

DRAFT

EARTHQUAKE-PRONE, DANGEROUS AND INSANITARY

BUILDINGS POLICY 2006-2011

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WAITAKERE CITY COUNCIL – EARTHQUAKE-PRONE BUILDINGS

1 Policy approach

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EARTHQUAKE- PRONE BUILDINGS 2006

Introduction and background

Section 131 of the Building Act 2004 requires territorial authorities (TAs) to adopt a policy on earthquake-prone buildings by 31 May 2006. The definition of an earthquake-prone building is set out in section 122 of the Building Act 2004 and in the related regulations that define moderate earthquake:

“In relation to a building, an earthquake that would generate shaking at the site of the building that is of the same duration as, but that is one-third as strong as, the earthquake shaking (determined by normal measures of acceleration, velocity and displacement) that would be used to design a new building at the site.”

This definition covers more buildings and requires a higher level of structural performance of buildings than that required by the Building Act 1991.

This document sets out the policy adopted by Waitakere City Council in accordance with the requirements of the Building Act 2004.

The policy is required to state:

- The approach that the Waitakere City Council will take in performing its functions under the Building Act 2004.
- Waitakere City Council's priorities in performing those functions.
- How the policy will apply to heritage buildings.

In developing and adopting its earthquake-prone buildings policy, Waitakere City Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

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POLICY IN REGARDS TO EARTHQUAKE- PRONE BUILDINGS 2006

1 Policy approach

1.1 Policy principles

Waitakere City Council has noted that provisions of the Building Act in regard to earthquake-prone buildings reflect the government's broader concern with the life safety of the public in buildings and, more particularly, the need to address life safety in the event of an earthquake. Waitakere City Council is committed to ensuring that Waitakere City is a safe place to live and work in. The earthquake-prone building issues have a strong relationship with Council's strategic priority for a safe city. Waitakere City Council has also noted that the development of earthquake-prone building policies is up to each Territorial Authority and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

1.2 Overall approach

Waitakere City is in a zone of relatively low seismic activity (appendix A1) and its buildings comprise a range of types and ages reflecting steady development over the last 100 years from wood, unreinforced masonry and brick buildings to modern multi-storey steel and concrete buildings. Waitakere City Council has not actively pursued a policy of identifying and strengthening earthquake-prone buildings in the past. In isolated cases property owners have acted on their own accord and have carried out strengthening work e.g. The Playhouse Theatre. Waitakere City Council's earthquake-prone building policy under the Building Act 2004 embodies both an active and passive approach that reflects Council's determination to reduce earthquake risk over time but in a way that is acceptable in social and economic terms to its ratepayers. Waitakere City Council will both actively and passively review its building stock, based on priorities, to identify buildings that fall within the scope of potential earthquake-prone buildings under the Building Act 2004 and assess broadly the performance of those buildings in relation to the new building Standard, in particular, to the standard defined for earthquake-prone buildings. This broad assessment will be done at the Council's cost. Council will:

- Determine and compile from this broad assessment a list of buildings that are earthquake-prone in terms of the Building Act 2004.
- Advise owners of these buildings of the results of Council's broad assessment and invite them, within a limited time-frame, to contact Council to obtain further details on future requirements.
- Give written notices to all owners of buildings assessed as earthquake-prone once the deadline for contacting Council has passed and, subject to the results of discussions, to carry out work to reduce or remove the danger or demolish the building within a specified time-frame.
- Allow owners a right of appeal as defined in the Building Act 2004, which can include applying to the Department of Building and Housing for a determination under section 177.

1.3 Identifying earthquake-prone buildings

Waitakere City Council will:

- Undertake an initial desktop review of Council's files and information to access which buildings could be earthquake-prone.
- Follow this with a brief visual inspection of each building, where necessary.

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- Carry out initial evaluation of performance in earthquake based on information obtained by using the New Zealand Society of Earthquake Engineering (NZSEE) Initial Evaluation Method process.
- Require building owners to do a detailed assessment on buildings identified as earthquake-prone in the initial evaluation, unless otherwise agreed in discussion following the initial evaluation.
- Assemble a list of earthquake-prone buildings according to the results of the assessments.
- Categorise the earthquake-prone buildings according to the following.
 - A. Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4. (Appendix A3)
 - B. Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0: 2002, Importance Level 3. (Appendix A3)
 - C. Heritage buildings identified on Council's register.
 - D. Buildings with an Importance Level less than 3 as defined in AS/NZS 1170.0:2002. (Appendix A3)
- Continuously evaluate and assess the structural performance of buildings in all categories that were not identified in the initial review in a reactive manner. Such evaluations being triggered by an application under the Building Act for building alterations, change of use, extension of life, subdivision or requests by concerned citizens.

1.4 Assessment criteria

For practical purposes, Waitakere City Council will define earthquake-prone buildings as those that, when subject to moderate earthquake shaking, do not meet or exceed the criteria for ultimate limit state as defined in the loadings and materials standards for new buildings. Waitakere City Council will use the New Zealand Society for Earthquake Engineering (NZSEE) recommendations as its preferred basis for defining technical requirements and criteria. These recommendations are designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structures Standard and other materials Standards.

1.5 Taking action on earthquake-prone buildings

Before exercising its powers under section 124 and 125 (below), the Council will seek, within a defined time-frame, to discuss options for action with owners with a view to obtaining from the owner a mutually acceptable approach for dealing with the danger, leading to receipt of a formal proposal from owners for strengthening or removal.

In the event that discussions do not yield a mutually acceptable approach and proposal, the Council will serve a formal notice on the owner to strengthen or demolish the building. In accordance with s124 and s125 of the Act the Council will:

- Advise and liaise with the owner(s) of buildings;
- If found to be earthquake-prone:
 - May attach written notice to the building requiring work to be carried out on the building, within a time stated in the notice being not less than 10 days, to reduce or remove the danger;
 - Give copies of the notice to the building owner, occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a heritage building;
- Contact the owner at the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with;
- Pursue enforcement action under the Act if the requirements of the notice are not met within a reasonable period of time as well as any other non-compliance matters.

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All owners have a right of appeal as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act.

1.5.1 Required level of structural improvement

Waitakere City Council will require buildings identified as earthquake prone to be strengthened to at least 67 percent of the new building standard. In accordance with the recommendations of the New Zealand Society for Earthquake Engineers Waitakere City Council considers this to be an appropriate level for the requirement to reduce or remove the danger.

1.6 Interaction between earthquake-prone building policy and related sections of the Building Act 2004

1.6.1 Section 112: Alterations to existing building.

Whenever a building consent application is received for significant upgrading or alteration of a building that is or could be earthquake-prone, then, irrespective of the general priorities set by Waitakere City Council for dealing with earthquake-prone buildings, the Council will not issue a building consent unless it is satisfied that the building is not earthquake-prone and that the building work will not detrimentally affect the building's compliance with the Building Code.

If the building is shown to be earthquake-prone, then the Council will require that the building be strengthened to comply as nearly as is reasonably practicable with the provisions of the Building Code.

1.6.2 Section 115: Change of use

Whenever a building consent application or formal notification is received for change of use of a building that is or could be earthquake-prone, then, irrespective of the general priorities set by Waitakere City Council for dealing with earthquake-prone buildings, it will be a requirement of the owner to make a detailed assessment of the earthquake performance of the building to determine whether or not it is an earthquake-prone building in its existing condition. If the building is shown to be earthquake-prone then the Council will require that the building be strengthened to comply as nearly as is reasonably practicable with every provision of the Building Code that relates to structural performance as is required by section 115(b) (i) (A). (In this instance the requirement for earthquake-prone buildings would be the same as that for non-earthquake-prone buildings.)

1.7 Recording a building's earthquake-prone status

Waitakere City Council will keep a record of all earthquake-prone buildings on its hazard register noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the following information will be placed on the LIM for each earthquake-prone building:

- Address and legal description of land and building
- Statement that the building is on the Council's register of earthquake-prone buildings.
- Date by which strengthening or demolition required, (if known).
- Statement that further details are available from the Council to those who can demonstrate a genuine interest in the property.

1.8 Economic impact of policy

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The economic impact of the earthquake prone building policy can only be assessed after the initial building evaluation phase has been completed and the scale and extent of the required strengthening work identified. A separate report on the economic impact of the policy will be made to the Planning and Regulatory Committee who will review the timing of the draft implementation programme (Appendix A4) to ensure that a balance is struck between the need to address earthquake risk while taking into account the social and economic implications of implementing the policy.

