

3. BANKS PENINSULA DISTRICT COUNCIL PUBLIC PLACES BYLAW REVIEW HOLDOVER

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PURPOSE OF REPORT

1. To confirm a Council decision at its meeting on 10 December 2009 to hold over consideration of the revocation of the Banks Peninsula District Council Public Places Bylaw until the review of operational policies in relation to signboards in public places are considered in 2010/11.

BASIS FOR DECISION

2. The Local Government Act 2002 (LGA) requires bylaws to be reviewed within five years of their adoption and the Banks Peninsula District Council Public Places and Signs Bylaw 2004 (BPDC04) was required to be reviewed by December 2009. Parts of the Bylaw have already been reviewed, revoked, and where appropriate, replaced as noted below.
3. Following the review of bylaws undertaken in 2008 and 2009, the Banks Peninsula District Council Public Places and Signs Bylaw 2004 Part 2 Liquor Control in Public Places and Part 3 Public Places of the Bylaw were revoked and replaced by new provisions. These were replaced by the Christchurch City Council Alcohol Restrictions in Public Places Bylaw 2009 and Christchurch City Council Public Places Bylaw 2008 respectively. Some clauses of BPDC04 Part 4 Signs were also revoked by the latter bylaw. These related to sandwich boards, flat boards and flags. The provisions of the Christchurch City signboards policy were applied to such signs in public places.
4. Despite a new administrative bylaw having been introduced, the Christchurch City Council General Bylaw 2008, some administrative parts of BPDC04 and a section of Part 4 Signs relating to "remote signs", "remote sign frames", "rural information signs and frames", and "static information signs" were retained.
5. The remaining parts of BPDC04 requiring consideration include the Preamble, Part 1 Administration, and clauses 4.1; 4.5; 4.6; 4.7; 4.8; 4.9; first Schedule; second Schedule; and Design Guidelines of Part 4 Signs. In December 2009 a clause by clause analysis of the Bylaw was undertaken and was attached to the report to the Committee. This revealed that many of the provisions in the Preamble and Part 1 Administration are contained in the Christchurch City Council General Bylaw 2008 and hence the Bylaw could be revoked.
6. The remaining provisions of BPDC04 Part 4 Signs relate to signage under the control of the Council, and did not need to be included in any bylaw. It provided for the Chief Executive to permit remote signs on sign frames provided by the Council in public places under the control of the Council. As far as it was known there had not been any "remote signs", "remote sign frames", "rural information signs and frames", and "static information signs" provided for in the Banks Peninsula ward under the Bylaw.
7. The matters these provisions cover are addressed in the Christchurch City Public Places Bylaw 2008 which prohibits commercial use (such as signage) of public places without the Council's permission. Signage in public places will be further considered in the review of public places operational policies agreed by the Council at its meeting on the 24 September 2009.
8. Subsequently the Public Places Working Party determined that it wished the operational policies relating to signboards in public places should be dealt with on a city-wide basis and those contained in the bylaw should be considered as part of this process. The timetable set for the consideration of these is later in the 2010/11 year and it is anticipated that the signboards in public places policy will be considered by the Council in February/March 2011. Further consideration of the remanent BPDC04 bylaw revocation should therefore take place alongside the review of the signboards in public places policies.

FINANCIAL IMPLICATIONS

9. There are no other financial implications other than those with moving the costs associated with the Special Consultative Procedure to another financial year.

Do the Recommendations of this Report Align with 2009-2019 LTCCP budgets?

10. The budgets for the Regulatory Services group of activities in Our Community Plan 2009-2019 Volume 1 Page 89 make general provision for the enforcement of bylaws and the City Plan and investigation of complaints. It is not anticipated that the revocation of this bylaw will significantly impact on those budgets as similar provisions remain in the Christchurch City Council General Bylaw 2008.

LEGAL CONSIDERATIONS

11. The timeframes provided in section 158 of the LGA, that bylaws must be reviewed within five years of introduction, means BPDC04 was required to be reviewed by 15 December 2009. Section 160 of the LGA provides that a bylaw review is done by making the determinations required by section 155 below. If, following the review, the Council determines that the bylaw should be amended, revoked or revoked and replaced; it must act under section 156, and use the special consultative procedure to make, amend or revoke a bylaw.
12. Section 160A applies if a bylaw is not reviewed or earlier revoked it is automatically revoked on the date that is two years after the date it was required to be reviewed. In the case of this bylaw that is December 2011. Accordingly the remanent BPDC04 bylaw can be revoked, or allowed to lapse following the consideration of remote signboards management in the Council public places bylaw operational policy development.

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

13. Yes, as above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. Under the Activity Management Plan provisions for Regulatory Services Enforcement and Inspections: *Enforce compliance through Inspection, Enforcement and Monitoring of statutory requirements: Building, Parking, Fencing of Swimming Pools, City Plan & bylaws.*

Do the recommendations of this report support a level of service or project in the 2009-2019 LTCCP?

15. Regulatory Services Enforcement and Inspection: *The Council's regulatory services make sure we follow all the laws and rules that apply in the city to keep our residents healthy and safe. This ensures that residents and businesses comply with rules for building, parking, and City Plan and bylaws.*

ALIGNMENT WITH STRATEGIES

16. There are no specific strategies in relation to this issue.

Do the recommendations align with the Council's strategies?

17. See above.

CONSULTATION FULFILMENT

18. Consultation was undertaken with the Legal Services Unit and the Inspections and Enforcement Unit. It was accepted that the provisions of the Bylaw were adequately covered by the *Christchurch City Council General Bylaw 2008*, as well as other bylaws or operational policies as necessary.

STAFF RECOMMENDATION

That the Council resolve that consideration of the review of the Banks Peninsula District Council Public Places and Signs Bylaw 2004 be held over for consideration at a later date once the operational policies in relation to signboards in public places have been considered.

COMMITTEE RECOMMENDATION

That the staff recommendation be adopted.