

4. TRADING AND EVENTS IN PUBLIC PLACES DRAFT POLICY FOR APPROVAL REPORT OF THE TRADING AND EVENTS IN PUBLIC PLACES POLICY HEARINGS PANEL

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PURPOSE OF REPORT

1. This report of the Trading and Events in Public Places Policy Hearings Panel recommends that the proposed Draft Trading and Events in Public Places Policy (**Attachment B**) be adopted by the Council.

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:
 - (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 - (d) Removal of outdated clauses and clauses no longer valid due to the development of communities and specific areas.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.
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.
9. In response to submissions, the Hearing Panel have made some changes to the draft policy.

The key changes include:

- (a) Clarification of the definition of 'event'
- (b) Clarification of which activities under the policy require a permit or which require a licence
- (c) Clarification of booking space in a public park or other public place where dedicated space is required by the group
- (d) Clause permitting exemption of fees to be charged under this policy for voluntary organisation, school or community groups where any profits from trading are retained wholly for charitable or community purposes
- (e) Listing of all permanent mobile food stall areas within the policy
- (f) Inclusion of new sites (position yet to be determined) in City Mall (1-3 sites) and Akaroa (two sites)
- (g) Inclusion of a clause enabling the Council to nominate additional permanent mobile food stall sites if suggested in relation to specific applications or the development of a specific area.
- (h) The potential for licences for permanent mobile food stalls to be for up to a five year licence term
- (i) Clarification and updating of restricted areas to Hawkers and Mobile / travelling shops in Christchurch central and inclusion of Akaroa restricted areas
- (j) Inclusion of a clause relating to Booking a Public Place
- (k) Permitting low volume background sound to be used in association with street performances
- (l) Inclusion of general conditions for street performers within the policy
- (m) Extension of street performance nominated areas in Cathedral Square and Worcester Boulevard
- (n) Removal of the requirement for street performers to have a Christchurch City Council identification card
- (o) Inclusion of a clause limiting street performance permits to a two year term (unless otherwise stated)
- (p) Clarification of the internal delegations section
- (q) General review of language and formatting of the policy to assist with clarity and transparency

FINANCIAL IMPLICATIONS

10. Current policy enforcement is undertaken on a 'response to a complaint' basis. It is not anticipated that the Council's 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).

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.
 - (g) City for People Action Plan.

Do the recommendations align with the Council's strategies?

18. Yes.

CONSULTATION FULFILMENT

19. During the drafting of this policy some initial discussion was 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. The draft Trading and Events Policy went out for public consultation through a special consultative procedure in March 2010.
21. Eighteen submissions were received and 8 submitters addressed their submissions with the hearing panel (7 on 27 April and 1 on 1 July). The Hearing Panel considered the submissions on 27 April, 11 June and 1 July 2010.
22. The key issues raised by Submitters related to the following clauses in the Draft Trading and Events in Public Places Policy:
 - Clause 4 General Approach
Booking a park
 - Clause 5 Principles of this policy
Mitigating effects on local businesses
 - Clause 6 Definitions
Clarification of the definition of "Event"

Clause 8 Permits

Requirement for a permit at all for street trading
Informal circulation of applications to Community Boards
Site visit for all applications
Appeal Process for declined applications

Clause 9 Obtaining a permit

Clarification of what needs a permit when

Clause 10 Fees

Fee structure reflecting community or charitable nature of an activity

Clause 12.2 Open air markets and food stalls

Stall sites in Cashel Mall / Donut Hut
Cathedral Square – site locations, access
Stalls remaining on site overnight
Application consideration by relevant Community Board
Cathedral Square stalls working well

Clause 12.4 Hawkers

Restricted areas for Hawkers in Akaroa

Clause 12.5 Mobile or Travelling Shops

Restricted areas for Mobile and Travelling Shops in Akaroa
Appendix A Restricted Roads
Access to sites in Akaroa

Clause 13.3 Street Performances

Extending the nominated performance areas (Cathedral Square / Worcester Boulevard)
Need for an identification card
Amplification
Noise nuisance
Including general conditions in the policy
Sale of merchandise by street performers

23. **Attachment A** contains a summary of the points raised by submitters and the Hearing Panel response to each of these points.

Attached documents

The following documents are attached to this report:

Attachment A - Hearing Panel response to submission points

Attachment B - Trading and Events in Public Places Policy incorporating policy changes post consultation

Attachment C - Tracked changes version of Draft Trading and Events in Public Places Policy identifying changes as a result of the submissions.

HEARING PANEL RECOMMENDATIONS

That the Council:

- (a) Approve for adoption the Christchurch City Council Trading and Events in Public Places Policy 2010 with the changes shown as tracked changes in the draft policy in Attachment C and incorporated in the final version of the policy in Attachment B.
- (b) Request staff report back to the Regulation and Planning Committee identifying one to three site locations for permanent mobile stall sites in City Mall.
- (c) Request Akaroa/Wairewa Community Board to identify two sites in Akaroa business area for permanent mobile stall sites.

- (d) Revoke the following Christchurch City Council/Banks Peninsula District Council policies:
- (i) Street Trading Policy
 - (ii) Stalls in Cathedral Square and City Mall
 - (iii) Stall Site Licensing Policy
 - (iv) Victoria Square and Victoria Amphitheatre (use of)
 - (v) Busking conditions
 - (vi) Banks Peninsula District Council Stalls/Market Policy

COMMITTEE RECOMMENDATION

That the Council:

- (a) Adopt the Hearings Panel recommendations.
- (b) Makes the following amendments:

- The following to be added to paragraph 9 of the Committee report:

(r) The reinstatement of the current policy clause that applications for permanent stalls or trading sites within Worcester Boulevard or along the banks of the Avon River will not be considered.

- Correct the Hearing Panel Response (Attachment A) to Submission 7074 to read:

The hearings panel determined that between 1 and 3 permanent mobile stall sites be identified within City Mall.

The Council still needs to make a final determination regarding the month-month lease with the Donut Hut.

BACKGROUND (THE ISSUES)

- 24. In July 2008, the Christchurch City Council Public Places Bylaw 2008 became operative.
- 25. 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.
- 26. At the completion of the process a new operational policy is to be developed from a review of 12 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)
- 27. 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.
- 28. 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.
- 29. 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.

30. 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.
31. The Structures on Streets policy was presented to the August 2010 Regulatory and Planning Committee Meeting.

Trading and Events in Public Places draft policy

32. 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).
33. Street appeals and soliciting for membership will be covered in a separate policy.
34. The current policies were all adopted in the 1990's and have not been reviewed since that time.
35. Currently trading and events in public places are managed through a mix of council policy and existing practice.
36. 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.
37. 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

38. 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.
39. 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.