1.9 Access to earthquake-prone building information

Information concerning the earthquake status of a building will be contained on the relevant LIM.

In addition, Council will keep a record of the NZSEE grade of all buildings assessed, and will encourage all owners of significant buildings to have them assessed and graded. Council recognises the long-term benefits of increased public awareness.

Waitakere City Council will not require earthquake-prone buildings to have an identifying plaque. We believe that having the information available at the Council offices is sufficient notice at present.

In granting access to information concerning earthquake-prone buildings, Council will conform to the requirements of the relevant legislation.

2 Priorities

Waitakere City Council has prioritised both the identification and the requirement to strengthen or demolish buildings as follows.

Figures in brackets indicate the latest date for identification and notification and the maximum time for strengthening or demolition respectively. Times required for strengthening or demolition commence on the date of issue of formal notice. Specific times will be assigned for action according to the assessment of structural performance and the nature of the concerns. The order will be as indicated below.

- A. Buildings with special post-disaster functions as defined in AS/NZS 1170.0: 2002, Importance Level 4 (December 2008, 1 year).
- B. Buildings that contain people in crowds or contents of high value to the community as defined in AS/NZS 1170.0: 2002, Importance Level 3 (December 2009, 2 years).
- C. Heritage buildings recorded in Council's District Plan (December 2010, 2 years).
- D. Buildings with an Importance Level of less than 3 as defined in AS/NZS 1170.0: 2002 and identified as being earthquake-prone (December 2011, 3 years).

Once each category has been reviewed and the earthquake-prone buildings within it identified, the process of liaising with owners and serving notice on them will commence. Identification of buildings in each category will proceed according to the priorities identified above. The overall approach and timetable is summarised in the accompanying Draft Implementation Programme. (Appendix A4)

3 Heritage buildings

3.1 Special considerations and constraints

Waitakere City Council believes it is important that its heritage buildings have a good chance of surviving a major earthquake.

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However, Waitakere City Council does not wish to see the intrinsic heritage values of these buildings adversely affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other potentially earthquake-prone buildings and discussions held with owners and the Historic Places Trust to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives. Additions of buildings to the Heritage items recorded in Council's District Plan would be subject to an earthquake-prone building assessment as part of the process.

Following the consultation period with the owners, notices will be served requiring improvement or demolition within a stated (and preferably agreed) time-frame.

In particularly important cases, public consultations will be included in the process.

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WAITAKERE CITY COUNCIL – DANGEROUS BUILDINGS

1 Policy Approach

- 1.1 Policy principles
- 1.2 Overall approach
- 1.3 Identifying dangerous buildings
- 1.4 Assessment criteria
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- 1.6 Interaction between dangerous buildings policy and related sections of the Building Act 2004
- 1.7 Recording of dangerous buildings
- 1.8 Economic impact of policy
- 1.9 Access to dangerous building policy

2 Priorities

3 Heritage Buildings

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DANGEROUS BUILDINGS

Introduction and Background

Section 131 of the Building Act 2004 ("the Act") requires territorial authorities ("TAs") to adopt a policy on dangerous buildings by 31 May 2006. The definition of a dangerous building is set out in section 121 (1) of the Act:

"A building is dangerous for the purposes of this Act if,-

- (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
 - (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
 - (ii) damage to other property; or*
- (b) in the event of fire, injury or death to any person in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

This document sets out the policy adopted by Waitakere City Council ("Council") in accordance with the requirements of the Building Act 2004.

The policy is required to state:

- The approach that the Council will take in performing its functions under the Act;
- Council's priorities in performing those functions;
- How the policy will apply to heritage buildings;

In developing and adopting its dangerous buildings policy Council has followed the special consultative procedure set out in section 83 of the Local Government 2002.

1 Policy approach

1.1 Policy Principles

Council has noted that provisions of the Act in regard to dangerous buildings reflect the government's broader concern with the life safety of the public in buildings. Waitakere City Council is committed to ensuring that Waitakere City is a safe place to live and work in. The dangerous building issues have a strong relationship with Council's strategic priority for a safe city. Waitakere City Council has also noted that the development of dangerous building policies is up to each Territorial Authority and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

1.2 Overall Approach

Waitakere City is experiencing strong growth which is placing considerable pressure on the availability of both privately owned and rental accommodation. This has resulted in an identifiable trend of garages, basements and sleep outs being illegally converted into minor household units that are then rented out. Lacking any consent, these conversions are often not undertaken in accordance with the building code. This may cause problems in terms of the danger posed for people living in these spaces by inappropriate construction methods or materials. Such dangers may include inadequate fire protection, or danger of collapse.

The Council's is actively involved in educating the public on the need to discuss their development plans with Council and to obtain building consent where Council deems that is necessary. For instance this is exemplified by conversions of buildings into minor household units or other such smaller dwellings where safety risks are likely to arise from a change in use. Council has policy of initiating enforcement action under the relevant statutes, in this case the Act when dealing with dangerous buildings. This provides a strong message to the public that Council places paramount importance on safety of residents in the community. This stance also creates a strong message of deterrence for those property owners who do not seek Council's advice prior to undertaking building works.

1.3 Identifying Dangerous Buildings

The Council will:

1. Respond to and investigate all building complaints received;
2. Identify from these investigations any buildings that are dangerous;
3. Inform the owner and occupier of the building to take action to reduce or remove the danger, as is required by s124 and s125 of the Act;
4. Liaise with the New Zealand Fire Service when Council deems it is appropriate, in accordance with s121 (2) of the Act:

"For the purpose of determining whether a building is dangerous in terms of s121 subsection (1) (b), a territorial authority-

- (a) May seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
- (b) If the advice is sought, must have due regard to the advice."*

1.4 Assessment Criteria

The Council will assess dangerous buildings in accordance with s121 (1) of the Act:

"A building is dangerous for the purposes of this Act if,-

- (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
 - (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
 - (ii) damage to other property; or*
- (b) in the event of fire, injury or death to any person in the building or to persons on other property is likely because of fire hazard or the occupancy of the building."*

1.5 Taking Action

In accordance with s124 and s125 of the Act the Council will:

- Advise and liaise with the owner(s) of buildings;
- May request a written report on the building from the New Zealand Fire Service;
- If found to be dangerous:
 - Attach written notice to the building requiring work to be carried out on the building, within a time stated in the notice being not less than 10 days, to reduce or remove the danger;

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- Give copies of the notice to the building owner, occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a heritage building;
- Contact the owner at the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with;
- Where the danger is the result of non-consented building work the owner will formally be requested to provide an explanation as to how the work occurred and who carried it out and under whose instructions;
- Pursue enforcement action under the Act if the requirements of the notice are not met within a reasonable period of time as well as any other non-compliance matters.

If the building is considered to be immediately dangerous the Council will:

- Cause any action to be taken to remove that danger (this may include prohibiting persons using or occupying the building and demolition of all or part of the building); and
- Take action to recover costs from the owner(s) if the Council must undertake works to remove the danger.
- The owner(s) will also be informed that the amount recoverable by Waitakere City Council will become a charge on the land on which the building is situated.

All owners have a right of appeal as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act.

1.6 Interaction between dangerous building policy and related sections of the Act

1.6.1 Section 41: Building consent not required in certain cases

In cases where a building is assessed as being immediately dangerous the Council may not require building consent to be obtained for any building work required so as to remove the danger immediately. However, prior to any action being taken it is imperative that building owners discuss any works with the Council.

1.7 Record keeping

Any buildings identified as being dangerous will have a requisition placed on the property file for the property on which the building is situated until the danger is remedied.

In addition, the following information will be placed on the LIM:

- Notice issued that building is dangerous
- Copy of letter to owner, occupier and any other person that the that the building is dangerous;
- Copy of the notice given under section 124(1) that identifies the work to be carried out on the building and the timeframe given to reduce or remove the danger.

1.8 Economic impact of policy

Due to the low number of dangerous buildings encountered annually by the Council (approximately 30 confirmed out of 150 complaints), and the similarity between the obligations of territorial authorities as to with dangerous buildings under the Building Act 2004 and the Building Act 1991, the economic impact of this policy is considered to be negligible.

1.9 Access to information

Information concerning dangerous buildings will be contained on the relevant LIM.

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In granting access to information concerning dangerous buildings, the Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002.

2 Priorities

The Council will allocate priority to buildings that have been determined to be immediately dangerous. Immediate action will be required in these situations to remove the danger, such as prohibiting any person occupying or using the building.

