
REPORT 1
(1215/52/06/IM)

TEMPORARY ROAD CLOSURE PROCESS

1. Purpose of Report

The purpose of this report is to:

- Summarise why temporary road closures for certain circumstances need to be approved by the elected Council and not a delegated officer
- Propose options and a recommendation for a suitable process

2. Executive Summary

The Local Government Act states that council officers may not be delegated with the authority to close a road for events – such a decision needs to be made by the elected Council following a prescribed process.

The council process was challenged by a person whose car had been towed during the Lord of the Rings premiere, and the court upheld the view that the closure was not in compliance with the Local Government Act. The complainant was awarded compensation for the towing fee.

Legal advice recommended that to comply with the LGA the decision to temporarily close a road for an event should be made by the elected Council, leading to the formation of the Temporary Road Closures Subcommittee.

A practical and reasonable process that can be used to approve temporary road closures for events has been developed in consultation with affected stakeholders.

In the long term the council may try to get legislation modified to enable council officers to be delegated with the ability to approve some or all such closures.

3. Recommendations

It is recommended that the Subcommittee:

1. *Receive the information.*
2. *Agree to adopt the processes recommended by this report.*

4. Background

On 14 August 1986 the Local Government Act was modified to enable a Local Authority to temporarily close a road for an event and charge event attendees for the private use of the public road. This change was made principally to accommodate the Nissan Mobil 500 street race in Wellington City. The clauses relating to the authorisation of the temporary closure are shown below.

LOCAL GOVERNMENT ACT 1974	
Schedule 10	
Conditions as to stopping of roads and the temporary prohibition of traffic on roads	
<i>Temporary prohibition of traffic</i>	
11	The council may, subject to such conditions as it thinks fit (including the imposition of a reasonable bond), and after consultation with the police and the Ministry of Transport, close any road or part of a road to all traffic or any specified type of traffic (including pedestrian traffic) – ... (e) for a period or periods not exceeding in the aggregate 31 days in any year for any exhibition, fair, show, market, concert, film-making, race or other sporting event, or public function: provided that no road may be closed for any purpose specified in paragraph (e) if that closure would, in the opinion of the Council, be likely to impede traffic unreasonably.
11A	The council shall give public notice of its intention to consider closing any road or part of a road under clause 11(e); and shall give public notice of any decision to close any road or part of a road under that provision.
12	The powers conferred on the council by clause 11 (except paragraph (e)) may be exercised by the chairman on behalf of the council or by any officer of the council authorised by the council in that behalf.

The clauses were added and enacted in a short time frame without any realistic consideration of implications. Clause 12 effectively prevents the authority to temporarily close a road for an event from being delegated by the Council to an officer.

The restriction in clause 12 was tested in court when the owner of a vehicle that was towed during the Lord of the Rings premiere contested that the road closure was illegal. The court upheld the view that the closure was not legal because the council officer that approved the closure did not (and could not) have the delegated authority to do so.

As a consequence of this court case, the council commissioned Phillips Fox to provide a legal opinion on the risk posed to council by non-compliance with clause 12 and for advice on how clause 12 could be complied with. Phillips Fox recommended that for full legal compliance, all approvals for road closures should go through a three-step process:

- Notify public of ***Council's intent to consider*** road closure (inviting feedback)
- Consider the proposal for approval (by Council Committee or Subcommittee)
- Notify public of ***Council's decision to approve*** road closure (if granted)

Phillips Fox noted that there were likely to be some difficulties with the above, especially in regard to short-notice closures. Their recommendation included a suggestion that a change to the Local Government Act should also be sought.

5. Discussion

5.1 *Local Government Act 1974*

The LGA also does not distinguish between the level of risk and impact involved in each closure. Under the LGA, a street party at the end of a cul-de-sac, for example, would be subject to the same approval requirements as the Cuba Carnival, involving closures of many local roads and the State Highway network over several days. The LGA requirements may be reasonable for large events involving key transport routes, but unreasonable for smaller events that only affect a few people and carry a small amount of risk.

Officers consider, therefore, that there is merit in exploring options to get the current legislation modified, to enable council officers to be delegated with the ability to approve some or all such closures.

