
ORDINARY MEETING

OF

CITY STRATEGY COMMITTEE

AGENDA

Time: 9:30 am
Date: Thursday, 5 October 2017
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

MEMBERSHIP

Mayor Lester
Councillor Calvert
Councillor Calvi-Freeman
Councillor Dawson
Councillor Day
Councillor Eagle
Councillor Foster
Councillor Free
Councillor Gilbert
Councillor Lee
Councillor Marsh
Councillor Pannett (Chair)
Councillor Sparrow
Councillor Woolf
Councillor Young

NON-VOTING MEMBERS

Te Rūnanga o Toa Rangatira Incorporated
Port Nicholson Block Settlement Trust

Have your say!

You can make a short presentation to the Councillors at this meeting. Please let us know by noon the working day before the meeting. You can do this either by phoning 803-8334, emailing public.participation@wcc.govt.nz or writing to Democratic Services, Wellington City Council, PO Box 2199, Wellington, giving your name, phone number and the issue you would like to talk about.

AREA OF FOCUS

The role of the City Strategy Committee is to set the broad vision and direction of the city, determine specific outcomes that need to be met to deliver on that vision, and set in place the strategies and policies, bylaws and regulations, and work programmes to achieve those goals.

In determining and shaping the strategies, policies, regulations, and work programme of the Council, the Committee takes a holistic approach to ensure there is strong alignment between the objectives and work programmes of the seven strategic areas of Council, including:

- Environment and Infrastructure – delivering quality infrastructure to support healthy and sustainable living, protecting biodiversity and transitioning to a low carbon city
- Economic Development – promoting the city, attracting talent, keeping the city lively and raising the city's overall prosperity
- Cultural Wellbeing – enabling the city's creative communities to thrive, and supporting the city's galleries and museums to entertain and educate residents and visitors
- Social and Recreation – providing facilities and recreation opportunities to all to support quality living and healthy lifestyles
- Urban Development – making the city an attractive place to live, work and play, protecting its heritage and accommodating for growth
- Transport – ensuring people and goods move efficiently to and through the city
- Governance and Finance – building trust and confidence in decision-making by keeping residents informed, involved in decision-making, and ensuring residents receive value for money services.

The City Strategy Committee also determines what role the Council should play to achieve its objectives including: Service delivery, Funder, Regulator, Facilitator, Advocate

The City Strategy Committee works closely with the Long-term and Annual Plan committee to achieve its objectives.

Quorum: 8 members

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1 Meeting Conduct

1.1 Apologies

The Chairperson invites notice from members of apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

1.2 Conflict of Interest Declarations

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

1.3 Confirmation of Minutes

The minutes of the meeting held on 27 September 2017 will be put to the City Strategy Committee for confirmation.

1.4 Public Participation

A maximum of 60 minutes is set aside for public participation at the commencement of any meeting of the Council or committee that is open to the public. Under Standing Order 3.23.3 a written, oral or electronic application to address the meeting setting forth the subject, is required to be lodged with the Chief Executive by 12.00 noon of the working day prior to the meeting concerned, and subsequently approved by the Chairperson.

1.5 Items not on the Agenda

The Chairperson will give notice of items not on the agenda as follows:

Matters Requiring Urgent Attention as Determined by Resolution of the City Strategy Committee.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor Matters relating to the General Business of the City Strategy Committee.

No resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the City Strategy Committee for further discussion.

2. Policy

PUBLIC PLACES BYLAW REVIEW

Purpose

1. The purpose of this report is to recommend to the City Strategy Committee that a bylaw is the most appropriate way of addressing issues relating to public safety and nuisance, and that the Committee approve the proposed bylaw and Statement of Proposal for consultation.

Summary

2. The Public Places Bylaw is a bylaw made under the Local Government Act 2002 ('the Act'). It is a statutory requirement under section 159 of the Act that any local authority who has made a bylaw is required to conduct a review every ten years. Wellington City Council's Bylaw must be reviewed prior to the 31st of July 2018.
3. The Public Places Bylaw is made under sections 145 and 146 of the Act.
4. The Bylaw enables the Council to:
 - set controls to manage the perceived problems from activities or uses that give rise to nuisance and inappropriate behaviour which impacts on public safety;
 - set controls on activities that cause obstructions and damage to public places;
 - provide controls on the use of cemeteries, beaches, reserves, local and regional parks (including the Town Belt); and
 - manage trading in public places.
5. In early 2017, policy staff conducted a review of the bylaw including:
 - stakeholder engagement workshops;
 - a broad analysis of all issues;
 - a review of the bylaw structure; and
 - other changes required to bring the bylaw up to date.
 - The review identified issues relating to the capacity of freedom camping sites across the city, and damage to public places from other activities.
6. The proposed changes to existing provisions are to:
 - extend the capacity for freedom camping at the existing Evan's Bay site for up to a further 30 parking bays for self-contained vehicles only;
 - amended powers to manage damage to public places (including parks); and
 - improve the drafting and structure of the bylaw, as detailed in this report.

Recommendations

That the City Strategy Committee:

1. Receive the proposed bylaw and statement of proposal.
2. Approve the proposed bylaw and statement of proposal for public consultation.
3. Agree that a bylaw restricting or banning begging is not the most appropriate way of addressing the issue.
4. Agree to delegate to the Chief Executive and the Chair of the City Strategy Committee,

the authority to amend the proposed Statement of Proposal to include any amendments agreed by the Committee and any associated minor consequential edits.

