10. Current policy enforcement is undertaken on a 'response to a complaint' basis. It is anticipated that this will remain the same with the adoption of a reviewed policy, with no anticipated additional expenses.

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

11. Yes.

LEGAL CONSIDERATIONS

12. The Public Places Bylaw 2008 came into force on 1 July 2008. Clause 8 of that bylaw provides for operational policies to be formulated, relating to matters regulated by the bylaw. Such policies must be adopted by Council resolution, and may include information on application procedures, administrative arrangements, terms and conditions related to activities in public places, definition of terms and other guidance information.

    The consideration and adoption of such policies must be done in accordance with the Council's usual decision-making processes under the Local Government Act 2002.

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

13. Initial analysis of this policy and the potential review requirements have been considered in relation to the CCC Policy on Determining Significance, and the level of formal consultation that may be required has also been considered.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. The following Long Term Council Community Plan (LTCCP) chapters are relevant: 5.3 City Promotions – 5.3.2 Promoting the City as an attractive place to live, learn and work.– 9.0 Enforcement and Inspections – Protect public health & safety; enforce compliance.

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

15. As above.

ALIGNMENT WITH STRATEGIES OR OTHER BYLAWS

16. The Structures on Roads Policy is aligned to the following Christchurch City Council strategies, plans and policies:

    (a) Central City Revitalisation Strategy.

    (b) Safer Christchurch Strategy.

    (c) Pedestrian Strategy.

    (d) Parking Strategy.

    (e) Equity and Access for People with Disabilities Policy.

    (f) Long Term Council Community Plan.

17. This policy gives effect to the Public Places Bylaw 2008 and should be read in conjunction with the Council's General Bylaw 2008, Traffic and Parking Bylaw 2008, Parks and Reserves Bylaw 2008 and the relevant rules, policies and objectives in the District Plan/City Plan.

Do the recommendations align with the Council's strategies?

18. Yes.

CONSULTATION FULFILMENT

19. During the drafting of this policy some initial discussion has been undertaken with key stakeholders including Community Boards. Potentially affected external parties and associations were invited to provide feedback on any concerns and no concerns were raised.

STAFF RECOMMENDATION

That the Board consider, and comment on, the draft Structures on Roads Policy 2010.

CHAIRPERSONS RECOMMENDATION

For discussion.

BACKGROUND

20. On 1 July 2008 the Christchurch City Council Public Places Bylaw 2008 became operative.

21. The bylaw enables the management of public places in order to balance the various different, and sometimes competing, lawful uses for which public places may be used. It seeks to provide for reasonable controls to protect health and safety, to protect the public from nuisance and to provide for the regulation of trading in public places.

22. Following the adoption of the bylaw a new operational policy was proposed to be developed from a review of the 12 relevant existing policies and associated matters. The policies all relate to the clauses in the bylaw that regulate commercial activities and obstructions in public places (clauses 6 and 7). This report only deals with the specific policies of the 12 that deal with structures on roads. The remaining policies have either already been considered by the Council (*Trading and Events in Public Places* in February 2010) or will be considered later in 2010/2011.

23. The current 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 addresses the following criteria:

    (a) Rationalise the current policies where needed;

    (b) Establish whether current practice and needs align with the policies;

    (c) Assess whether any new matters need to be included;

    (d) Establish whether the policies align with the bylaw;

    (e) Take account of internal (Council) needs and external (stakeholder) needs; and,

    (f) Result in redrafted policies that are coherent, stand-alone documents.

24. 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.

25. 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, Reid and Johanson. The Working Party concluded its deliberations during 2009 with a meeting on 4 December 2009. Due to the considerable workload of reviewing all 12 policies, the Council on 24 September 2009 approved a timetable to split consideration of the 12 policies into a first group to be finalised by June 2010 (including those considered in this report), with the remainder to be considered in 2011 after the 2010 local government elections.

Proposed Structures on Roads Policy:

26. The proposed Christchurch City Council Structure on Roads Policy 2010 provides a single policy for the whole of the city and incorporates and replaces the following:

    (a) Current CCC policies:

        (i) Airspace over Public Roads - Granting Rights.

(ii) Structures on Roads (Ramp, Retaining Walls, Garage, Parking Platform etc).

Note: "Use of Legal Road as Licensed Premises policy": The ability of the Council to revoke a permit to occupy legal road as licenced premises as currently contained in this policy now forms part of each individual permit issued by the Council and is therefore not retained.

(b) Current BPDC policies (all part of the Banks Peninsula Roading Policy):

(i) Structures on legal Roads in Urban Areas - License to Occupy Policy.

(ii) Retaining Walls - Responsibility Policy.

(iii) Fencing Policy.

The proposed policy therefore provides clarity and consistency in the management of applications for structures on roads throughout the Christchurch City Council area.

27. For most of its content the proposed policy incorporates the current CCC policies with updated wording and minor changes. The provisions in the existing 'city' and 'peninsula' policies are materially the same. There are also some additions e.g. the provisions relating to verandas and fences, as set out in the Background section below. Current provisions in both CCC and BPDC policies which addresses council operational procedures (and do not belong in policy statements) were not retained.