The State Highway network, which runs through Wellington City, is managed by Transit New Zealand on behalf of the Central Government. Transit New Zealand is not subject to the LGA.

5.2 *Traffic Regulations*

Temporary road closures may also be approved under the Transport (Vehicular Traffic Road Closure) Regulations 1965. The Regulations provide alternative requirements, including:

- A three-step process similar to that required by the LGA
- Templates for the wording of the notices
- Time frames for the posting of notices
- Restrictions on the number of closures permitted at each location

Legal advice recommends that the Council may adopt either the requirements specified in the LGA or in the Regulations, and that the LGA should be adopted as these have a higher standing in law, are more flexible and include non-vehicular traffic. In developing the recommended process, the requirements of the Transport Regulations have been considered and included where reasonably possible.

TRAFFIC REGULATIONS

TRANSPORT (VEHICULAR TRAFFIC ROAD CLOSURE) REGULATIONS 1965

3 Controlling authority may close road

For the purpose of holding on any road any vehicle races or trials, or any processions, carnivals, celebrations, sporting events, or other special events, the controlling authority may, subject to the provisions of these regulations, close the road to ordinary vehicular traffic for a period or series of periods of not more than 12 hours each in any consecutive 24 hours.

4 Notice of intention to close road to be advertised

- (1) At least 42 days before the proposed period of closure of any road, the controlling authority shall give public notice (hereinafter called the said notice) in form A in the Schedule hereto in at least one newspaper circulating in the locality in which the road is situated of its intention to close the road to ordinary vehicular traffic, with details of the purpose of the closure, the period or periods of closure, and the provisions made for vehicular traffic which would otherwise be using the road, and shall therein call upon persons affected to lodge with the controlling authority any objections thereto.
- (2) Any person affected by the closure of any road may lodge an objection thereto not later than 28 clear days before the proposed period of closure of the road.

5 Where no objections to closure received

If no objections are received within the prescribed time as a result of the said notice, the controlling authority may decide to close the road in accordance with the terms of the said notice, and, if it so decides, it shall, not later than 24 hours before the proposed period of closure, give further public notice in form B in the Schedule hereto in at least one newspaper circulating in the locality in which the road is situated of the closure thereof to ordinary vehicular traffic, together with the other particulars specified in that form.

6 Where objections to closure received

If any objections are received within the prescribed time as a result of the said notice, the controlling authority –

- (a) Shall consider the objections so received; and
- (b) If, after considering those objections, it decides to close the road in accordance with the terms of the said notice, shall, not later than 24 hours before the proposed period of closure, give further public notice in form B in the Schedule hereto in at least one newspaper circulating in the locality in which the road is situated of the closure thereof to ordinary vehicular traffic, together with the other particulars specified in that form.

5.3 Interpretation of “Closure”

The council has adopted the following interpretation of temporary road closure:

When all of one type of transport mode is unable to travel through a particular linear section of road for a limited period.

Therefore it is possible for council officers to manage and approve most road closures if they are partial closures only. These will be managed in accordance with the requirements of the *Temporary Traffic Management for Local Roads Supplement to the Transit New Zealand Code of Practice for Temporary Traffic Management*.

The scope of the closures to be considered and approved by the Subcommittee will be limited to those where the entire available carriageway or footpath is closed to traffic, which is estimated to be about 50 events per year.

5.4 Events Involving Closures

The council deals with approximately 28 closures for annually recurring events:

Community Fairs	8
Major Festivals	2
Parades	2
Sporting Events	12
Special Events	4

In addition to this, the council receives requests for about 25 one-off closures throughout the year for activities including:

Filming	6
School/Church Events	8
Other Community Events	4
One-off Sporting Events	5
Markets	2

5.5 Risk Mitigation and Liability

Phillips Fox has provided advice that even if the correct procedures are followed and the approvals are granted by the Subcommittee, the council may still be challenged and found liable with regard to the legality of any closure. The decision made to close the road will be based on a subjective estimate whether the traffic impact is considered “reasonable”, which may be interpreted differently by various parties including the court. Also, it is not possible to contract out of the legislative responsibilities of a Road Controlling Authority. Even if the council has signed agreements with an event organiser or granted approvals to an event organiser, if there is an incident during the road closure then the council may still be found liable.