Background

7. Any bylaw made must determine under section 155 of the Act that any proposed bylaw:
 - a. Be the most appropriate way of addressing the issue;
 - b. Satisfy a legal test of a being a 'reasonable restriction of human rights and freedoms'.
 - c. not be inconsistent with the New Zealand Bill of Rights Act 1990.
8. The Public Places Bylaw enables the Council to set controls on:
 - activities and nuisance behaviours in public places including roads, parks, beaches, cemeteries and other council property
 - display of articles and trading
 - temporary advertising signage on Council property
 - freedom camping
 - removing or damaging sand, soil or other matter
 - vehicle crossing construction and access
 - encroachments; and
 - fences.
9. The Timeline for the Public Places Bylaw review is as follows:

Milestones	Start Date 2017	End Date 2017/18
6 stakeholder engagement workshops held on key issues	March	April
Workshop with Councillors on key issues and approach	June 28th	
Proposed Bylaw and statement of proposal to Committee	October 5th	
Public consultation on the proposed bylaw (Special consultative procedure, 31 days)	October	November
Hearings, changes to proposed bylaw, and drafting of final report	November	
Submit recommendations on final versions of bylaw to the Committee and adopt bylaw.	December	

Discussion

Proposed Changes

10. Internal stakeholder engagement raised a number of issues, particularly around the use of parks and capacity of freedom camping sites within Wellington City.
11. In order to make a change to a bylaw, a clear evidence-based problem must be identified. Under section 155 of the Act, a bylaw must be the most appropriate way of addressing the issue and a proportionate response to the problem.
12. Changes to the bylaw are recommended to address the following issues.

Freedom Camping

Issue 1: Current freedom camping capacity does not meet current and projected demand.

13. The Council currently has 61 freedom camping spaces at restricted sites. Currently our peak demand is about 85 during November – March. We will require a total of 96 spots by 2020 to meet a projected four percent increase in demand. Thirty additional sites will be required to meet projected average demand for summer 2020.

Approach

14. Pre-engagement workshops with Council staff investigated the policy issues around freedom camping in the region. The main issue raised was how and where to increase capacity across the city to address the projected increase in demand for freedom camping.
15. Staff assessed the demand for freedom camping including investigating options to identify camping and freedom camping sites within the city. The existing Evan’s Bay Marina freedom camping site was identified as the most appropriate site to provide additional capacity.

Evidence

16. In 2016, an independent research report by TRC Tourism Ltd for Wellington City Council highlighted that there is growing demand for freedom campers in Wellington City. A summary of findings illustrated that:
 - Wellington will have a continued demand for 1–2 night stays;
 - the average demand is for 55 vans/night: 30 non self-contained and 25 self-contained; and,
 - demand peaks at approximately 70–100 camping vehicles per night during November – March.
17. Forecast peak demand for growth is based on three scenarios:
 - low growth at 2% which will require capacity for a further 40 - 50 vans/night;
 - medium growth at 4% for a further 50 - 60 vans/night; or,
 - high growth at 8% seeing a further 70 - 80 vans/night.
18. The current proposal is based on the medium growth scenario. The medium growth option was chosen as this is in line with future tourism growth for New Zealand.
19. Council has recently lost the capacity of 40 self-contained parks as a result of the closure of the Waterfront Motor Park. This was established temporarily in 2011 for the Rugby World Cup.

Sites considered

20. Two types of controls were considered to address the issue of increasing capacity across the city. Staff considered whether sites were either suited for either a permanent expansion, or for managing seasonal overflow.

Recommended

Evan’s Bay	The existing site has 45 freedom camping spaces. It is a well-established, highly desirable coastal site at a marina carpark, close to the CBD, the airport and other city attractions. There are good public transport connections within walking distance to
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	the Kilbirnie shops, pool, library and other facilities.
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Not recommended

Owhiro Bay/Te Kopahou	<p>This existing site has 16 freedom camping spaces. Previously this area had an additional 46 camping spaces.</p> <p>The bylaw was amended in 2015 to further restrict the capacity of the site due to issues with overcrowding which restricted the public's access to the site.</p> <p>A change to the capacity of this site would likely reignite previous public access issues and is not recommended.</p>
Kilbirnie Park (former Bowling Club)	<p>This site was considered as potentially suitable for seasonal overflow.</p> <p>This site presented too many operational challenges to become a successful freedom camping site as it would require significant capital investment to upgrade the area to make suitable for camping.</p> <p>Note that it is currently a prohibited camping area under the Suburban Reserves Management Plan.</p>
Happy Valley	<p>In 2015, a site at the northern end of Happy Valley Park was considered for its suitability for a camping ground. The public consultation process however showed strong local opposition to this site.</p> <p>This site would also require significant capital investment to upgrade the areas to make it suitable for freedom camping.</p> <p>It is also a site where camping is currently prohibited under the Suburban Reserves Management Plan.</p> <p>It is not proposed that there should be any attempt to re-consult over this location as a potential site.</p>
Princess Bay	<p>There is potential for seasonal overflow parking at this site, however the available area is small and has limited facilities.</p> <p>Due to the narrow configuration of the site there is a strong possibility that campers could dominate the use of the area and restrict the public's access to the site.</p> <p>It is another site where camping is prohibited under the South Coast Management Plan.</p>
Lyllall Bay Road Reserve	<p>A small site was investigated between the main road and building on the road reserve. There is potential for seasonal overflow camping, as it is also a small site with limited facilities.</p> <p>Camping is currently prohibited at this site under the South Coast Management Plan.</p> <p>This site has also been identified for alternative use under the Resilience Project so is not recommended to pursue this as a freedom camping site.</p>
Freyberg Car Park (at back of pool)	<p>Small site, central location and walking distance to CBD. Scenic and nice amenity.</p> <p>Has power on site for 5 vans, and could have a potential to impact on local access to the area including the pool/ fitness centres facilities.</p> <p>This site is not recommended due to the potential impact on the local residents and nearby amenities.</p>