Buildings that are determined to be dangerous, but not immediately dangerous, will be subject to the minimum timeframes for reduction or removal of the danger (not less than 10 days) as set out in s124(1) (c) of the Act.

3 Heritage Buildings

No special dispensation will be afforded to heritage buildings under this policy.

As per s125 (2) (f) of the Act a copy of any notice issued under s124 of the Act will be sent to the New Zealand Historic Places Trust where a heritage building has been identified as a dangerous building.

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WAITAKERE CITY COUNCIL – INSANITARY BUILDINGS

1 Policy Approach

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- 1.9 Access to insanitary building policy

2 Priorities

3 Heritage Buildings

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INSANITARY BUILDINGS

Introduction and Background

Section 131 of the Building Act 2004 ("the Act") requires territorial local authorities ("TA's") to adopt a policy on insanitary buildings by 31 May 2006. The definition of an insanitary building is set out in s123 of the Act:

- "A building is insanitary for the purposes of this Act if the building-*
- (a) is offensive or likely to be injurious to health because-*
 - (i) of how it is situated or constructed; or*
 - (ii) it is in a state of disrepair; or*
 - (b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
 - (c) does not have a supply of potable water that is adequate for its intended use; or*
 - (d) does not have sanitary facilities that are adequate for its intended use."*

This document sets out the policy adopted by Waitakere City Council ("Council") in accordance with the requirements of the Act.

The policy is required to state:

- The approach that the Waitakere City Council will take in performing its functions under the Act;
- The Council's priorities in performing those functions;
- How the policy will apply to heritage buildings.

In developing and adopting its insanitary buildings policy, the Council has followed the consultative procedure set out in section 83 of the Local Government Act 2002.

Insanitary Buildings

1 Policy Approach

1.1 Policy principles

The Council has noted that provisions of the Act in regard to insanitary buildings reflect the Government's broader concern with the health and safety of people occupying buildings that may be considered to be insanitary. This is particularly so in the older stock of buildings in the Waitakere City. The Council is committed to ensuring that Waitakere City is a safe place to live and work. The insanitary building issues have a strong relationship with Council's strategic priorities for a safe city and first call for children. The Council has noted that the development of an insanitary building policy is to be undertaken by TAs independently and has responded accordingly. This policy has been developed after due consultation with Waitakere City Council ratepayers and stakeholders in accordance with section 83 of the Local Government Act 2002.

1.2 Overall approach

Waitakere City is experiencing strong growth which is placing considerable pressure on the availability of both privately owned and rental accommodation. This has resulted in an identifiable trend of garages, basements and sleep outs being illegally converted into minor household units that are then rented out. Lacking any consent, these conversions are often not undertaken in accordance with the building code. This may cause problems in terms of the danger posed for people living in these spaces by inappropriate construction methods or materials. Such dangers may include dampness or inadequate sanitary facilities which may lead to insanitary conditions

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where there is a reasonable likelihood of a person becoming ill as a result of the condition of the building.

The Council's is actively involved in educating the public on the need to discuss their development plans with Council and to obtain building consent where Council deems that is necessary prior to any works commencing. This is particularly important in order to avoid creating insanitary conditions that could be injurious to the health of occupants, particularly children and the elderly. For instance this is exemplified by conversions of buildings into minor household units or other such smaller dwellings where safety risks are likely to arise from a change in use. Council has a policy of initiating enforcement action under the relevant statutes, in this case the Act when dealing with insanitary buildings. This provides a strong message to the public that Council places paramount importance on safety of residents in the community. This stance also creates a strong message of deterrence for those property owners who do not seek Council's advice prior to undertaking building works.

1.3 Identifying insanitary buildings

The Council will:

- Respond to and investigate all building complaints received;
- Identify from these investigations any buildings that may be considered to be insanitary;
- Inform the owner(s) of the building to take action to prevent the building from remaining insanitary;
- Liaise with the Auckland Regional Public Health Service (Medical Officer of Health) when required to assess whether the occupants may be neglected or infirm.

1.4 Assessment criteria

The Council will assess insanitary buildings in accordance with s123 of the Act and established case-law as well as the building code:

The Council will:

- Investigate as to whether the building is occupied;
- The use to which the building is put;
- Whether the insanitary conditions pose a reasonable probability of danger to the health of any occupants;

Considerations as to insanitary assessment where a building is occupied may include:

- Adequate sanitary facilities for the use;
- Adequate drinking water;
- Separation of use for kitchen and other sanitary facilities;
- Likelihood of moisture penetration;
- Construction materials;
- Defects in roof and walls;
- The degree to which the building is offensive to adjacent and nearby properties.

In accordance with the Building Code the following will be assessed:

- E2 External Moisture
- G1 Water Supplies
- G1 Personal Hygiene

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1.5 Taking action

The Council will:

- Advise and liaise with the owner(s) of the buildings identified as being insanitary;
- Where the building is found to be insanitary:
 - Attach written notice to the building requiring work to be carried out on the building, with a time stated on the notice that is not less than 10 working days, to prevent the building from remaining insanitary;
 - Give copies of the notice to the building owner(s), occupier, and every person who has an interest in the land, or is claiming an interest in the land, as well as the New Zealand Historic Places Trust, if the building is a heritage building.
- Where the insanitary conditions are the result of non consented work the owner(s) will be formally requested to provide an explanation as to how the work occurred and who carried it out.
- Contact the owner(s) at the end of the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with.
- Determine if enforcement action should be pursued under the Act if the requirements of the notice are not met within a reasonable period of time

If it is considered that immediate action is required to fix insanitary conditions the Council will:

- Cause any action to be taken to fix those insanitary conditions; and
- Take action to recover costs from the owner(s) if the Council must undertake works to remove the insanitary conditions;
- The owner(s) will also be informed that the amount recoverable by the Council will become a charge on the land on which the building is situated.

All owners have a right of appeal as defined in the Act, which can include applying to the Department of Building and Housing for a determination under s 177(e) of the Act.

1.6 Interaction between insanitary building policy and related sections of the Building Act 2004.

1.6.1 Section 41: Building consent not required in certain cases.

In cases where a building is assessed as being immediately insanitary the Council may not require building consent to be obtained for any building work required to fix the insanitary conditions immediately. However, prior to any action being undertaken it is imperative that building owners discuss any works with the Council.

1.7 Recording of insanitary buildings

Any buildings identified as being insanitary will have a requisition placed on the property file for the property on which the building is situated until the insanitary condition has been removed.

In addition, the following information will be placed on the LIM:

- Notice that the building is insanitary;
- Copy of letter to owner, occupier, and any other person that the building is insanitary;
- Copy of the notice given under s124(1) of the Act that identifies the work to be carried out on the building and the timeframe given to fix those insanitary conditions;
- Any report as to the completed works and how the situation was rectified.

1.8 Economic impact of the policy

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Due to the low number of insanitary buildings encountered annually by the Council (approximately 20 confirmed out of 100 complaints), and the similarity between the obligations of TAs as to insanitary buildings under the Building Act 2004 and the Building Act 1991, the economic impact of this policy is considered to be negligible.

1.9 Access to information

Information concerning insanitary buildings will be contained on the relevant LIM.

In granting access to information concerning insanitary buildings Waitakere City Council will conform to the requirements of the Local Government Official Information and Meetings Act 1987 and the Local Government Act 2002.

2 Priorities

The Council will allocate priority to buildings where it has been determined that immediate action is necessary to fix insanitary conditions. Immediate action will be required in those situations to fix those insanitary conditions such as prohibiting occupation of the property, put up a hoarding or fence and taking prosecution action where necessary.