There is also a risk that if the correct process as required by the LGA is not adhered to, an injunction may be sought by a member of the public preventing a planned event from proceeding. Again Phillips Fox advise that this could happen regardless of whether the correct procedure is followed, if the member of public does not believe that the considerations made by the council are “reasonable”.

In order to determine liability for an incident, the test used by the court would be whether each party has taken all reasonable steps to prevent the incident from happening. Whether or not an approval was granted according to the correct process would carry a very small weighting compared to the effort that the council put on the development, implementation and monitoring of the traffic management plan and the event plan (including safety provisions).

Therefore it is important that the appropriate level of effort is placed on the actual event management and coordination, which has been the basis of the approach used by the Wellington City Council and other Local Authorities.

5.6 Proposed Solution

Routine Process for Processing Applications

The first attachment to this report shows a flow diagram for the routine processing of temporary road closure applications. The process starts off from the first point of contact with the council (discussions and development of event and temporary traffic management plans). Prior to this there will usually be considerable work undertaken by the event organiser to plan their event.

The proposed process is summarised as follows:

- An event organiser (which may be the Wellington City Council Events team) proposes an event involving a road closure, including an event plan and a draft Temporary Traffic Management Plan (TMP).
- The council (Infrastructure team) receives the proposal, issues a public notice (Form A) and collates feedback to that notice.
- The event organiser and the council work together to modify any plans in response to public submissions and to prepare a report for the Subcommittee. The report will recommend a particular course of action.
- The Subcommittee decides whether the proposal is approved.
- Infrastructure notifies the event organiser of the Subcommittee’s decision, including any reasons (if declined) or conditions (if approved).
- Infrastructure and the event organiser (under their TMP) notify the public of the approved closure (Form B).
- The event organiser runs the event in accordance with the TMP and any conditions set by the council.
- Infrastructure monitors the event to ensure the TMP is complied with and there is no unreasonable impact on traffic.
- Infrastructure and the event organiser conduct a debrief on the event.

Timing Considerations

The attached flow diagram indicates the interrelation between the various steps of the proposed process. Timing is mostly dependant on the following factors:

- Having a reasonable period of public consultation in response to the first published notice. This will depend on the nature of the event, number of stakeholders affected and degree of consultation already carried out by the event organiser. Ideally, and especially for significant closures, the period of consultation should be one to two weeks long and be carried out such that the first notice is issued at least 42 days prior to the closure.
- The time taken to develop the Proposal for Temporary Road Closure Impact Report. This will depend on the level of information and planning provided by the event organiser and the quantity of objections received.
- The availability of the Subcommittee to meet – this could be around three times per month following SPC meetings, but special meetings may be called at short notice.

Various timing scenarios have been considered. These indicate that the council could process an application for a simple routine closure within 15 working days, but may require up to 60 days for a significant or complex closure.

Event organisers should be prepared to start planning for their event and working with the council well before the proposed closure. Ideally the key affected stakeholders should have been consulted with and their reasonable concerns incorporated into the event plans prior to publishing the first notice in order to minimise the likelihood of receiving any objections.

If a plan is substantially changed (e.g. any change to the location, date or time of the closure) then the approval process will need to be restarted from the first public notice.

It is permissible to vary the traffic and event management plans between the first notice and the completion of the Proposal Report to go to Subcommittee to accommodate concerns raised, e.g. by modifying the alternative provisions for traffic or by reducing the duration of a closure, as long as the change does not result in any substantial change that would need to be consulted on.

Event Organiser Responsibilities

Event organisers for the following types of activities will need to use this approval process:

- Sporting events, races or trials (including vehicle races or trials)
- Processions, carnivals or celebrations
- Exhibitions, fairs, markets, shows or concerts
- Film-making
- Public functions or other special events

Organisers for such events involving temporary road closures will need to:

- Develop an Event Plan and Traffic Management Plan in sufficient detail such that a “Form A” notice can be issued. The plans will need to be

developed in consultation with any affected stakeholders in order to minimise any likely objections. The organiser will need to work with the City Events and Infrastructure teams to ensure that all of the information required throughout the approval process is available and appropriate.