28. In summary the proposed policy achieves an overdue streamlining and consolidation of polices and introduces (1) provisions relating only to verandas previously in the 1992 Public Places Bylaw; (2) changed provisions relating to fences which are taken from the Banks Peninsula policy and is now proposed for the whole city, (3) new provisions on the use of airspace over roads for architectural features; and (4) new provisions for infrastructural and other structures. Key stakeholder groups were contacted in writing about the proposed review and no concerns were raised.

THE OBJECTIVES

29. The key objectives of the public places policy review are to:

(a) Review and update, as appropriate, the policy clauses and to enable a working policy that is supported by the Council and the community.

(b) Bring together the current policies and practices for both the former BPDC and CCC.

(c) Align the policy with current CCC plans and strategies.

30. The key objective of this policy is to manage structures on street and to develop a single policy to assist the public in identifying what can happen where and under what conditions.

THE OPTIONS

31. Two options have been identified in relation to managing structures on roads.

(a) The adoption of a new Council policy.

(b) Maintain the status quo with some editing to factually update of current policies.

THE PREFERRED OPTION

32. The preferred option is the adoption of the proposed Council policy. The proposed policy is attached to this report. (**Attachment 1**).

ASSESSMENT OF OPTIONS

The Preferred Option

33. The preferred option is the adoption of a new Council wide policy (as tabled with this report). In addition to updating the wording and minor changes to the text this policy brings together the key elements of current policies and practices and incorporates new policy clauses which will assist with developing clarity and consistency in policy understanding and application.

	Benefits (current and future)	**Costs (current and future)**
Social	Clarity to the community as to the policy, how to apply and how it applies. Alignment of policies between the former BPDC policies and the CCC policies will assist clarity and ease of use and application.	Communication of policies is part of the Council's core business.
Cultural	None specific.	None specific.
Environmental	Policy will enable more robust and transparent management of structures on roads .	None specific.
Economic	Consolidated policy.	None specific.

Extent to which community outcomes are achieved:
This policy option aligns with the following Community Outcomes:
-**A Safe City** – we live free from crime, violence, abuse and injury. We are safe at home and in the community. Risks from hazards are managed and mitigated.
-**An Attractive and well designed City** – Christchurch has a vibrant centre, attractive neighborhoods and well–designed transport networks. Our life styles and heritage are enhanced by our urban environment.
-**A City for recreation, fun and creativity –** We value leisure time and recognise that the arts, sports and other recreational activities contribute to our economy, identity, health and wellbeing.
- **A Prosperous City –** We have a strong economy that is based on a range of successful and innovative businesses. We value sustainable wealth creation, invest in ourselves and in our future.

Impact on the Council's capacity and responsibilities:
The development of a consolidated policy will enable Council to better manage structures on roads through more transparent and consistent processes and procedures.

Effects on Maori:
No specific effects noted.

Consistency with existing Council policies:
The policy pulls together the key elements of the current policies and practices of the Council into a consolidated policy document and incorporates some new provisions consistent with existing Council policies.

Views and preferences of persons affected or likely to have an interest:
No comments were received from relevant stakeholders invited to comment. As only minor changes are proposed from the existing policies and as there have been no issues with the operation of those policies it is not likely to have any significant effects.

Maintain the Status Quo with some editing (not preferred option)

34. The option of maintaining the status quo with some editing would mean maintaining the series of policies and current practices that apply to the post-amalgamation CCC area, and some specific policies that only apply to pre-amalgamation areas. Within this option it would be logical to update the policies (desk top activity) to ensure that historical and no longer relevant clauses are not included.

	Benefits (current and future)	**Costs (current and future)**
Social	Communities should be aware of the current policies / practices as most have been operational since the early 1990's.	Continued segregation of the City's District Council areas as per pre-amalgamation.
Cultural	None specific.	None specific.
Environmental	Current status will continue to promote the areas of CCC and the former BPDC as two separate regions.	None specific.
Economic	None specific.	None specific.

Extent to which community outcomes are achieved:
This policy option aligns with the following Community Outcomes:
-**A Safe City** – we live free from crime, violence, abuse and injury. We are safe at home and in the community. Risks from hazards are managed and mitigated.
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-**A City for recreation, fun and creativity –** We value leisure time and recognise that the arts, sports and other recreational activities contribute to our economy, identity, health and wellbeing.
- **A Prosperous City –** We have a strong economy that is based on a range of successful and innovative businesses. We value sustainable wealth creation, invest in ourselves and in our future.

Impact on the Council's capacity and responsibilities:
Maintaining the status quo will mean business as usual for council enforcement and policy development.

Effects on Maori:
No specific effects noted.

Consistency with existing Council policies:
The current policies broadly align with existing council strategies and plans, however the factual update is recommended, should this option be chosen, as many of the clauses are either out of date or no longer relevant.

Views and preferences of persons affected or likely to have an interest:
No comments were received from relevant stakeholders invited to comment.

At Least one Other Option (or an explanation of why another option has not been considered)

35. No other option has been considered as the Council has previously adopted (24 September 2008) the recommendations to review the policies.