Summary

21. Smaller sites with the potential for managing seasonal overflow are not recommended as solutions to managing capacity long-term.
22. Any sites where camping is currently prohibited under Reserves Management Plans would require a change in order to make a bylaw allowing freedom camping in reserves land. The current approach is to prohibit freedom camping in reserves unless permission has been granted for education purposes. Therefore, any sites where camping is prohibited under a reserves management plan are unsuitable at this stage.
23. Extending the Evan's Bay site by up to 30 camping spaces will help manage Wellington's projections for peak demand by 2020. Refer to Attachment 4 for a proposed extension of the Evan's Bay freedom camping site.

Recommended approach

Expand the size of the current Evan's Bay Marina freedom camping site by up to 30 extra parking bays to reflect current use and allow for increased capacity as a popular freedom camping destination (for certified self-contained vehicles only).

Evidence

24. Capacity models show that Evan's Bay has the most readily available extra capacity as part of the Marina car park. It is fee simple land making it the most appropriate site to expand.
25. Providing an additional 30 parks at Evan's Bay Marina site could allow for up to 60 travellers (assuming 2 travellers per vehicle) for 120 days of summer peak season. A 2016 international visitors survey conducted by MBIE on the economic benefits of hosting freedom campers shows that on average campers spend around \$100 a day per person in the local economy. This equates to up to \$720,000 benefit for the local Wellington economy during the peak summer season.
26. The Evan's Bay Marina Tenancy Group have been informed of the proposed changes to the freedom camping restricted areas and have no objections to the extending the available space. They also welcome the Council's proposal to provide additional toilet and shower facilities and are aware that this relies on securing funds.
27. The New Zealand Motor Caravan Association (NZMCA) have identified that Evan's Bay is a popular and desirable location for their users and have committed \$11,000 towards upgrading the existing dump station where self-contained vehicles can empty wastewater at this site.

Risk

28. Residents will need to be communicated with effectively during public consultation. Haitaitai Residents Associations and St Patricks College have been made aware of the proposal as part of pre-consultation. Letters were also delivered to about 70 residents opposite and overlooking the freedom camping site at Evan's Bay, including residents along Evans Bay Parade and Overtoun Terrace. We received two responses expressing concern about campers taking up car parking spaces and having to look over the camping site. There was also a perception that the camping site reduces property values in the area.

Implementation cost

29. The proposed site would require the installation of parking sensors. 90% of freedom campers use the Campermate mobile app to find real-time camping availability. The benefit of installing sensors will allow both the Council and the Campermate mobile app to provide real-time information of availability direct to users.
30. Extending the site is also a good opportunity to reconfigure the parks for optimum use. Some larger self-contained vehicles are camping partly outside the current designated freedom camping zone.
31. Even though Evan's Bay is a site only for self-contained camping vehicles, extra toilet and shower facilities would improve the quality of the experience for campers. A funding application has recently been made to the Ministry of Business, Innovation and Employment (MBIE), Tourism Infrastructure Fund for \$110,000 to cover the cost to install toilet and shower facilities. MBIE has confirmed our application meets the eligibility criteria, and will now be considered by a Panel against the assessment criteria. The Council will be informed of the outcome at the end of the year.
32. If the funding application is successful, Council would contribution one of the ex-Wellington Waterfront Motor Park toilet and shower facilities – containing 3x toilet/shower units and one additional toilet unit.
33. A nominal fee to campers will be charged to cover cleaning and maintenance costs.

Enforcement approach

34. Our current approach for all freedom camping issues and offences is to educate campers about prohibited areas and restrictions on freedom camping in Wellington. We promote alternative suitable sites and responsible camping practices. Infringement notices would only be issued in more serious cases of non-compliance or breach of the bylaw. An infringement fine of up to \$200 per offence is available under the Freedom Camping Act 2011.

Most appropriate way of addressing the issue

35. A bylaw made under the Freedom Camping Act 2011 (within the Public Places Bylaw) is the most appropriate way to address these issues.

Issue 2: Damage of any thing from or in a public place

36. There are two main issues relating to causing damage to public property.
 - A. The current bylaw as it is drafted only prohibits the removal of any thing such as soil, sand, gravel, rock, flora, fauna etc.. and does not clearly specify that those things also cannot be disturbed or damaged within the park or public place.
 - B. There is no sufficient power to state that any person may not cause damage to a public place which may cause a nuisance to any person.

Recommended approach

37. A change is required to clarify that no thing may be either removed, disturbed or damaged as is consistent with the intention of the power. The addition of the words 'disturbed' and 'damage' more clearly provides the Council with the power to regulate damage.

Issue 2. A

38. 'Damage' also clarifies more broadly that no council property may be deliberately damaged. The new provision 22.3 below is added to address the issues which were raised during engagement with staff which included:
 - prohibiting fatally damaging any eel;

- disturbing or damaging vegetation; and
- damaging the grass berm or any other thing.