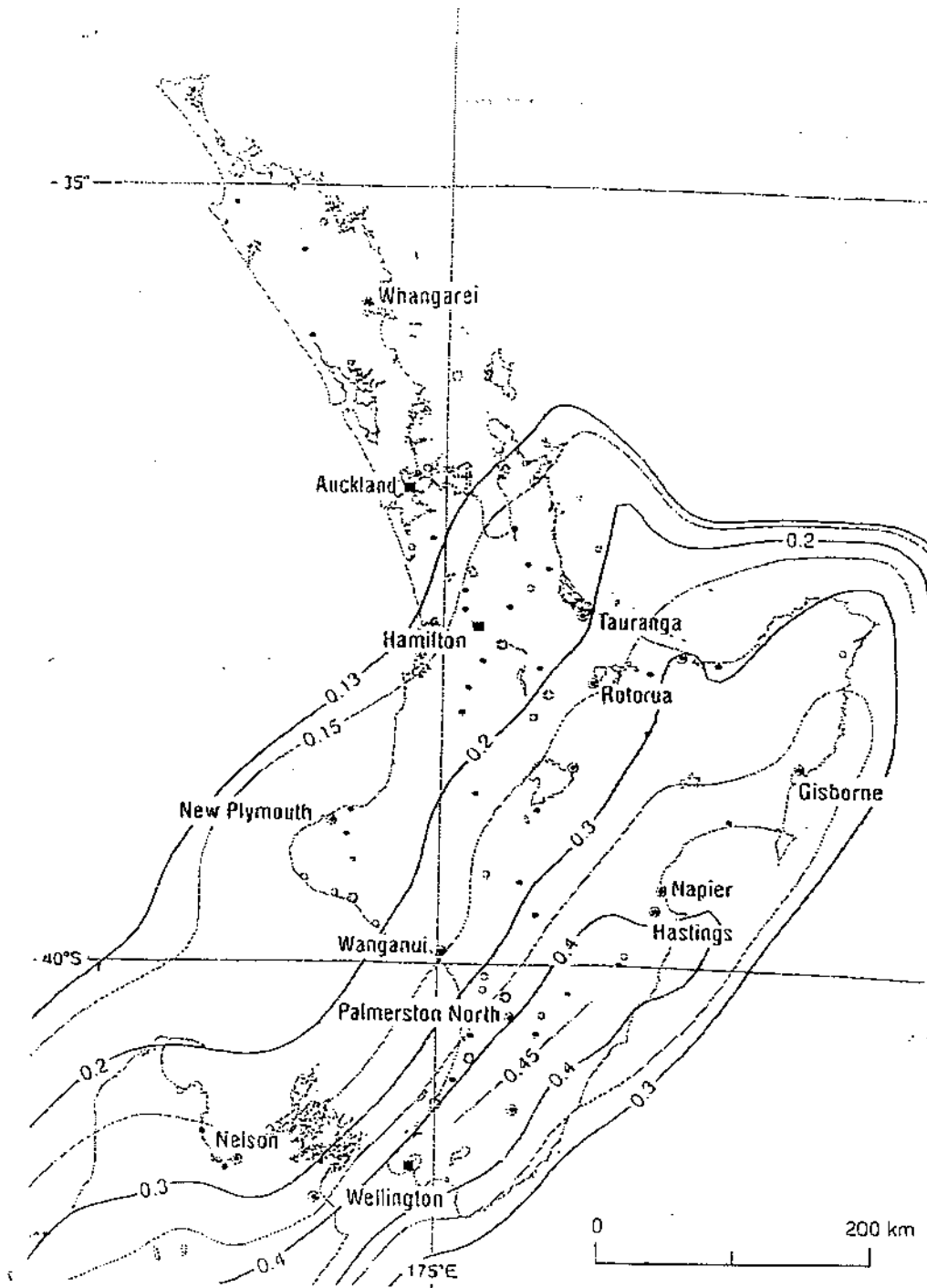
Buildings that are determined to be insanitary, but not requiring immediate action to fix those insanitary conditions, will be subject to the minimum timeframes to prevent the building from remaining insanitary (not less than 10 days) as set out in s124(1)(c) of the Act.

3 Heritage Buildings

No special dispensation will be afforded to heritage buildings under this policy.

As per s125 (2) (f) of the Act a copy of any notice issued under s124 of the Act will be sent to the New Zealand Historic Places Trust where a heritage building has been identified as an insanitary building.

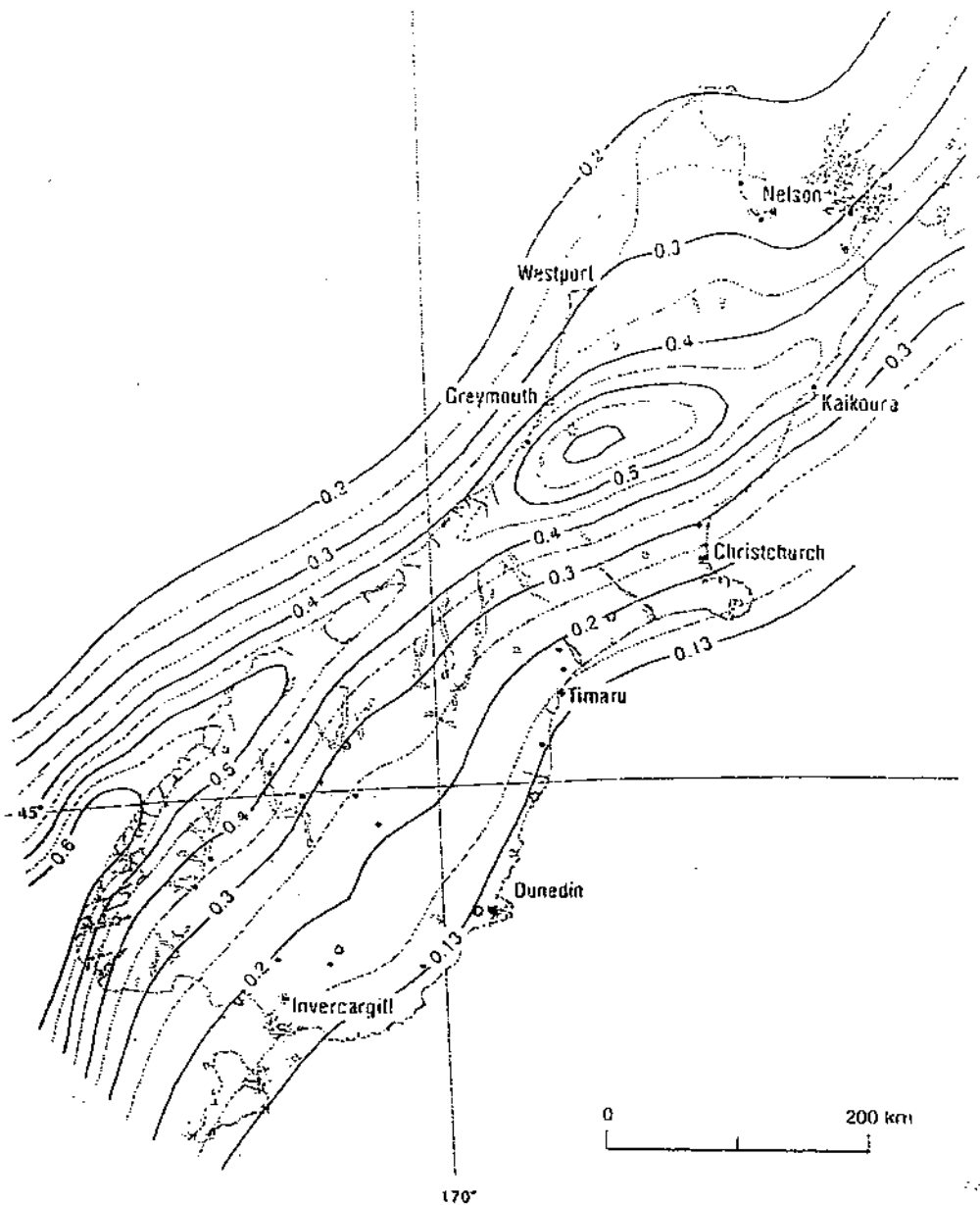
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NOTE: Circles and squares correspond to towns and cities.

FIGURE 3.3 HAZARD FACTOR, Z , FOR THE NORTH ISLAND

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NOTE: Circles and squares correspond to towns and cities.

FIGURE 3.4 HAZARD FACTOR, Z, FOR THE SOUTH ISLAND

3.1.5 Return period factor

The return period factor, R_s , for the serviceability limit state or R_u , for the ultimate limit state, shall be obtained from Table 3.5 for the return period or probability of occurrence appropriate for the limit state under consideration as prescribed in Table 3.3 of AS/NZS 1170.0.

