

Licensing of Council Owned Sites for Markets (2004)

Minute Number: 390/04

MINUTE NO. CL/MAR/390/04

1. That the original policy on licensing of Council owned sites for markets, adopted under Minute No 128/98 be rescinded.
2. That the revised policy on licensing of Council owned sites for markets attached as Appendix "A" be approved

LICENSING OF COUNCIL OWNED SITES FOR MARKETS

That this policy be used for markets on Council sites.

**POLICY:
LICENSING OF
COUNCIL OWNED SITES
FOR MARKETS**

Revised

March 2004

TABLE OF CONTENTS

A	POLICY	2
B	POLICY BACKGROUND	3
I	INTRODUCTION.....	3
II	COUNCIL VISION, GOALS & RESULTS AREAS.....	3
III	ECONOMIC CONSIDERATIONS.....	3
	1.0 DEFINITION.....	3
	2.0 TRANSACTION COST	3
	3.0 MARKET LOCATION	4
	4.0 PUBLIC GOOD TEST.....	4
	5.0 EXTERNALITY	4
	6.0 NON-ECONOMIC FACTORS	4
	7.0 DISPLACEMENT AND ADDITIONALITY.....	4
	8.0 FAIRNESS.....	5
	9.0 SEPARATION OF OTHER OBJECTIVES	5
	10.0 STEWARDSHIP	5
	11.0 TRANSPARENCY AND SUPPORT FOR LOCAL COMMUNITY GROUPS	5
	12.0 PUBLIC AMENITIES.....	6
	13.0 COMMUNITY ACCEPTANCE	6
	14.0 COMPETITION WITH OTHER MARKETS	6
	15.0 CRITERIA.....	6
	16.0 TRANSITION ARRANGEMENT	7
IV	CONCLUSION	7

1. A. POLICY - LICENSING OF COUNCIL OWNED SITES FOR MARKETS

That this policy be used for markets on Council sites.

That the Council approve the revised policy on licensing of Council owned sites for markets, as stated below:

Policy: Licensing of Council Owned Sites for Markets

1. The opportunity to hold markets are publicly tendered wherever appropriate according to Council's current Contract Manual and sound business practice. The intention to hold new markets is publicly advertised for community input even when open tendering is not appropriate.
2. The Council first consider the applications to hold markets on the following essential criteria:
 - (a) Alignment with the Long Term Council Community Plan
 - (b) Financial standing and viability of the applicant
 - (c) Ability to comply with Council's conditions of the licence agreement.
 - (d) Experience in running similar types of markets
3. The next set of criteria is used to determine the value of the proposed markets to the community.
 - (i) Key Criteria: Economic Returns (i.e. rent)
 - (ii) Other Criteria: Social Returns: Favourable weighting may be given to community serving organisations. Such preference should account no more than 10% of total weighting and should be made clear publicly in the process of selection as outlined in section 8.0 of the Policy Background.
4. The evaluation of applications to hold markets is reported to the Economic Development Committee for decision.
5. The term of a licence can be up to seven years with a review of the conditions after 3 years. Variations in the license may be allowed with respect to the area of a licensed site subject to agreements between Council and the licensee.
6. Provided the existing licensee has satisfied the terms and conditions of the license and shown sound business practice then upon expiry of the licence the existing licensee may continue on with new terms being negotiated, including a review of the rental terms.

B. POLICY BACKGROUND

I INTRODUCTION

Manukau City Council has typically provided varying degrees of support and in different ways to local community groups and individuals in setting up and managing markets. In doing this Council has been called upon to play a variety of roles: regulator; funder; landlord; and facilitator. These roles sometimes conflict with each other, possibly contributing to some confusion, if not inconsistency, in decision making. Hence, a policy framework is required to define the role of the Council in facilitating markets on Council-owned land and to identify processes that would be required to implement it.

II COUNCIL VISION, GOALS AND FOCUS AREAS

Tomorrow's Manukau envisions Manukau as a green city with dynamic economic development and responsible environment management. Development of markets supports this vision as they contribute to economic growth and employment in Manukau. Promoting business policies that foster growth of new and existing enterprise and providing welcoming investment and development environment are important elements of this vision.

Fostering markets is aligned to the Long Term Council Community Plan's focus on thriving economy.