Evidence

39. There have been approximately four cases in the past two years (and further unreported and anecdotal cases) of members of the public fatally injuring eels in parks and reserves. These complaints also include members of the public witnessing eel fishing, discovering dead eels and fish offal despite signage that this is an offence under the bylaw.

Proposed revised clause

40. *22.3 (s) No person may disturb, damage or remove from a public place any soil, sand, gravel, rock, flora, fish, fauna, or any naturally occurring thing without having obtained prior written approval from the Council.*

Issue 2.B

41. An additional provision is required to specify that it is an offence to disturb or damage a public place in a way which is likely to cause a nuisance to another person. This change is to address the issues raised during engagement with staff which include:
- damage to sports fields;
 - the unauthorised storing or placement of any material in a public place;
 - private planting in parks and reserves;
 - unauthorised digging of tracks in parks and reserves; and
 - clarification that it is an offence for any person to cause damage to a public place without prior permission from the Council.

Evidence

42. There are a number of cases of damage occurring to the ground surface in parks caused by activities such as unauthorised digging, sports games, the encroachment of private gardens into parks and the storing of materials in a public place.

Proposed new clause

43. *22.3 (t) No person may disturb or damage a surface in a manner which is likely to be injurious to or cause a nuisance to any person, or to cause damage to that public place without having obtained prior written approval from the Council.*
44. The above list of issues is representative of the most common occurrences of damage to a park or reserve. However, this provision has been purposely drafted to be broad as it would not be practical, nor is it foreseeable to specify all the ways in which a public place may be damaged. Both these proposed changes are consistent with the purpose of the bylaw to prescribe controls against causing damage to public places and is the most appropriate way to address the issue.

Most appropriate way of addressing the issue

45. This revised wording under the Public Places Bylaw made under the Local Government Act 2002 is the most appropriate way of addressing the issue.

Minor Changes

Enabling powers

46. The bylaw has been drafted to have consistent enabling powers. The three types of enabling provisions are designed to:
- enable the Council to set controls by resolution;
 - enable officer decision-making to approve permits and licences; and
 - enable authorised officers the discretion to make decisions.

Clarification of powers made under other enactments

47. For clarity, the proposed bylaw specifies the provisions made under other enactments. This assists interpretation, particularly where bylaw-making powers come from a number of pieces of legislation and where powers have moved from one piece of legislation to another.

Bylaw section	Type of provision	Legislation (bylaw making power) and infringements fines
12	Freedom Camping	Freedom Camping Act 2011 section 11 Infringement fines up to \$200 per offence
17 18 22(o)	Traffic Vehicle Access Vehicles on beaches	Land Transport Act 1998 section 22AB Infringement fines up to \$500 per offence
22(q)	Cleaning a fish	Litter Act 1979 section 12 Infringement fines up to \$400 per offence
10	Advertising commercial sex services	Prostitution Reform Act 2003 section 12 No infringement fines available

48. All other provisions are made under the Local Government Act 2002. No infringement fines are available under the Act for any other bylaw offences. The only available legal remedy is to pursue prosecution for up to \$20,000.

Structure

49. A new structure has been created to clearly group together the three main themes of the bylaw:

<ul style="list-style-type: none"> • Section One: Public Places 	<ul style="list-style-type: none"> • controls for general nuisance behaviours, predominantly for urban public places
<ul style="list-style-type: none"> • Section Two: Beaches, Cemeteries, Parks and Reserves 	<ul style="list-style-type: none"> • controls for parks, beaches and cemeteries (including freedom camping)
<ul style="list-style-type: none"> • Section Three: Property and Access 	<ul style="list-style-type: none"> • controls for road and property identification, encroachments, fences, traffic and construction.
<ul style="list-style-type: none"> • New section: Offences 	<ul style="list-style-type: none"> • A list of offences now appears at the end of the bylaw along with penalties under the Act.

Provisions

50. Many provisions have been re-drafted in clear and consistent language. No changes have been made to the meaning of any other provisions, with the exception of the recommended changes (Issues 1-3) and the following minor changes.
51. Minor changes include:
- Additional and updated definitions for: 'nuisance' as defined in the Health Act 1956, 'Cable Car Lane', 'beach', 'cemetery' and 'freedom camping' and removal of a former 'camping' definition prior to the Freedom Camping Act 2011 coming into force and 'signage';
 - Re-naming 'Hoardings' as 'Signage' for clarity;
 - Removal of notes and several operational requirements which were not appropriate or necessary as bylaw controls;

- Change to correct terminology: that smoking is prohibited in proximity to hazardous substances in any public place (replaces 'dangerous goods').
 - Provisions relating to an animal causing a nuisance and leading an animal in a public place have been removed in line with the newly revised Animals Bylaw which provides the appropriate powers for managing animals in public places. The Animals Bylaw was purposely drafted so that the controls relating to animals causing a nuisance in the Public Places Bylaw could be removed during this review.
52. Offences have been re-drafted in a consistent voice: 'no person may' to ensure that enabling powers are clearly understood by enforcement officers and that offences are able to be clearly interpreted and applied. Most of these offences were previously found in the body of the bylaw and many were not clearly identifiable as offences. Other clauses were not previously written as offences and clarification was required of the offence the bylaw was attempting to identify.