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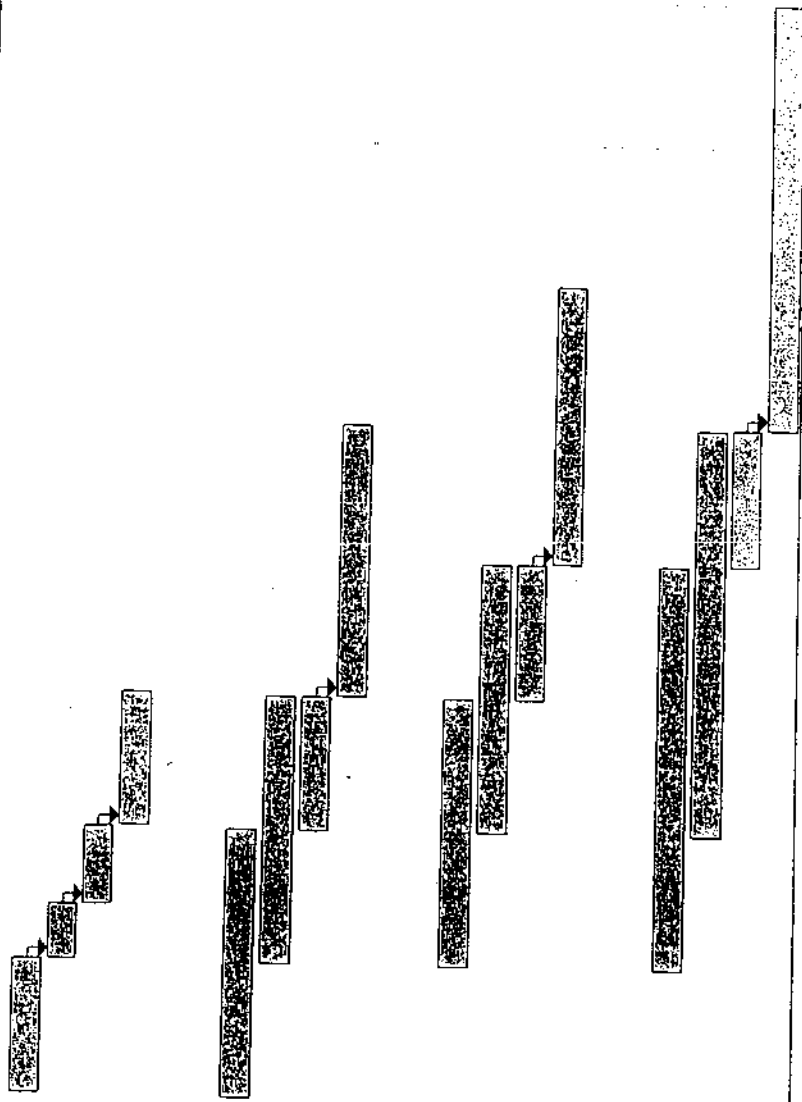
TABLE 3.2
IMPORTANCE LEVELS FOR BUILDING TYPES—NEW ZEALAND STRUCTURES

Importance level	Comment	Examples
1	Structures presenting a low degree of hazard to life and other property	Structures with a total floor area of $<30 \text{ m}^2$ Farm buildings, isolated structures, towers in rural situations Fences, masts, walls, in-ground swimming pools
2	Normal structures and structures not in other importance levels	Buildings not included in Importance Levels 1, 3 or 4 Single family dwellings Car parking buildings
3	Structures that as a whole may contain people in crowds or contents of high value to the community or pose risks to people in crowds	Buildings and facilities as follows: (a) Where more than 300 people can congregate in one area (b) Day care facilities with a capacity greater than 150 (c) Primary school or secondary school facilities with a capacity greater than 250 (d) Colleges or adult education facilities with a capacity greater than 500 (e) Health care facilities with a capacity of 50 or more resident patients but not having surgery or emergency treatment facilities (f) Airport terminals, principal railway stations with a capacity greater than 250 (g) Correctional institutions (h) Multi-occupancy residential, commercial (including shops), industrial, office and retailing buildings designed to accommodate more than 5000 people and with a gross area greater than $10\,000 \text{ m}^2$ (i) Public assembly buildings, theatres and cinemas of greater than 1000 m^2 Emergency medical and other emergency facilities not designated as post-disaster Power-generating facilities, water treatment and waste water treatment facilities and other public utilities not designated as post-disaster Buildings and facilities not designated as post-disaster containing hazardous materials capable of causing hazardous conditions that do not extend beyond the property boundaries
4	Structures with special post-disaster functions	Buildings and facilities designated as essential facilities Buildings and facilities with special post-disaster function Medical emergency or surgical facilities Emergency service facilities such as fire, police stations and emergency vehicle garages Utilities or emergency supplies or installations required as backup for buildings and facilities of Importance Level 4 Designated emergency shelters, designated emergency centres and ancillary facilities Buildings and facilities containing hazardous materials capable of causing hazardous conditions that extend beyond the property boundaries
5	Special structures (outside the scope of this Standard—acceptable probability of failure to be determined by special study)	Structures that have special functions or whose failure poses catastrophic risk to a large area (e.g. 100 km^2) or a large number of people (e.g., 100 000) Major dams, extreme hazard facilities

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ID	Task Name
1	Category A Buildings
2	Review
3	Discuss
4	Serve Notices
5	Action to Improve
6	
7	Category B Buildings
8	Review
9	Discuss
10	Serve Notices
11	Action to Improve
12	
13	Category C Buildings
14	Review
15	Discuss
16	Serve Notices
17	Action to Improve
18	
19	Category D Buildings (identified)
20	Review
21	Discuss
22	Serve Notices
23	Action to Improve

2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015



Task
Critical Task
Progress
Milestone
Summary

Rolled Up Task
Rolled Up Critical Task
Rolled Up Milestone
Rolled Up Progress
Split

External Tasks
Project Summary
Group By Summary
Deadline

Project: Project plan 2006.mpp
Date: Tue 13/09/05

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WAITAKERE CITY COUNCIL

DRAFT PUBLIC PLACES BYLAW 2006

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WAITAKERE CITY COUNCIL

DRAFT PUBLIC PLACES BYLAW 2006

Introduction

Citation

This bylaw may be cited as the Waitakere City Council Public Places Bylaw 2006.

Commencement

This bylaw comes into force on .

Revocation

Waitakere City's bylaw No. 4 (1990) Chapter 2 Public Places, and Chapter 4 Mobile or Travelling Shops and Hawkers, are revoked with effect from the commencement date of this Public Places Bylaw 2006.

Purpose

This bylaw is made under Part 8 of the Local Government Act 2002. Its purpose is to regulate and control a range of activities which may be lawfully carried out in roads, public places, reserves and other places under the control of the Council in order to;

- (a) protect the public from nuisance or,
- (b) protect promote and maintain public health and safety or,
- (c) minimise the potential for offensive behaviour in public places or
- (d) regulate trading in public places.

Interpretation

Definitions

In this bylaw:

"Berm" means grass verge kept mown.

"Busker" means any person who plays, acts, sings, dances or otherwise performs or entertains in a public place for reward or otherwise.

"Charitable Cause" means a non-profit organisation that raises funds for the benefit of a community group or for the overall benefit of the public.

"Food" has the same meaning as in the Food Act 1981.

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“Footpath” means that part of the road as is laid out or constructed for use by pedestrians, and includes a grass verge or berm, kerbing, and channelling but does not include the carriageway.

“Flea market” means an open air market consisting of stalls occupied by traders, offering goods for sale or exchange or service for reward.

“Hawker” means a person who displays or offers unsolicited goods or services for sale in a public place but does not include a keeper of a licensed mobile or travelling shop;

“Keeper” means a person who owns or operates a mobile or travelling shop;

“Mobile or travelling shop” means a vehicle, whether self-propelled or not from which goods are offered or exposed for sale, or from which goods, or services may be ordered (whether or not in pursuance of any invitation to call with the goods, wares, or merchandise), in a public place but does not include any vehicle from which food is sold for consumption within that vehicle.

“Outdoor café” means an outdoor seating area established in a public place, with the consent of the Council where food and drink may be consumed.

“Stall” means a stall, tent, barrow, awning, table trestle, newspaper box, or display stand, temporary structure or place on, at or from which goods, wares merchandise or services may be purchased or ordered but does not include a mobile shop.

“Public place” means a place which is under the control of the Council and is open to or being used by the public, whether or not there is a charge for admission and includes a road whether or not under the control of the Council and any part of a public place.

“Road” has the same meaning as in section 315(1) Local Government Act 1974 and includes all land within the legal boundaries of the road irrespective of whether it has been formed as carriageway, footpath grass verge or berm.

Activities requiring Consent

- (1) No person shall on any road or public place:
 - (a) Display any goods, wares or merchandise for sale, outside any shop or other business premises so as to encroach upon or hang over any public place, or
 - (b) Wash or clean the windows of any vehicle or vehicles in anticipation of reward or
 - (c) Solicit any donation, subscription or other monetary contribution or
 - (c) Conduct any appeal, fund raising activity, raffle or lottery ticket or
 - (d) Perform as a busker

Without the prior written consent of the Council and then only in compliance with the conditions of that consent.