The licensing of Council-owned land for markets policy is aligned to Council's focus on Innovative Council. In particular it would contribute directly to the following areas:

- (i) Obtaining maximum returns on Council assets
- (ii) Property Management & Development: effectively managing and developing Council's real property assets to achieve optimum use of resources in meeting Council's outcome.

III ECONOMIC CONSIDERATIONS

1.0 Definition

A market is a trading place where buyers and sellers physically congregate to buy and sell products. With the advent of new technology and change in consumer taste and preference, the bulk of products these days are bought in supermarkets and even electronically from home. The functional significance of traditional markets has diminished but their novelty value has risen. Council as a landowner is typically involved with granting licenses to operate markets on its property but markets can also operate from privately owned sites as well.

2.0 Transaction Cost

Markets evolve to minimise transaction costs by concentrating different wares in one place. This obviates the need for buyers to make a number of trips to different places in pursuit of goods and services. The evolution of markets should therefore be seen as having a positive economic impact for the society as it reduces transaction costs.

3.0 Market Location

Economic factors such as the demand and supply of market sites, transportation and transaction costs determine the location and scope of markets. Council's regulatory processes can impact on the location of markets. Council also can have significant impact on the location and number of markets given that it owns considerable land that could easily be used for markets.

4.0 Public Good Test

The strict definition¹ of the management of markets is a private good. Hence, the private nature of benefits do not lend support to Council subsidising the setting up of markets.

5.0 Externality

Market operators often seek subsidies from Council when setting up markets on the grounds that there are positive spin-offs for the local economy (externality). This happens when markets successfully draw people to the stalls leading to greater retail spending in that locality. But under this scenario, those that benefit the most are private businesses, who do not directly pay for the cost of holding markets. The long term strategic potential of markets as a tourism draw card may not always be recognised by the private sector because of their either short term planning horizon or bounded rationality (i.e. inability to obtain and analyse relevant information). These conditions provide valid grounds for Council to facilitate and support markets.

6.0 Non-Economic Factors

While economic factors remain the key consideration for granting licenses, it must be acknowledged that markets could provide some community good e.g. income earning opportunity to disadvantaged groups. Also, markets provide an opportunity for people to gather in a particular locality which brings social cohesion to the community. These non-economic factors also need to be considered in granting licenses to hold markets.

7.0 Displacement and Additionality

Some shops may lose sales to stallholders in the market. If this happens without drawing in additional purchasing power from outside that locality, a mere redistribution of income occurs. There is no net gain to Manukau as a whole from such intervention. This is termed displacement. Council support in respect of markets should avoid displacement effects.

If markets can engender additional purchasing power from outside the city, they could be effective tools for promoting local area business development. Successful markets have been found to provide a major tourism draw card. The implication for this is that Council arguably has a role in assisting the setting up of the markets if by so doing additional spending could be generated in the city as a whole. Hence additionality should be used as a criterion in determining the extent of assistance that could be provided to the setting up of markets.

¹ *There are two defining features of a public good First is non-exclusivity ie. inability to exclude others from its consumption. Second is non-rivalrous consumption ie. consumption by one person does not reduce the amount available for consumption by others. Leasing the market site to one group inevitably denies its use to others.*

8.0 Fairness

Council policy and processes should be fair to all parties interested in setting up markets. Fairness is also applied to encourage creativity and innovation. Hence, the right to operate markets on Council-owned land should be made contestable by open tendering wherever appropriate according to Council's Contract Manual.

Where there is an element of public or community benefit associated with a bidding organisation, these elements would be factored into the tender selection process. Favourable weighting may then be given to community serving organisations. However, for fairness to all parties interested in setting up markets, such preference should account no more than 10% of total weighting and should be made clear publicly in the process of selection.

It is intended that all licences should be for a term no greater than 7 years in duration. It is intended that all licences should. Each site needs to be considered on its merits in determining how long a licence should be granted for. For example it may be appropriate when licensing a new site to grant a term of only 2 years so that its viability and the impact on the local community can be monitored.

9.0 Separation of other Objectives

Groups seeking Council assistance for setting up markets may sometimes justify Council intervention on grounds that this will enhance some other Council supported programme e.g. Mainstreet.