Other Issues considered

53. No changes to the bylaw are required to address the following issues managing nuisance behaviours in public places.

Issue 3: Vehicle window washing

Issue

54. The Council has received 2 complaints since 2014 relating to window washers operating on Council roads. The three main locations where window washers operate in Wellington are at intersections on State Highways under the control of NZTA: Vivian Street, Kent and Cambridge Terrace. The Council is not able to make a bylaw that applies to State Highways.

Recommended approach

55. No change is required to address the issue. Prosecutions are already possible under the bylaw for operating within the road corridor without a licence. No specific bylaw clause banning window washing is required.
56. A recent law change to the Land Transport (Road User Rule 2004) in August this year has made window washing an offence on any public road (section 11.6A Washing of Vehicles). This change allows the police to issue an infringement fine of \$150 directly from the Road User Rule without the need for a bylaw.

Most appropriate way of addressing the issue

57. Either:
- the Land Transport (Road User Rule) 2004 enforced by police; or,
 - if the Council chooses, the existing bylaw controls prohibiting operating in the road corridor without a licence; and
 - the Council working with enforcement partners to educate window washers.

Issue 4: The persistent behaviour of street appeal collectors

Recommended approach

58. No change is required. The perceived issue is that this behaviour can cause a nuisance to the general public. To manage this, the bylaw currently requires street appeal collectors to seek permission from the Council.
59. No further issues were raised during early engagement workshops relating to the behaviours of street appeal collectors.

60. The requirement of applying for permission is already addressed in the bylaw.

Most appropriate way of addressing the issue

61. The existing bylaw provisions remain the most appropriate way to address the issue under the Act.

Issue 5: Behaviour in cemeteries

Recommended approach

62. No change to the bylaw is required. Cemeteries are used as passive recreational spaces, for example walking, photography and genealogy. The Bylaw is already able to address any behaviours considered to be offensive or causing a nuisance to the public.

63. The Council currently has a policy on what activities are acceptable within a cemetery.

64. The Council's Commemorative Policy is due to be reviewed and can address any additional issues which fall outside of the scope of this bylaw review.

Most appropriate way of addressing the issue

65. The existing bylaw remains the most appropriate way to address the issue under the Act.

Issue 6: Cigarette butt litter

66. The littering of cigarette butts outside of a provided receptacle in a public place.

Recommended approach

67. It is not recommended to address the littering of cigarette butts with a bylaw. Cigarette butts fall within the broad definition of litter where the Council has an infringement regime in place under the Litter Act 1979. This regime already enables Council staff with the appropriate warrants to enforce litter offences directly from the Act without the need for a bylaw.

68. Enforcing cigarette butts is currently at officer discretion. In practice, enforcement requires an authorised officer actively witnessing a person discarding a cigarette butt. Typically, without this observation, it is both impractical and extremely onerous when determining who caused the offence and when it took place. Therefore, while the power is available to the Council, it is not the current approach to issue litter infringements for cigarette butt litter.

Most appropriate way to address the issue

69. The existing litter infringement regime remains the most appropriate way to address the issue under the Litter Act 1979.

No changes are recommended to address the following issues:

Issue 7: Begging

Issue

70. The public may feel intimidated or perceive that there is a threat to their personal safety where beggars are present on the street, particularly in the inner city.

Evidence

71. Over the last 18 months there has been an increase in the presence of begging in the CBD. This is supported anecdotally from community organisations, by the collection of qualitative data from the Local Hosts and via calls to the contact centre. On average, there are approximately 42 individuals begging each month.
72. Approximately seven complaints were received over this 18 month period regarding beggars directly asking members of the public for money. The Council has very few complaints of aggressive behaviour being directly associated with begging. The vast majority of CCTV observations are of passive behaviour.

Out of scope

73. Intimidation is a crime under section 21 of the Summary Offences Act 1981 and is enforceable by the Police. Regulating intimidating behaviour is beyond the powers of a Council bylaw and is out of scope for this review.
74. Homelessness is also out of scope of this bylaw review.

Recommended approach

75. Staff do not recommend that the Council address the issue of begging with a bylaw. Staff consider that to do so would not meet the legal tests to be most appropriate or proportionate way of addressing the problem.
76. Begging is part of a broader complex social issue around managing vulnerable people's wellbeing in society and their access to social support, health services and housing.
77. The reasons people beg are many and varied and are a reflection of wider societal issues coupled with the changing way support services are provided. This includes general social services, support for mental health and addiction clients and people released from prison. The Council has no direct role in influencing the delivery of these services, and issues surrounding providing support to these vulnerable people need to be addressed as part of a national debate.
78. There are however, a number of areas where the Council can influence outcomes (directly and indirectly) which can assist in reducing the presence of people begging in Wellington.
79. The first is to ensure that the individuals who beg have access to the services and programmes to address the underlying causes of why they beg. This includes advocacy with central government, government agencies, health providers and community organisations to support funding the delivery of services. This approach represents a collective inter-agency responsibility.
80. Second, the Council's role is to manage the street. The Council does not consider begging an acceptable behaviour and has taken other non-regulatory options to address the issue.
81. Issues related to those who are begging are most appropriately addressed by a variety of operational programmes run by the Council including the housing first approach.

Why a bylaw regulating begging is not recommended

82. A bylaw either restricting or banning begging would not be consistent with the Council's current strategic approach, and is therefore not the most appropriate option the Council has available to address the issue.