- During consultation and preparation of the Proposal for Temporary Road Closure Impact Report (PTRCIR) the organiser will need to work with the council to address any concerns raised and modify any event and traffic management plans accordingly.
- Once approved, the organiser will be responsible for running the event and following any of the conditions and requirements issued by the council. These may include the payment of a bond to the council prior to the event, as well as any notification and traffic management costs that may be associated with the temporary traffic management plan (TMP). The TMP typically requires a public notification of the intended closure at least 48 hours prior to the closure, and if the council carries this out on behalf of the organiser (e.g. using Form B) then the cost is to be carried by the organiser, such that the total cost of the two notices is shared between the organiser and the council.
- Following the closure, the organiser is to meet with the council for a debriefing to record any issues that may have been raised during the event. This may be by phone. Debrief information will be kept for reference purposes (e.g. in the event that there was a subsequent inquiry to the council regarding the closure) and may also be used in relation to future road closure proposals for a recurring event.

In some circumstances the City Events Team may also be the Event Organiser.

City Events Team Responsibilities

The City Events Team is to complete the section of the PTRCIR regarding council endorsement of the proposed event. It shall take into consideration how the proposed event fits in with the relevant strategies and policies of the council, including the existing events calendar.

Infrastructure Responsibilities

Infrastructure is responsible for carrying out the functions of the Road Controlling Authority on behalf of the council. Infrastructure will:

- Provide the coordination of the process, coordination of communication between the stakeholders and guidance with regard to traffic management planning.
- Set up and maintain a Temporary Road Closures Register for all proposed, approved and implemented road closures.
- Prepare and issues the public notices (Form A and Form B)
- Coordinate the preparation of the report to go to the Subcommittee:
 - Use the register to check for prior closures at the location
 - Obtain information and opinions from the organiser, City Events team and a qualified traffic engineer
 - Collate all information including public responses into a Subcommittee report in time for the next meeting

- If declined, issue a letter to the organiser indicating why.
- If approved, issue an Approval Letter which may include any conditions as the WCC thinks fit, such as (but not limited to):
 - Locations, dates and times of approved closure
 - Temporary Traffic Management Plan provisions
 - Health & Safety provisions (e.g. for marshals and other road users)
 - Further communication and notification requirements
 - Responsibility and timing for any cleaning and remedial works required as a consequence of the event
 - Bond provisions (if damage or cleaning may result from the event)
 - Public indemnity insurance
 - Overriding powers of others (licences to use closed road)
 - Council’s rights to revoke the approval or intervene if required
- Monitor the event to ensure that the Traffic Management Plan is implemented as required and all conditions set by the council are complied with. Intervene if there is unreasonable impact on traffic.
- Attend a debrief meeting with the organiser and file all relevant information in the Temporary Road Closures Register.

Subcommittee Inputs

It is expected that the Subcommittee will meet on an as-needed basis. A meeting of the Temporary Road Closures Subcommittee could be held following an SPC meeting, which occur approximately three times per month. The Subcommittee would consider approvals for proposed closures as follows:

- A proposed closure is presented to the Subcommittee as a “Proposed Temporary Road Closure Impact Report” (PTRCIR). A draft template for a PTRCIR is attached.
- Public submissions at the meeting should only be invited at the discretion of the Subcommittee. All objections are required to be lodged in writing prior to the meeting so that they may receive due consideration by the council and the organiser and be included in the PTRCIR.
- The proposed closure is considered for approval by the Subcommittee. The approval decision should be based on three factors:
 - Whether the proposed event is supported by the council
 - Whether the proposed closure is likely to result in a “reasonable” impact on traffic
 - Whether the concerns in any objection letters have or can be reasonably mitigated (e.g. through the traffic management plan)
- The Subcommittee should not approve any proposed closure that does not carry the support of the City Events team, is considered to create unreasonable traffic congestion by the Council’s Traffic Engineer (or a qualified person acting in that capacity) or where the proposed closure would bring the aggregate number of closures for that particular section of road over the limit permissible by law. The PTRCIR addresses all of the above items.
- After considering the proposed closure, the Subcommittee should either approve or reject the proposal in its entirety. It would not be appropriate for the Subcommittee to partially or conditionally approve a closure or suggest any alternatives to the proposal (e.g. timing, location or extent of

closure) as such a change would not have undergone public consultation and a qualified traffic engineer would need adequate opportunity to determine whether the proposed change would result in a “reasonable” impact on traffic.

