

7. TRADING AND EVENTS IN PUBLIC PLACES DRAFT POLICY FOR CONSULTATION



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PURPOSE OF REPORT

1. This report seeks the Council's endorsement and approval on the proposed Trading and Events in Public Places Policy and that public consultation for this policy will be via a special consultative procedure in March 2010.

EXECUTIVE SUMMARY

2. With the adoption of the Public Places Bylaw 2008, the policies related to trading and other commercial or organised activities in public places were identified as needing review to ensure they appropriately give effect to the Public Places Bylaw. The 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 Public Places Bylaw 2008.
3. With the amalgamation of Banks Peninsula District Council (BPDC and Christchurch City Council (the Council) in 2006, some operational policies specific to Banks Peninsula or specific to areas in Christchurch stayed in existence in their respective areas. This has caused some confusion and inconsistency across the communities; this draft policy endeavours to address both the issues of clarity and consistency.
4. The draft Christchurch City Council Trading and Events in Public Places Policy incorporates (1):
 - (a) Previous Council or BPDC policies:
 - (i) Street Trading Policy.
 - (ii) Stalls in Cathedral Square and City Mall.
 - (iii) Stall Site Licensing Policy.
 - (iv) Victoria Square and Victoria Square Amphitheatre (use of).
 - (v) Busking conditions.
 - (vi) Banks Peninsula District Council Stalls/Market Policy.
 - (b) Associated Matters:
 - (i) Mobile traders, travelling shops, hawkers.
5. The key changes with the draft Trading and Events in Public Places policy include:
 - (a) Inclusion of mobile and travelling shops.
 - (b) Inclusion of hawkers and pedlars.
 - (c) Inclusion of street performers.
 - (d) Removal of outdated clauses and clauses no longer valid due to the development of communities and specific areas.

6. Street performances, including pavement art, are becoming increasingly popular in some areas and are currently managed through the set of busking conditions, and some nominated areas in the central city where no permit is required. The draft policy incorporates the Banks Peninsula settlements into the policy and proposes an area in Lyttelton where no permit is required for street performances. The current nominated no permit areas in the central city have been maintained. A permit is required for street performing outside of the nominated areas, and all street performers must have a Council identification card.
7. Mobile or travelling shops and hawkers or pedlars are currently successfully managed through internal practices and this policy endeavours to bring these practices together within the context of the policy on trading and other commercial activities in public places.
8. The clauses in the current policies on markets and stalls have been reviewed to remove the clauses that are no longer considered relevant, due in particular to the development of communities and specific areas, or because they are historical clauses and are no longer valid.

Process for Consultation

9. Council staff have been working with the Council working party in the development of this policy and as a result of the development discussions it is proposed that the Council engage in a full special consultative procedure to enable feedback and robust discussion on the draft policy. The consultation process will ensure that the Statement of Proposal and the Summary of Information is publicly notified in both the main and community papers and is made publicly available via the Council Service Centres, Libraries and website. Submissions on the draft policy will be invited and heard by the hearings panel, who will then make recommendations back to the Council on the final form of the policy.

Attached documents

The following documents are attached to this report:

- **Attachment 1** - Public Places Policy Development Timeframes
- **Attachment 2** - Draft Trading and Events in Public Places Policy
- **Attachment 3** - Statement of Proposal
- **Attachment 4** - Summary of Information

FINANCIAL IMPLICATIONS

10. Current policy enforcement is undertaken on a 'response to a complaint' basis. It is not anticipated that the Councils approach will change with the adoption of the reviewed policy.

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 (LGA02). Sections 83 and 87 of the LGA02 also apply, as it is recommended that the special consultative procedure be used in this instance, even though the Council is not required to use that procedure. Section 87 provides that the statement of proposal in such instances is a draft of the proposed policy.

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

13. Initial analysis and review of this policy has applied the LGA02 decision-making requirements, including assessment in terms of the CCC Policy on Determining Significance (see report to Council on 24 September 2009, and the assessment of options section of this report). The level of formal consultation that may be required has also been considered. It is recommended that this policy be released for full public consultation using the special consultative procedure.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. 5.3 City Promotions – 5.3.2 Promoting the City as an attractive place to live, learn and work.
7.0 Events and Festivals – 7.2.7 Manage Cathedral Square as an event venue.
9.0 Enforcement and Inspections – Protect public health and 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

16. 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.
17. The Trading and Events in Public Places 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.

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 some key stakeholders including Community Boards, and potentially affected external parties (ie. Market and stall licence holders, business associations in Lyttelton, Akaroa and Central City; and some business owners).
20. Engaging in a special consultative procedure will enable all current and potential stakeholders and interested parties to provide feedback on the draft policy.

STAFF RECOMMENDATION

That the Council:

- (a) Adopt the attached Statement of Proposal (which introduces and includes the draft Trading and Events in Public Places Policy) and the attached Summary of Information for consultation.
- (b) Determine that the Summary of Information be distributed to all current permit holders under this draft policy and appropriate stakeholders and make the Statement of Proposal and Summary of Information available for public inspection at Council Service Centres, Council libraries and on the Council's website.
- (c) Resolve that the public notice of the proposal be given in "The Press" and "Christchurch Star" newspapers and on the Council's website, with public notice also to be given in the "Akaroa Mail" and other community newspapers distributed in the Christchurch area.
- (d) Appoint a hearings panel to consider submissions on the proposed Trading and Events in Public Places Policy and make recommendations to the Council on the final form of the policy.