83. A bylaw to address the issue of begging would enable the council to either move on and displace individuals, or to pursue prosecutions through the courts. Neither of these enforcement mechanisms are considered appropriate. Moving on individuals would only displace them to another part of the city and does not address the issues surrounding why they beg. It is neither proportionate to the scope of the issue, appropriate or cost effective for the Council to attempt to prosecute individuals with a bylaw where a penalty for a breach of the Public Places Bylaw is up to \$20,000.

84. Further disadvantaging vulnerable people is not the council's intent. Therefore, a bylaw that would regulate begging is not consistent with the Council's wider intent of assisting vulnerable people.

Legal Risk

85. A bylaw that restricts or bans begging raises the risk of legal challenge by potentially placing unreasonable restrictions on an individual's freedom of movement and expression.

Most appropriate way to address the issue

86. No change to the bylaw is recommended. A bylaw restricting or banning begging is not considered the most appropriate way to address the issue.

Issue 8: Advertising on trailers

87. Staff have reported that trailers displaying advertising signage are frequently parked kerbside and often near intersections in a manner which prohibits vehicular movement, may block sight lines and may cause a distraction to drivers. The trailer itself cannot be towed simply for not complying with the signage rules as it is a legally parked vehicle and there is no current legal ability to immediately tow these trailers.

Recommended approach

88. No change is required to the existing signage rules applying to temporary signage in the Public Places Bylaw to address the issue. The Council's Signage Guidelines have adequate advertising restrictions in place regulating the types of signage.

89. The parking of a trailer in a public place is a traffic issue which can be investigated when the Traffic Bylaw is reviewed in 2018.

90. Trailers are classified as a vehicle under the Land Transport Act 1998, and it is only possible to set traffic restrictions under a Traffic Bylaw.

Most appropriate way to address the issue

91. No change is recommended to the Public Places Bylaw to address the issue.

Issue 9: Fish offal left in public places

92. Fish offal is often left in public places in parks, on beaches, boat ramps and food preparation areas and may cause a nuisance to those using the public place.

Recommended approach

93. No change is required to clarify that leaving offal behind as a result of gutting and cleaning a fish is likely to cause a potential nuisance to the public. This can be addressed either under the proposed changes to causing a nuisance in a public place, or as litter under the Litter Act 1979 as fish offal falls under the broad definition of litter, it can be enforced under the Litter Act 1979 by warranted Council officers.

Evidence

94. Feedback from staff was that the cleaning and gutting of fish often takes place in communal areas within parks and beaches, particularly on boat ramps and in food preparation areas. It is not considered a significant issue that would warrant a change to the bylaw or enforcement approach.

Most appropriate way of addressing the issue

95. A bylaw made under the Litter Act 1979 within the Public Places Bylaw remains the most appropriate way of addressing the issue. This allows for infringement fines to be issued of up to \$400.

Next Actions

96. The next actions are to:
- 1) Prepare Statement of Proposal booklets for public consultation to be made available in libraries and at Council information centres.
 - 2) Brief key stakeholders involved in initial engagement that public consultation on the proposed draft will be happening in due course.
 - 3) Undertake the special consultative procedure 31 day period of public consultation. During this period consult with the Environmental Advisory Group and community boards.
 - 4) Schedule hearings for any submitters who wish to be heard.
 - 5) Draft summary of submissions report including any recommended changes to the proposed bylaw.
 - 6) Report back to City Strategy Committee in December with a summary of submissions and the final version of the proposed bylaw. Seek approval that the City Strategy Committee recommend the Council adopt the proposed bylaw.

Attachments

Attachment 1.	Statement of Proposal	Page 27
Attachment 2.	Structural Changes	Page 35
Attachment 3.	Summary of Changes	Page 37
Attachment 4.	Proposed Bylaw	Page 48
Attachment 5.	Proposed extension to Evan's Bay Map	Page 60

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SUPPORTING INFORMATION

Engagement and Consultation

Workshops were held on key issues:

Workshop One: 13th March Street Activities (Busking, begging, sandwich boards, outdoor dining, use of the footpath).

Attendees: NZ Police, Corrections, Living Streets Aotearoa, Inner City Residents Association, Retail NZ, Te Mahana social outreach staff, internal council staff and senior legal counsel.

Apologies: Hospitality NZ, Ministry of Social Development.

Feedback summary:

- A more comprehensive definition of public nuisance is required to enable clear enforcement by the Police.
- Attendees agreed it is not appropriate to address begging with a bylaw. Begging and homelessness are complex social issues which require a joint effort across the public sector.
- Outdoor dining and sandwich boards were discussed as an acceptable use of the footpath. It is appropriate for conditions for outdoor furniture and signage to remain in the Footpath Management Policy.

Workshop Two: 20th March Behaviours and activities in parks, sports fields, cemeteries and beaches

Attendees: Park rangers, internal staff and senior legal counsel.

Apologies: NZ Police, Corrections.

Feedback summary:

- Recent investigation found that there was a shortage of freedom camping sites including problems with overcrowding. Consideration of reviewing the 4 night limit to 2.
- The bylaw is a useful tool for Park rangers to enforce nuisance behaviours.
- Clarification on council's powers to deal with escaped animals on parks and reserves and damage to sports fields.

Workshop Three: 29th March Signage and Window Washing

Attendees: NZ Police, Corrections, NZTA, internal staff and senior legal counsel.