A closer examination of this argument reveals a number of risks for the Council. Firstly, using one instrument to achieve more than one target reduces the efficacy of the instrument. (e.g. Should markets be used to enhance self sufficiency of certain groups or promote economic development?). Secondly, it may leave scope for some groups to "double dip" while denying similar opportunity to some other group.

These considerations require Council to consider the issue of markets as a stand alone business proposition not linked to some other Council intervention, including Mainstreet. Under the proposed policy Mainstreet groups will be required to tender along with any other group for operating markets on an equal footing.

10.0 Stewardship

As the owner of land, Council has a stewardship role in ensuring the asset is used effectively to provide service to the community and managed efficiently to optimise returns. Stewardship considerations require Council to maximise revenue from leasing market sites.

11.0 Transparency and Support for Local Community Groups

Preference to a community group could be at a cost of economic efficiency to the extent that a more innovative private sector enterprise is denied the opportunity. There is also an issue of inequity as this approach discriminates against private enterprise in the form of a firm or an individual trader. Profits of community groups which are returned to the community is a relevant consideration, although this in itself is not a sufficiently strong factor to override stewardship and economic consideration.

In balancing these two considerations it is suggested that community groups receive an allowance as part of the tender process as outlined in Section 8.0.

12.0 Public Amenities

In granting resource consent, the adequacy of public toilets need to be considered. Pressure on Council facilities provides a strong case for Council to request additional temporary toilet arrangements whenever appropriate. Consideration should also be given to maintain adequate car parking for customers patronising nearby shops.

13.0 Community Acceptance

Views of the community in respect of markets should also be sought to make these markets compatible with the values of the local community. Views of adjoining shops need to be considered also. These would be done through public advertisement when a new market opportunity is considered. The Economic Development Committee would hear the submissions and determine their validity.

Hence, the intention to hold new markets should be publicly advertised for community input even when open tendering is not appropriate.

14.0 Competition with Other Markets

Any new market is likely to create competitive pressures on other markets in a particular locality. It could be persuasively argued that there is a role for Council to protect existing markets by controlling the number and scope of activities of new markets. However, it must be remembered that the viability of any market depends on market forces. Councils are not well placed to make judgements on how many markets should be established in a particular area, their scope and trading times. These should be left to the market to determine.

15.0 Criteria

(a) Prequalifying Criteria:

- i) Alignment with Tomorrow's Manukau or the Long Term Council Community Plan
- ii) Financial Standing
- iii) Ability to comply with Council's conditions of licence agreement.
- iv) Experience in running similar types of markets

(b) Determination Criteria - Primary

- i) Economic - Rent levels

(c) Determination Criteria - Secondary

- i) Innovative capability as reflected in business plan
- ii) Support for community groups
- iii) Profits returned to the Community
- iv) Goodwill built up by existing market operators upon re-tendering
- v) Market management expertise

16.0 Transition Arrangement

The existing markets on Council's land have been operating for a number of years and they have all had plenty of opportunity to recover their capital investments.

Replicating the terms of fairness it is felt that all existing markets due to expire within the next 12 months be given notice that so long as they are complying with the licence terms and conditions, their site will not be subject to the terms of this policy until July 2004.

All markets will be subject to the terms of the revised policy once their licences have expired.

IV CONCLUSION

- a) Managing of markets is essentially a private good that would typically not require Council financial assistance except where a significant city wide impact is demonstrated in terms of employment, income and retail spending.
- b) In order to enhance creativity and innovation and thus increase their economic impact overtime, the licensing of markets should be made contestable wherever appropriate.
- c) Economic efficiency is best achieved if market sites are leased out to the highest value user as reflected by their willingness to pay the highest rent. This is the main criteria for granting licences.
- d) However other non economic considerations need to be taken into account when granting licences, especially when proposals rank more or less equally on economic criteria.
- e) The viability of markets are determined by economic factors and the market forces ultimately are the best arbiters of the number of markets in the particular locality, their days of trading and the range of services they provide. Council should not be making these judgements.
- f) The standing of applicants should be considered to ensure their ability and willingness to co-operate with Council in complying with conditions that may be imposed in granting a licence to hold markets. Their financial standing needs to be sound.
- (g) Fairness and transparency are enhanced by a public tender process wherever appropriate according to Council's Contract Manual.
- (h) Community concerns about the market can be considered by the Economic Development Committee prior to the granting of the licence.