- On conclusion of the meeting, minutes are to be prepared indicating the decisions and the reasons for any rejected proposals.

6. Conclusion

In order for the council to comply with the Local Government Act 1974, an approval process has been proposed for temporary road closures for events. The proposed process has been carefully considered to meet the needs of as many stakeholders as possible, while complying with legal requirements.

Contact Officer: *Jon Visser, Business Performance Manager – Infrastructure*

Supporting Information

1) Strategic Fit / Strategic Outcome

Temporary road closures for events contribute to the council's desire to be the events capital of New Zealand. Specific council strategies that are supported by this include:

- More liveable – through prudent management of the road network.
- More eventful – some events may not be possible without temporary road closures.
- More actively engaged – affected stakeholders will have the opportunity to provide feedback on proposed closures.
- Better connected – through better management of traffic flows. Conversely road closures could sever key transport routes.
- More prosperous – the film industry rely on road closures.

2) LTCCP/Annual Plan reference and long term financial impact

Temporary road closures are managed under council Annual Plan project C365 – Street Activity Coordination. The cost of preparing reports to Subcommittee can be absorbed within the existing budget for C365.

The Wellington City Council “City Events” unit organises a large number of events, and the introduction of this new process may increase their costs for consultation. This increased consultation cost could be absorbed into their existing budgets, but would result in a reduction in the total number of events that can be supported and organised by the council.

3) Treaty of Waitangi considerations

No significant Treaty implications.

4) Decision-Making

This is not considered to be a significant decision.

5) Consultation

a) General Consultation

Key event organisers and other stakeholders have been consulted with to determine whether the proposed processes are achievable and practical.

b) Consultation with Maori

No specific consultation with Maori was carried out.

6) Legal Implications

Advice provided by the council's lawyers, Phillips Fox, has been incorporated into the recommendation.

7) Consistency with existing policy

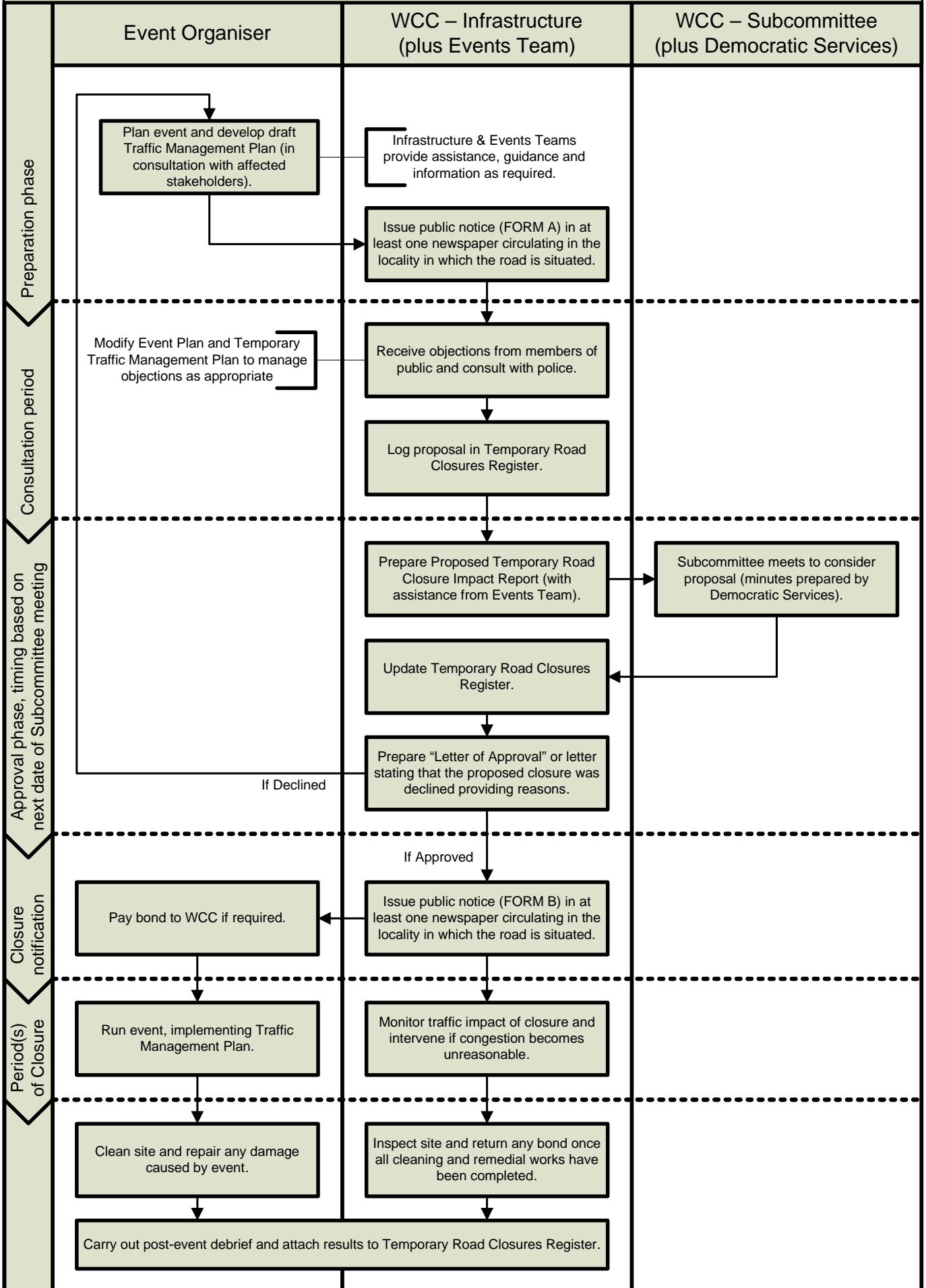
The proposed process for temporary road closures is consistent with other licence or consent processes used by the council.