Feedback summary:

- Clarify signage and hoarding definitions, update language for clarity.
- Greater enforcement is required to address issues with temporary signage and damage to council property.
- Advertising on vehicles can be addressed by a review of the Traffic Bylaw at a later date.
- Window washing is not an issue on public roads under the control of the Council. The Council has received 2 complaints in 3 years. The majority of intersections are on NZTA roads. A potential law change aims to enable the Police to issue infringements directly without the need for a bylaw.

Workshop Four: 6th April Weapons and offensive behaviours in public places

Attendees: Park rangers, internal staff and senior legal counsel.

Apologies: NZ Police, Corrections.

Feedback summary:

- Damage to sports turfs is an issue, as is conflicting use. e.g dangerous sports such as archery and drone flights taking place in dog exercise areas.
- Correct bylaw to clarify that permission will not be given to hunt in parks or reserves.

- Clarify Council's powers to deal with aggression and offensive behaviour.

Treaty of Waitangi considerations

Iwi's customary rights are not affected by this bylaw. Iwi Partnerships have reviewed the proposed documents and do not consider there to be any issues of concern for iwi. Iwi will be consulted with during the period of public consultation.

Financial implications

- Consultation: Costs associated with consultation will include the communications team producing information booklets, posters and newspaper notice to distribute to libraries around the region. We anticipate the total cost will be up to \$5000.
- Freedom camping: If the proposed extension of the Evan's Bay Marina freedom camping site was adopted, the cost of the proposed realignment and expansion at Evans's Bay freedom camping site could include the following:
 - Installation of car parking sensors - approximately \$15,000
 - Landscape screening - approximately \$15,000
 - New line markings – approximately \$5,000

Risks / legal

This review has been triggered by the statutory requirement to review the bylaw every 10 years.

An in-house legal review has been undertaken of the proposed bylaw.

An external legal review may be sought before adopting the proposed bylaw if there are any outstanding issues staff that require further legal advice.

The legal risk is the most relevant concern to reviewing a bylaw. The review process increases the visibility of the bylaw. The bylaw review has the potential to open the Council to debate concerning the legality of the proposed restrictions.

This review relates to the appropriateness of both existing and new controls. Staff consider that the nature of the proposed changes are low risk.

Health and Safety Impact considered

- **Climate change**
- There are no climate change considerations for this project.

Policy implications

Existing Council Policies	Implications
Footpath Management Policy	<ul style="list-style-type: none"> • Provisions in the Footpath Management Policy on sandwich boards were considered appropriate to remain in the policy and not become part of the bylaw. • Outdoor dining is currently addressed in both the policy and the bylaw. • The Policy was also discussed at the bylaw workshops as there are a number of overlapping issues. • The underlying design principles of the Footpath Management Policy are due to be reviewed in 2018 alongside the development of the Urban Design Guide.
Wellington Smokefree Action Plan (SWAP) and future Smokefree Strategy	<ul style="list-style-type: none"> • The Smoke free Wellington Action Plan (SWAP) and future Smoke free Strategy to be developed in 2018 is considered the most appropriate way to target and

	<p>communicate wider behaviour change around smoking.</p> <ul style="list-style-type: none"> The Council is not able to ban smoking in public places with a bylaw as smoking is a legal activity and to do so would present a conflict with the Bill of Rights.
Guidelines for Temporary Signage in Public Places	<ul style="list-style-type: none"> The Guidelines are current the Council's reference mechanism for staff and public guidance on applications, approval and conditions. The bylaw is the enforcement mechanism for offences under the Guidelines. The Guidelines define that is an offence under the Public Places Bylaw to place posters on any Council ornament, statue, structure, building or facility in a public place without the Council's prior approval. The Guidelines were considered during the bylaw review process to be still fit for purpose and up to date. Issues raised by staff were related to enforcement which can be addressed by operational changes.
Commemorative Policies	<ul style="list-style-type: none"> The Council has a number of Commemorative Policies to assist with the management of memorials. The bylaw sets controls on appropriate use of cemeteries. The Policies are the most appropriate way to provide guidance for acceptable activities in cemeteries and will be reviewed in due course.

Legislative Implications

Legislation	Implications
Local Government Act 2002	The bylaw is made pursuant to the Local Government Act 2002.
Freedom Camping Act 2011	The freedom camping section of the bylaw is made pursuant to the Freedom Camping Act 2011.
Litter Act 1979	The bylaw control relating to the cleaning of fish in a public place is made pursuant to the Litter Act 1979.
Land Transport (Road User Rule) 2004 Section 11.6A Washing of Vehicles	<ul style="list-style-type: none"> A law was passed in August 2017 during the course of this review which made vehicle window washing an offence under the Land Transport (Road User Rule) 2004. The current bylaw provision requiring a permit to work in the road is not legally repugnant and can still exist alongside the new legislation. The Council does not need to enforce window washing with a bylaw and may choose to let the Police directly enforce the behaviour by issuing infringement fines under the Road User Rule.
Land Transport Act 1998	<ul style="list-style-type: none"> An amendment to the Land Transport Act in 2011 updated the bylaw-making powers previously in the Local Government Act 1974 and moved these powers to the Land Transport Act 1998 section 22AB. Relevant sections in this bylaw which are now made under the LTA 1998 section 22AB relate to Traffic in public places, vehicle access and prohibiting vehicles on beaches. A new section has been added to the introduction of the bylaw to clarify that these provisions are made under the LTA 1998.