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- (2) Applications must be received by the Council not less than seven days before the date of the proposed use.

Consents

Consent Request

Every application for consent must be in writing setting out full details of the proposal, the date, time and place of the proposed use and the full name and residential address of the applicant.

Grant of Consent

- (1) Upon payment to the Council of such fee as the Council may by resolution determine, the Council may issue written consent.
- (2) Consent may be subject to conditions including but not restricted to: duration, time, location, safety requirements, use of signage, playing of music, litter and site rental, and failure to comply with such conditions constitutes a breach of this bylaw.

Revocation

A consent may be revoked by the Council at any time upon written notice.

Activities requiring a Licence

Outdoor Dining

No person shall occupy a public place or footpath for the purposes of operating an outdoor cafe area without a licence issued by the Council and only in compliance with the conditions imposed by that licence and any Outdoor Dining Policy made by the Council from time to time.

Trading

No person shall on any road or public place:

- (a) Sell, or offer for sale any goods, wares, merchandise or food,
- (b) Perform or offer to perform a service,
- (c) Be the keeper of a mobile or travelling shop,
- (d) Organise, or permit a flea market

without a licence issued by the Council and only in compliance with the conditions imposed by that licence and in accordance with any Public Places Trading Policy made by the Council from time to time.

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Licences

Application for a Licence

Every application for a licence shall state the full name and residential address of the applicant and clearly describe the nature of the activity proposed.

The Council may also require other information or documents in support of the licence application including but not limited to;

- (a) the registration number of any motor vehicle to be used as part of the activity
- (b) if the application involves the sale or preparation of food, all other licences or registrations which the applicant is required to obtain under any other Act, Regulation, or Bylaw and details of any premises to be used for the storage or preparation of such food,
- (c) applications for licences to sell goods, or be the keeper of a mobile or travelling shop shall be accompanied with photographic identification of the applicant and such evidence of good character as the Council may require.

Fee and Expiry of Licence

- (1) Upon payment to the Council of such fee as the Council may by resolution determine, the Council may issue a licence for 12 months or such other period as the Council may decide.
- (2) The Council may issue temporary licences upon payment of the relevant fee and subject to the conditions of that licence.

Production and display of Licence

- (1) Every holder of a licence shall at all times when trading in a public place carry the licence with him or her, and on demand show the licence to a police officer or authorised officer of the Council.
- (2) Every keeper of a licensed mobile or travelling shop shall, at all times while selling from that shop, publicly display the License in a conspicuous place upon that shop.

Licence Conditions

- (1) The Council may from time to time prescribe conditions in accordance with any Public Places Trading Policy or Outdoor Dining Policy made by the Council from time to time which may include but is not restricted to; duration, time of day, days of the week, location, type of goods or services to be offered for sale, area available to be used for the purposes of selling, persons entitled to sell, safety and hygiene requirements, use of signage, use of musical chimes, litter, and site rental and any licensee who fails to comply in all respects with such conditions shall be in breach of this bylaw;
- (2) It shall be a condition that where any vehicle specified in a licence for a mobile or travelling shop becomes unavailable for such use, any proposed substitute vehicle must not be used for that purpose without the written approval of Council.

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NOT ADOPTED BY COUNCIL

- (3) It shall be a condition of every mobile or travelling shop licence that;
- (a) No vehicle will be permitted to stand or remain stationary within 45m of a street intersection.
 - (b) No keeper shall trade within 100 metres of any shop that sells similar goods.
 - (c) No keeper shall conduct business in one position for more than 30 minutes without moving on, (subject to any other restrictions in force setting a lesser period).
- (4) It shall be a condition of every street trading licence, that upon being requested to do so by a police officer, or authorised Council officer and as often as so requested, every street trader shall move from a selling position in or on a public place to another part of that public place or to such other public place as that officer may direct.

Licence not transferable

No licence is transferable and no licence authorises a person other than the person named in the licence to carry on the trade or business specified on the licence in a public place.

Surrender of licence

The holder of a licence may surrender it at any time.

Suspension of licence

A licence issued under this bylaw may be suspended pending the outcome of an investigation into whether the holder of the licence has breached a condition of the licence.

Revocation of licence

A licence issued under this bylaw shall be deemed to have been revoked if the holder of that licence is convicted of an offence under this bylaw for breaching any condition of the licence.

Trading without a Licence

- (1) Any person who is trading in a public place without a licence issued by the Council shall, when required to do so by an authorised Council Officer or a Police Officer, immediately remove from the public place all goods, signs, stalls, vehicles and other equipment used by that person for trading.
- (2) Where any person fails or refuses to comply with a requirements of an authorised Council Officer or a Police Officer made pursuant to sub clause 1 above, the officer or Police Officer may remove from the public place any trade goods, signs or offending vehicles and other equipment used by that person.
- (3) Any trade goods, signs, stall, vehicle or other equipment removed by an authorised Council Officer or Police Officer shall be kept in safe custody on Council premises

and shall be released to the owner upon payment of the expenses and costs of removal.

- (4) Any trade goods, signs, stall or vehicles removed by an authorised Council Officer or Police Officer pursuant to Sub Clause (2) above that have not been claimed by the owner within 10 days of removal may be disposed of by the Council in any manner that the Council thinks fit.
- (5) Any proceeds from the disposal of such trade goods, signs, stalls or vehicles shall, after the recovery of all costs incurred by Council, be returned to the owner.

Register

The Council shall keep a register of the names and residential addresses of all persons to whom licences are issued, and the register may be inspected by any person during the Council's normal office hours.

Administration

Fees

The Council may by resolution prescribe fees in respect of any licence, authority, approval, permit, or consent from, or inspection by the Council under this bylaw.

Powers of Delegation

In all cases where this bylaw provides for the issue of any order, certificate, notice requisition, licence or consent, such order, certificate, notice, licence or consent shall be deemed to be issued in compliance with this bylaw if the same is issued by any officer of the Council authorised by the Council, or to whom the Chief Executive Officer may have sub delegated the relevant powers for that purpose.

Offences and Breaches

A person commits a breach of this bylaw who:

- (a) Does or causes to be done or knowingly permits or suffers to be done or is concerned in doing anything whatsoever contrary to or otherwise than as provided by this bylaw;
- (b) Omits or neglects to do, or knowingly permits or suffers to remain undone anything which ought to be done at the time and in the manner provided by this bylaw;
- (c) Knowingly permits or allows any condition to exist or continue to exist contrary to this bylaw or neglects to comply with any notice given to that person under this bylaw;
- (d) Obstructs or hinders any officer of the local authority in the performance of any duty to be discharged by that officer under or in exercise of any power conferred by this bylaw;
- (e) Fails to comply with any lawful notice or direction given under this bylaw;
- (f) Fails to comply with conditions attached to any licence or consent.

Enforcement and Penalties

Pursuant to s.239 Local Government Act 2002, every person who breaches a bylaw, commits an offence and is liable on summary conviction to the penalties set out in s.242 Local Government Act 2002.

The Council may also apply to a District Court for an injunction restraining a person from committing a breach of the bylaw pursuant to s.162 Local Government Act 2002.

Dispensations

The Council may grant a dispensation from full compliance with any provision in this bylaw where the Council's Group Manager; Regulatory is of the opinion that full compliance is unnecessary.

Written application for a dispensation shall include full details of the relief sought and the reasons for the application. The Council's Group Manager; Regulatory shall consider the application and may either refuse or grant it subject to such conditions as he/she considers appropriate.

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WCC Outdoor Dining Policy (DRAFT)

1.0 Introduction

Outdoor dining (e.g. outdoor eating and drinking on City footpaths) enhances urban life by providing an active street frontage that is vibrant, dynamic, comfortable and attractive. The presence of people dining on the street increases the sense of safety and security in the street and provides restaurant and café owners with the opportunities of extending their businesses and promoting patronage with a more visible presence. This activity is of considerable value to the town centres and suburban areas alike, for social and recreational purposes and is welcomed.

However, it is also clear that the creation of privately controlled, enclosed street spaces can result in a number of potentially undesirable environmental effects, in terms of health and safety, pedestrian movement/obstruction and visual amenity issues.

This policy is intended to guide the Council in decision making regarding the desirability or otherwise of permitting the use of public space for outdoor dining. The Council, as landowner needs to consider the private, commercial benefits and balance the environmental and community benefits and negative effects of these uses for public space. This balance is reflected in this policy.