Attachments:

1. Process for Temporary Road Closures for Events (Flow Diagram)
2. Proposed Temporary Road Closure Impact Report (PTRCIR Template)
3. Public Notice “Proposal to Close Road(s)” (Form A Template)
4. Public Notice “Closure of Road(s)” (Form B Template)

1. Process for Temporary Road Closures for Events (Flow Diagram)

Process for Temporary Road Closures for Events



Preparation phase

Consultation period

Approval phase, timing based on next date of Subcommittee meeting

Closure notification

Period(s) of Closure

Plan event and develop draft Traffic Management Plan (in consultation with affected stakeholders).

Infrastructure & Events Teams provide assistance, guidance and information as required.

Issue public notice (FORM A) in at least one newspaper circulating in the locality in which the road is situated.

Modify Event Plan and Temporary Traffic Management Plan to manage objections as appropriate

Receive objections from members of public and consult with police.

Log proposal in Temporary Road Closures Register.

Prepare Proposed Temporary Road Closure Impact Report (with assistance from Events Team).

Subcommittee meets to consider proposal (minutes prepared by Democratic Services).

Update Temporary Road Closures Register.

Prepare "Letter of Approval" or letter stating that the proposed closure was declined providing reasons.

If Declined

If Approved

Pay bond to WCC if required.

Issue public notice (FORM B) in at least one newspaper circulating in the locality in which the road is situated.

Run event, implementing Traffic Management Plan.

Monitor traffic impact of closure and intervene if congestion becomes unreasonable.

Clean site and repair any damage caused by event.

Inspect site and return any bond once all cleaning and remedial works have been completed.

Carry out post-event debrief and attach results to Temporary Road Closures Register.

2. Proposed Temporary Road Closure Impact Report (PTRCIR Template)

**PROPOSED TEMPORARY ROAD CLOSURE
IMPACT REPORT:**

[INSERT NAME OF EVENT]

1. Description of Event

[Information to be provided by the Event Organiser]

Describe the details and purpose of the proposed event, including:

- Organiser name
- Event location and dates
- Likely attendance (type and quantity)
- Historic occurrences
- Proposed road closures

2. City Events Support

[To be completed by the City Events Team]

Describe whether the proposed event:

- Is supported by the Wellington City Council or not
- Contributes to any WCC strategies and/or policies
- Fits in or conflicts with the WCC events calendar

3. Proposal Notice

[To be completed by Infrastructure]

The public notice that the Council was proposing to consider this closure was published in the following newspapers:

- List newspaper name and date

4. Objections

[To be completed by Infrastructure]

[The following/No] objections were received in response to the proposal notice:

- List basis of objections, objector, how objection has or can be managed, and whether objector wants to present to the Subcommittee

5. Traffic Impact Assessment

[To be completed by Infrastructure]

Prior Closures

None of the proposed closures for this event will result in a road being closed for an aggregate of more than 31 days in any year.

