



STAFF REPORT

TO: Environment & Planning Committee

FROM: Environmental Health Officer

REFERENCE: B951

SUBJECT: **TRADING IN STREETS AND PUBLIC PLACES BYLAW REVIEW –
REPORT EP05/06/13 – Report prepared for 1 June 2005 Meeting**

1. INTRODUCTION

Advertising of the reviewed Trading in Streets and Public Places Bylaw has resulted in the receipt of four submissions following closure of the submission period. The submitters and a summary of their submissions are as follows:

1.1 Department of Conservation

The Nelson-Marlborough Conservancy has concerns about mobile vendors setting up on land adjacent to conservation land and affecting the values of that land. They request that a supplied list of areas in their Golden Bay, Motueka and St Arnaud areas be excluded from consent for mobile vendors.

Comment

For the majority of the sites listed it would not be economically viable for a mobile vendor to travel to and set up in view of the potential number of customers. However, attempts by such vendors to provide a food service at the Te Waikoropupu Springs car park, Wainui and Marahau have upset the Department and triggered its response. It could be argued that the food vendors' presence is performing a public service that is appreciated by the travellers, despite the apparent negative visual impact.

1.2 Malcolm Saunders

This submitter has objected to the proposed car sales ban on public roads other than outside the owner's residence. He suggests making the Salisbury Road area into a "for sale" parking area.

Comment

The proliferation of vehicles for sale in Salisbury Road does have implications as far as fair trading is concerned and can have negative visual amenity effects. It could also be regarded as having an element of subjective judgement, as some people enjoy such "car sale yards".

1.3 Transit New Zealand

Transit is concerned that people reading the proposed Bylaw may not be aware that separate bylaws (and legislation) exist for designated state highways. Transit seeks amendments to: Section 6.3 by adding a rider that car sales on state highways are prohibited; Section 6.4 by adding that mobile shops, traders and hawkers or food stalls be prohibited from carrying on business within the state highway road reserve; Section 8.0 by adding a prohibition on display of goods on footpath adjoining a state highway; Section X by prohibiting signs on road reserves, footpaths or public areas adjoining a state highway.

Comment

No problems are foreseen with clarifying the car sales on streets provisions or trading on state highway road reserve. However, the request for prohibiting the display of goods or signs on footpaths adjoining a state highway could have implications for the retail areas of Murchison, St Arnaud, Wakefield, parts of Richmond, Ruby Bay, Tasman, Motueka, Riwaka, Takaka and Collingwood.

1.4 Rafael Cohn

Mr Cohn presents a wide-ranging submission based on a desire to prevent over-regulation, nor place excessive controls, restrictions and regulations on the community and society. He specifically requests amendments to: Section 2.1 so that it applies only to corporate (and the like) and individual long-term commercial operators; Section 2.4 so permits are issued for activities (not individuals) so they are transferable and to allow a 48 hour period to produce a permit; Section 6.3 by removing it (and the definition of vehicle) or amending it to include an area where road signage allows for such vehicle sales; Section 15 by softening it so the provisions are not abused.

Comment

Council does not have the staff resources to enforce the Bylaw to “the letter of the law”, as has been demonstrated since the original Bylaw was adopted in 1994. Action is generally taken only following complaint, whilst the majority of the traders are happy to seek the security of a licence or permit.

2. LEGAL OPINION

Warwick Heal of Fletcher Vautier Moore has checked the reviewed Bylaw and has recommended the following amendments: Sections 2.5 and 5.2 by adding the power to revoke a permit or licence when issued as a result of material error or misdescription; Section 9.3 by adding the words “*produced on that or on any other garden or orchard*”; Section 16 by making it an offence to obtain a licence by providing misleading information. It is also recommended that Part II (Codes of Compliance) be signalled as such in Part I and minor amendments be made.

3. RECOMMENDATION

That the Environment and Planning Committee resolves to recommend to the Tasman District Council that the reviewed Trading in Streets and Public Places Bylaw be adopted as amended.

D R Lewis
Environmental Health Officer