The policy has been drawn up having regard to the following matters:

1. The relevant policies, objectives and rules contained within the Waitakere City District Plan.
2. Other relevant Council policies, strategies and bylaws.
3. The Council provides public space for the benefit of the general public, not for commercial benefit.
4. That the Policy be fair and equitable to all businesses.
5. Only protection for outdoor diners from fair weather to moderate adverse weather wind conditions can be expected.
6. The Council is mindful of the cumulative effects of enclosing structures and advertising.
7. A co-ordinated, complementary approach will be required where there are a number of adjoining owners to the street space.
8. The Council wishes to avoid excessive visual clutter and ensure a high quality of street enclosures and furniture.
9. The Council wishes to ensure that enclosures and furniture do not adversely affect the appearance or architectural or historic integrity of the buildings with which they are associated, nor the view along the street or across a public space.
10. Pedestrian movement should not be unduly hindered.
11. The needs of disabled, young and elderly users of the public street space must be considered
12. The Council does not wish to inhibit the temporary use of the street space for special events.
13. Consideration of the impact of the Sale of Liquor Act 1989 and the Smoke Free Environments Amendment Act 2003 on the demand for the use of street space for the purposes of liquor consumption and smoking, which may be associated with dining.
14. Public liability insurance that will ensure that the Council is satisfactorily indemnified against any potential claims.

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2.0 Definition

“Outdoor café” means an establishment providing food or drink which has an outdoor seating area in a public place and which is under the control of the person named on the licence issued under the relevant food and hygiene regulations or liquor licences.

The preparation of food any kind (excluding the addition of simple garnishes, condiments or flavourings to food by food service staff), in any public place, even when in association with outdoor cafe dining, falls outside the scope of this policy, and is prohibited unless a specific consent or licence is obtained for the food preparation.

3.0 Licence to use public place for outdoor cafe dining

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Any public space that is proposed to be utilised for outdoor cafe dining, shall be subject to written licence from Council with attached conditions as decided by Council.

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No application for licence to utilise a public place for outdoor cafe dining will be considered where the dining is not associated with and of a scale subsidiary to an adjoining site within either a Community Environment or within a site scheduled for Retail Activity.

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All applications for licence to utilise a public place for outdoor cafe dining must be in direct association with a lawfully existing eatinghouse (i.e. café or restaurant) registered pursuant to the Food Hygiene Regulations 1974 and that is directly adjacent to the outdoor cafe dining area in question and that will provide the food and drink to diners in the outdoor cafe dining area.

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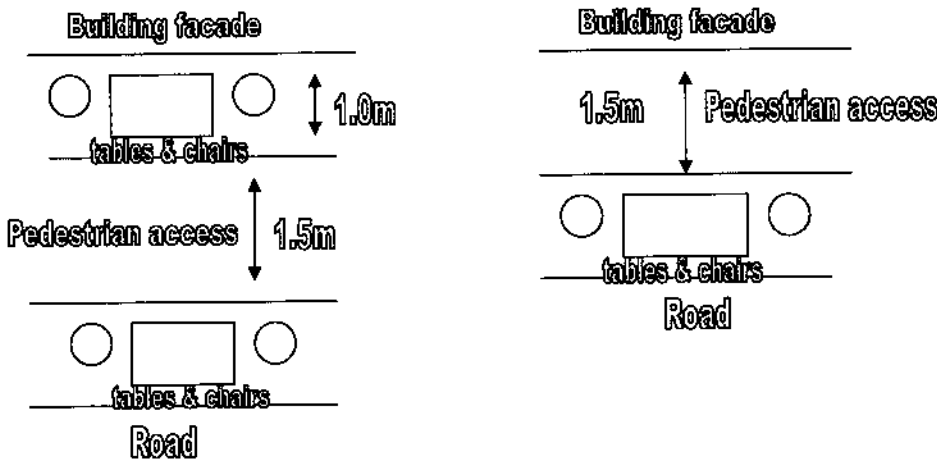
Council will determine the level of pedestrian access, the nature of any enclosure partitioning off the outdoor café dining area and the type and nature of any street furniture, to be stipulated in any licence for outdoor cafe dining.

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4.0 Pedestrian Access

No licence for the use of public streets for outdoor cafe dining will be considered where any footpath width is less than 3 metres. A minimum clear width of 1.5 metres of footpath remaining clear and free of any obstacle or obstruction is required. All public streets used for outdoor cafe dining shall have full pedestrian access maintained to a width of at least 1.5 metres of footpath at not more than 1 metre from the building facade.

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5.0 Nature of any enclosure used to partition off outdoor café dining areas

Fully enclosed outdoor dining areas will not be permitted.

The types or levels of enclosures for outdoor cafe dining that may be proposed to be placed on the street have been identified as follows:

- Level 1** *No enclosure* – street furniture in an open street setting with generally unimpeded physical and visual access by pedestrians.
- Level 2** *Minimal enclosure* – Street furniture in an open street setting within a physically defined licenced area, restricting public but not visual access.
- Level 3** *Partial enclosure* – Street furniture partially enclosed by low level fixed structures.

6.0 Street Furniture

The type and design of street furniture must be of a high standard in appearance and style, made of quality materials, with finishes that are attractive and durable. In all circumstances the street furniture or enclosures to be used in any outdoor cafe dining area and the positioning of the street furniture must be approved by Council before use.

Electrical lighting is not permitted within any outdoor cafe dining area.

Street furniture may include only the following items appropriate to each level of enclosure:

- i.) Tables, chairs and umbrellas
- ii.) Bollards, planters, ropes, menu stands, gas heaters, safety rails, permitted low level structures, retractable transparent wind protection plastic curtains.

No canopies or glass enclosures are to be located in the public areas.

There shall be a clear visual differentiation between the permanent features of the public spaces and the street furniture associated within a licenced area.

7.0 Temporary structures

This Policy does not apply to temporary structures in a functional street used by motor vehicles. It should be noted that formal traffic stopping procedures are required if structures in streets are to be erected.

8.0 Private use of public airspace

The issue of enclosures to upper level floors projecting out over public airspace has not been specifically addressed by this policy which relates to ground level uses and falls outside this policy.

9.0 The application process

The process for assessing applications to licenqe public street space for outdoor dining is outlined in Appendix 1.

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Enclosures of levels 1, 2, and 3 will be permitted. Enclosures of level 4 (i.e. fully enclosed outdoor dining areas) will not be permitted. ¶

Deleted: Street furniture should be unobtrusive in nature, complementing the culture, character and significance of the street in style, appearance, materials, finishes and colours. ¶
Council may specify the style, amount and positioning of all street furniture. ¶

Deleted: Existing fixed street furniture provided by the Council may not be incorporated into any outdoor cafe dining area.

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10.0 Conditions

Any Licence shall also be subject to the detailed specific conditions which may include conditions governing the operation of the licensed area, appearance, location and design of any items of street furniture, and shall be subject, where required, to obtaining Resource Consent, Building Consent, Liquor Licence, fire and safety requirements, signage consents and Bylaw approvals as appropriate.

General Licence conditions, as outlined in appendix 2 shall apply to all outdoor cafe dining Licences.

11.0 Information Requirements

To ensure that a good standard of amenity is maintained, a suitable standard of exterior furniture and layout will be required, as a condition of Licence. Applicants will therefore be required to obtain approval for the furniture style, standard and layout. The information submitted with an application shall include all the information requirements listed in Appendix A.