OR

There are several events proposing to close **[insert name of road]** which will, if all approved, cause this road to be closed for more than 31 days in the **[20## Calendar Year]**. One or more of these proposed events must be declined:

- **[List events]**

OR

The proposed closure will result in **[insert name of road]** being closed for events for more than 31 days in the **[20## Calendar Year]** and this proposal can therefore not be considered for approval.

Duration of Closure

The proposal intends to close the road for a period or series of periods of **[not more/more]** than 12 hours each in any consecutive 24 hours and therefore **[should/should not]** be considered for approval.

- Xxx

Traffic Impact

In the opinion of **[insert name and title]**, acting as the Council's Traffic Engineer, the proposed closure, if implemented according to the plans provided, is not likely to impede traffic unreasonably. However, the Council reserves the right to modify this opinion at any time. If, in the opinion of the Council, the closure may or does impede traffic unreasonably, any approval granted by the Temporary Road Closures Subcommittee may be revoked and the event organiser may be required to open the road at the direction of a suitably qualified Council officer in charge of traffic.

OR

In the opinion of **[insert name and title]**, acting as the Council's Traffic Engineer, the proposed closure, if implemented according to the plans provided, is likely to result in unreasonable traffic impact for the following locations and reasons and this proposal may therefore not be considered for approval:

- **[List locations and reasons]**

Signed:

Title:

ATTACHMENTS

- Copy of proposal notice(s) from newspaper(s)
- Written objections

Prepared By:

Helen Ray
Street Activities Coordinator

Endorsed By:

John Dawson
Manager, City Events

3. Public Notice “Proposal to Close Road(s)” (Form A Template)

Proposal to Close Road(s)

PURSUANT to the Local Government Act 1974 Schedule 10 Clause 11(e), notice is hereby given that the Wellington City Council, for the purpose of **[state purpose]**, proposes to close the following road(s) to ordinary traffic for the period(s) indicated:

- Road Name | from (location) | to (location) | is proposed to be closed to [vehicular and/or pedestrian] traffic from (date and time) | to (date and time)
- Road Name | from (location) | to (location) | is proposed to be closed to [vehicular and/or pedestrian] traffic from (date and time) | to (date and time)
[Repeat for each section and period of road to be closed]

During the proposed period(s) of closure the following provision will be made for ordinary traffic which would otherwise use the road(s):
[Explain provisions for alternate access]

Any person objecting to this proposal is called upon to lodge a notice of objection and grounds thereof in writing, before [Date] [date must be a suitable number of days prior to the Subcommittee meeting].

Submissions are to be addressed to the Street Activities Coordinator and be sent to the address shown below.

**Wellington City Council, 101 Wakefield Street,
PO Box 2199, Wellington • www.Wellington.govt.nz**

4. Public Notice “Closure of Road(s)” (Form B Template)

Closure of Road(s)

PURSUANT to the Local Government Act 1974 Schedule 10 Clause 11(e), notice is hereby given that for the purpose of [state purpose], the following road(s) will be closed to ordinary traffic for the period(s) indicated:

- Road Name | from (location) | to (location) | will be closed to [vehicular and/or pedestrian] traffic from (date and time) | to (date and time)
- Road Name | from (location) | to (location) | will be closed to [vehicular and/or pedestrian] traffic from (date and time) | to (date and time)
[Repeat for each section and period of road to be closed]

During the proposed period(s) of closure the following provision will be made for ordinary traffic which would otherwise use the road(s):
[Explain provisions for alternate access]

It will be an offence under the above Act for any person otherwise than under authority of an authorised permit to use the road(s) for ordinary traffic during the period(s) of closure.