COMMITTEE RECOMMENDATION

That the Council:

- (a) Adopt the staff recommendation.
- (b) Note that staff have reviewed the draft policy to ensure clarity.

BACKGROUND (THE ISSUES)

21. In July 2008, the Christchurch City Council Public Places Bylaw 2008 became operative.
22. The Public Places Bylaw 2008 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.
23. At the completion of the process a new operational policy is to be developed from a review of 12 existing policies and associated matters (refer **Attachment 1**). The policies all relate to the clauses in the Bylaw that regulate commercial activities and obstructions in public places (clauses 6 and 7).
24. 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:
 - (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.
 - (f) Result in redrafted policies that are coherent, stand-alone documents.

25. 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.
26. 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 Councillors Wells, Wall, Shearing, Reid (joined in mid 2009) and Johanson.
27. At the request of the Working Party, a staged timetable including restructuring the grouping of the reviews, was developed for consideration by Council at its meeting on 24 September 2009. The new timetable, which worked around the current Council term and the next Council term (post October 2010) was adopted. It was not possible to complete all policy review aspects within the current Council term.
28. The Structures on Streets policy will be presented to the 4 March 2010 Regulatory and Planning Committee Meeting.

Trading and Events in Public Places draft policy

29. This policy only covers trading and events in public places. It does not cover activity on private land (this is covered in the City Plan).
30. Street appeals and soliciting for membership will be covered in a separate policy.
31. The current policies were all adopted in the 1990's and have not been reviewed since that time.
32. Currently trading and events in public places are managed through a mix of council policy and existing practice.
33. The current practices (eg. mobile and travelling shops, hawkers) are guidelines developed by staff over the past 15 years to enable the management of issues around these activities.
34. At the working party meeting on 4 December 2009, the working party decided that the signs policy component for Banks Peninsula needed to be considered with a city wide signs policy and so the Banks Peninsula component will be on hold until the next Council term, post October 2010.

THE OBJECTIVES

35. The key objectives of this 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 the Council.
 - (c) Align the policy with current Council plans and strategies.
36. The key objectives of this policy are to:
 - (a) Manage trading and events in public places.
 - (b) Develop a single policy on trading and other commercial or organised activities in public places to assist the public in identifying what can happen where and under what conditions.
 - (c) Foster and encourage activities in areas/communities as appropriate rather than having a blanket rule for all areas/communities.

THE OPTIONS

37. Two options have been identified in relation to managing trading and events in public places:
- (a) The adoption of a new Council-wide policy that goes out for public consultation.
 - (b) Maintain the status quo with some editing to factually update of the current policies.

THE PREFERRED OPTION

38. The preferred option is the adoption of the Council-wide policy. A draft policy is attached to this report. It is proposed that this goes out for public consultation via the special consultative procedure.

ASSESSMENT OF OPTIONS

The Preferred Option

39. The preferred option is the adoption of the Council-wide draft policy (as tabled with this report) to be taken out for public consultation. This draft 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 community as to the policy, how to apply and how it applies. Policy provides for both the traders/commercial activity and also community members to ensure a balance between activity and non activity is achieved within the areas. Alignment of policies between the former Banks Peninsula DC policies and the CCC policies will assist clarity and ease of use and application.	Communication of policies is part of Council core business.
Cultural	None specific.	None specific.
Environmental	Policy will enable more robust and transparent management of trading and other commercial activities in public places, including protection of areas where specific trading activities are not deemed appropriate.	None specific.
Economic	Consolidated policy.	None specific.
<p>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 neighbourhoods 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.</p> <p>Impact on the Council’s capacity and responsibilities: The development of a consolidated policy will enable Council to better manage street trading through more transparent and consistent processes and procedures.</p> <p>Effects on Maori: No specific effects noted. Consultation with Mahaanui Kurataiao (MKT) and other representative groups, will be undertaken as part of the Special Consultative Process.</p> <p>Consistency with existing Council policies: The draft policy pulls together the key elements of the current policies and practices of the Council into a consolidated policy document. 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. The Trading and Events in Public Places Policy is aligned to the following Christchurch City Council strategies, plans and policies: Central City Revitalisation Strategy Safer Christchurch Strategy Pedestrian Strategy Parking Strategy Equity and Access for People with Disabilities Policy Long Term Council Community Plan All other operational policies under the Public Places Bylaw</p> <p>Views and preferences of persons affected or likely to have an interest: There is a wide range of key stakeholders with differing views depending on whether they are engaged in the activity or not. Stakeholders will include local residents and businesses, current and future permit holders and specific groups such as the Cathedral Square stall and market holders, event organisers, and people wishing to participate in other trading or events in public places.</p> <p>Other relevant matters: n/a</p>		

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

40. 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 Council 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 / 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.
<p>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 neighbourhoods 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.</p> <p>Impact on the Council's capacity and responsibilities: Maintaining the status quo will mean business as usual for council enforcement and policy development. However it should be noted that under current status there is no policy determination regarding some activities in public places eg. Travelling or mobile shops; and there is some confusion about what policies apply to which areas of Christchurch City.</p> <p>Effects on Maori: No specific effects noted.</p> <p>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.</p> <p>Views and preferences of persons affected or likely to have an interest: There is a wide range of key stakeholders with differing views depending on whether they are engaged in the activity or not. Stakeholders will include local residents and businesses, current and future permit holders and specific groups such as the Cathedral Square stall and market holders, event organisers, and people wishing to participate in other trading or events in public places.</p> <p>Other relevant matters: n/a</p>		

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

41. No other option has been considered as the Council has previously adopted (24 September 2009) the recommendations to review the policies.