12.0 Design Requirements

The following requirements will be taken into account in determining any application for a Licence. These are intended to ensure that a good quality standard is achieved in all individual facilities.

a) Design

- All street and dining furniture, screens and signage shall be to an approved standard of design and construction.
- All street and dining furniture should be constructed of substantial materials and with a quality, durable finish suitable for external public use. Timber should be finished with paint, stain or polyurethane to provide a good standard of finish that can be easily cleaned. Umbrella materials shall be either canvas or shade cell fabric (woven nylon/rayon open-cell fabric). Steel or other metals shall be finished with a good quality paint finish or shall be anodised or chromed to a standard suitable for external use.
- All individual furniture items such as chairs, tables, umbrellas should be of uniform or complementary design and appearance within any one licensed area.
- No multiple, interlocking or abutting umbrellas will be permitted.
- Umbrellas shall be freestanding with a single central support.
- The clearance between the footpath and the underside of an umbrella shall be not less than 1.8m
- Bench seating, multiple seating and seats and tables integrated into single furniture units will not generally be acceptable.
- Side and front screens should not be seen as a visual barrier. Therefore they will be plain and transparent apart from the support structure.
- For safety reasons, no external stays will be allowed to support screens. Instead, screens may be supported by vertical poles placed in a flush sleeve in the pavement. Alternatively vertical supports may be attached to planters or be free-standing provided no base shall project outside the licensed area.
- The planters or other similar elements may be used to define an edge to the licensed area to avoid clutter and spread. Planters shall be between 400mm to

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Deleted: An umbrella may utilise a flush sleeve in the pavement for support provided the umbrella is not permanently fixed and may be removed at any time ¶

Deleted: • A canopy may be cantilevered horizontally from a building or from a veranda. These canopies shall be not deeper than 4m and shall be fully retractable. A veranda shall not be greater than 3m in depth. ¶

Deleted: • The combined depth of a canopy and/or veranda shall not be greater than the depth of the consented area, 7m or 5300mm clear of the kerb line, whichever is the lesser. ¶

• There shall be no vertical supports for canopies in the public space. Vertical supports for verandas will be discretionary and will depend on the site location and the effect of the enclosure on the public space. ¶ ... [3]

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550mm in overall height. Plant material shall be at a maximum of 400 mm height from the ground at any time.,

- All street furniture shall be self-supporting or cantilevered from within the pavement and not fixed to the pavement. All street furniture shall be stable in windy conditions and shall not present a health and safety risk. Any furniture which does present such a risk shall be removed from the licenced area when weather conditions become unsuitable.
- No street furniture including supports in the pavement shall be fixed and shall be immediately removable at the request of a Council Officer for services maintenance and repair, pavement cleaning, or for such other reasonable circumstance as may arise.
- No item is to be fixed into the pavement infrastructure without specific approval of Council.

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b) Colour

- Simple combinations of a small palette of colours in street furniture will be most effective in maintaining a high standard of amenity within and relationships between outdoor areas.
- Colours of furniture may include neutral tones (including natural timber) and darker shades of colours such as blue, green or red. Black, dark grey or silver may also be appropriate for some items such as chairs.
- Umbrellas shall be of the same colour or a limited range of related colours within any licensed area. Darker colours generally show less discolouration due to dirt and will probably need to be replaced less often than for lighter coloured material.

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c) Layout

- The extent of licenced areas shall be identified on the ground. This may be by permanent pavement markers, planters, planter boxes roped bollards and/or side screens. Low level enclosing elements shall provide the visually impaired with sufficient guidance for such persons to remain clear of footpath obstructions within licensed areas.
- The extent of planters and screens etc shall be sufficient to visually define the area but shall need not be continuous around the whole licensed area.
- The layout of the licensed area shall be related to the geometry of the public space, the street grid or other significant features of the space. Any change in layout must be subject to a further approval.
- Signage on structures or building facades is subject to the District Plan signage rules. These will be considered in the licence process and may require Resource Consent.
- Signage on the street shall be contained within the licenced area and will be subject to the District Plan signage rules and Council bylaws

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d) Plant materials - Criteria for selection

Plant materials shall be suitable for the location and purpose. Annuals or perennials will be considered for colour and display. All plant material is to be maintained, replaced or supplemented to ensure a good standard of planting at all times of the year.

e) Cyclic Maintenance

The continued appearance of a good quality outdoor area requires consideration of daily, weekly, monthly and yearly maintenance schedules for plant material,

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tables, chairs, planters, wind screens, lighting, verandas, or other elements. These maintenance schedules shall be submitted to the Council with the application and such maintenance shall be carried out in accordance with the approved schedule as a condition of the licence.

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APPENDIX 1 Public Street Enclosure Policy – decision making process

1. Applications for licence to utilise public street space for outdoor dining should be made to the Manager XXXXXXXXXX.

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2. The following information will be required from all applicants when submitting an application to Council for licence to undertake outdoor cafe dining:

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- Application form: fully and satisfactorily completed application form including contact details and signatures, together with full payment of any required fee set by Council.
- A site plan of the proposed outdoor cafe dining site accurately showing the location of the food premise associated with the outdoor cafe dining and the layout of all proposed tables, chairs, screens, umbrellas, etc, and the location of all existing infrastructure (i.e. tree plots, litter bins, public chairs/tables, fire hydrants, neighbouring buildings, street lights, traffic lights, pedestrian crossings, traffic signs, street signs, etc).
- Photographs of the site: clearly showing the proposed outdoor cafe dining area relative to the associated food premises, neighbouring buildings and existing infrastructure.
- Details of furniture: colour photographs and/or detailed drawings of all furniture including all: chairs, tables, screens, umbrellas, planter boxes, gas heaters screens and supports, heaters, bollards/ropes, safety rails, and umbrellas, etc. Specific details of their construction, finishes and colours must also be included.
- Furniture measurements: length, height and width of screens and planter boxes, and the width span and clearance height of umbrellas.
- Details of advertisings: a colour photograph and/or detailed graphic design drawing of any proposed advertising or logos proposed.
- Public Liability: a Certificate of Insurance for a minimum of two million dollars (\$2,000,000) specifically covering the outdoor cafe dining area and indemnifying the Waitakere City Council against all claims in a form and with an insurer to the satisfaction of the Waitakere City Council.
- Details of all planting materials
- Details of the cyclic maintenance schedule
- A cleaning schedule for the outdoor cafe dining area
- Further information required for regulatory consents if applicable
- Any other additional information required by Council

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3. The level of pedestrian access, level of enclosure and types of street furniture permitted in any location will be in accordance with the outdoor cafe dining Policy as determined by Manager XXXXXXXXX. The decision will be made having regard to the following criteria:

- i. The ability of the existing sanitary facilities in the associated eatinghouse, to cope with the additional patronage provided for by outdoor cafe dining.
- ii. Requirements of the District Plan
- iii. Width of the footpath
- iv. Level of pedestrian traffic

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- v. Amount and nature of adjoining activity
 - vi. Level of vehicular traffic
 - vii. The impact on the amenity and appearance of the area
 - viii. The level and nature of public liability insurance cover
4. The proposed design, quality, materials, colours and layout of the street furniture will be assessed, to ensure that they are in accordance with the detailed policy requirements of the outdoor cafe dining Policy.
 5. In some situations partially enclosing the outdoor café dining area (Level 3 enclosure) will require Building Consent and/or Resource Consent. Applicants will be advised when they submit their application, what will be required.
 5. Enforcement action will be taken against businesses undertaking outdoor cafe dining or any business that places any furniture or erects any enclosures on any public place, for which the necessary licence/consent have not been obtained.

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APPENDIX 2 – General requirements

All outdoor cafe dining licence holders must comply with both the specific and general conditions of an outdoor cafe dining licence.

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The general conditions are:

1. It is the responsibility of the licence holder to comply with the general and specific conditions at all times and to report any changes in circumstances or potential breach of the conditions to Council immediately.
2. It is the responsibility of the licence holder to comply with all laws and other legal requirements relevant to the operation of outdoor cafe dining and to ensure that employees and agents also comply.
3. The licence holder is required to ensure that they maintain a current public liability insurance for a minimum of two million dollars (\$2,000,000), specifically covering the area occupied by outdoor cafe dining and indemnifying Council against all claims, at all times whenever outdoor cafe dining is undertaken.
4. The licence holder may only conduct outdoor cafe dining within the hours and street dining area specified in the specific conditions of the licence.
5. The licence holder is responsible for the good order, conduct and behaviour of patrons using the outdoor cafe dining area.
6. The licence holder is responsible for the cost and repair of any damage to the public streetscape infrastructure caused by their specific outdoor dining area and clients.
7. The licence holder is to ensure that the outdoor cafe dining area and surrounding footpath and locality is kept free from rubbish and that rubbish is placed in proper bins. Any spillage/staining to the paving area is to be cleaned immediately.
8. The licence holder may not allow the consumption of alcohol within the outdoor cafe dining area unless the licence holder possesses a valid liquor licence allowing the consumption of liquor with the outdoor cafe dining area.

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9. The licence holder must comply with all reasonable requests or directions given by any authorised officer of Council.

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10. The licence holder occupies and uses the outdoor cafe dining area at the licence holders own risk.

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Summary of primary requirements for any site to be eligible for consideration for outdoor cafe dining:

1. Outdoor cafe dining must be directly associated with an existing eatinghouse.
2. Outdoor cafe dining must be associated with and of a scale subsidiary to an adjoining site within either a Community Environment or within a site scheduled for Retail Activity.
3. Existing toilet facilities in the associated eatinghouse must be adequate to satisfactorily cope with the increase in patron numbers.
4. The footpath must be at least 3 metres wide.
5. Any damage to the public infrastructure is at the cost of the licensee.

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