Communications Plan for the Public Places Bylaw Consultation

1) Freedom Camping

Key messages for public consultation

Why are the Council proposing changes? What does Wellington need long-term?

- Peak demand is approximately 70–100 camping vehicles per night during November – March.
- We currently have 65 sites around the city.
- Wellington's peak demand is likely be around 96 sites by 2020 based on moderate growth to meet projected demand of 2 – 4%
- Short to medium, by building freedom camping sites around the city we are also building our capability for hosting major events which brings significant economic benefits to the city.

Key messages for Evans Bay public consultation

- Evans Bay is the most appropriate site to increase capacity.
- The site requires reconfiguration to best fit larger vehicles which will increase the number of parks from approximately 45 up to a maximum of 75.
- This proposed change will formalise what is already happening on site where vehicles are parking over the existing designated area.
- By extending the site we would be able to allow for up to an additional 30 camping spaces, including additional 10+ large camper vans for certified self-contained vehicles only.
- Staff have applied for central government funding towards providing toilet and shower facilities. These would be charged at a nominal fee to campers to cover maintenance and cleansing costs.

What are we doing to preserve the amenity of the area?

- Staff are currently investigating screening to provide a divide between Evan's Bay Parade and the freedom camping area;
- identifying where the marina tenants require turning area; and
- ensuring that marina tenants maintain their current parking spots close to Pier 3 and are not significantly affected by the proposed larger site.

Questions for public consultation

- Q. 1 Do you support the proposed extension of the Evan's Bay Marina freedom camping site?
- Q. 2 Do you think the balance of providing for an additional 10 large vehicle sites, and 20 standard sites is appropriate?
- Q.3 What other comments do you wish to make on any part of the bylaw?

2) Damage to public places

Why are the Council proposing changes?

- The Council is proposing additional wording to provisions around the use of public places to address issues relating to damage.
- The existing provisions were inadequate to address existing issues around damaging and injuring eels, damaging parks and sports fields and vegetation.

Key messages for public consultation

- It is a breach of the bylaw to fish or injure eels in Wellington. The proposed change to the bylaw provision will clarify this.
- Introducing a new provision making it an offence to damage a public place in a manner likely to cause a nuisance or injury to any person reinforces that nuisance behaviours are not permitted in public places and that the Council may prosecute for significant damage to public places.

3) Begging in public places

Key messages for public consultation

- The Council is not proposing to introduce any bylaw controls to address begging. To do so would be inconsistent with other Council programmes which aim to assist vulnerable people.

Communications channels and engagement methods - overview	
Stakeholders	Key stakeholders and staff were involved in pre-engagement to scope any issues. These stakeholders will be sent an update prior to public consultation making them aware that the bylaw will be soon available for the public to make submissions.
Internal staff	Internal staff were involved in stakeholder workshops in March and April of 2017.
Mayor/Councillors	The Mayor and Councillors were briefed in June 2017 on the progress of the bylaw review.
Council Advisory Groups	Staff will present a summary of the changes to the bylaw to the Environmental Reference Group. Any other feedback from other advisory groups can be collected during the period of public consultation.
Council Community Boards	We will present a summary of the proposed changes to community boards during the period of public consultation making them aware they may make a submission on the bylaw.
Mana whenua iwi entities Māori community stakeholders	The bylaw does not affect iwi's customary rights. However, a summary of proposed changes has been discussed internally with the Māori engagement liaison and feedback has been incorporated in this report.
Residents' Associations	The Inner City Residents Association was involved in initial workshops in March which focusses on issues in the CBD. All other business associations will be notified of a pending public consultation and the opportunity to make a submission.
Other key stakeholders	NZ Police and Corrections were involved in pre-engagement workshops and their feedback for best practice on managing the enforcement and

	management of nuisance behaviours was incorporated into this review.
General Public	The general public will have the opportunity to submit during the period of public consultation.

Hearings and a report summarising submissions

Following a period of public consultation, oral hearings will be held if submitters request the opportunity to be heard. A report summarising all submissions will be made publically available which will inform the public of the outcome of submissions on the final draft.

Attachment 1: Statement of Proposal

Public Places Bylaw Review—2017

Summary of information

This statement of proposal outlines the review of the Council's Public Places Bylaw.

All bylaws made under the Local Government Act 2002 (the Act) must be reviewed every ten years. The Public Places Bylaw is due for review by July 2018. The review is composed of an analysis of current issues by Council staff, followed by a public consultation on the proposed bylaw.

The Public Places Bylaw is made under the Act and allows the Council to set controls on activities in public places which may cause a nuisance, relate to the use of any public place including the road, cemeteries, beaches and local and regional parks.

The Public Places Bylaw also contains bylaws made under other acts including freedom camping (Freedom Camping Act 2011), vehicles in public places (Land Transport Act 1998), litter (Litter Act 1979) and advertising signage for commercial sex premises (Prostitution Reform Act 2003).

The Council has conducted a review and found that a bylaw remains the most appropriate way to regulate behaviours in public places.

To address issues relating in public places in Wellington, proposed changes to the bylaw include:

- an extension to the Evan's Bay freedom camping site;
- amended powers to manage damage to public places; and
- other minor changes for clarity.

The findings of the review are summarised in this statement of proposal document. Also included are a summary of structural changes and the reasons for the changes and a copy of the proposed bylaw.

The process and timeframe for review

The proposed bylaw review assessment and amendments have been developed by the Policy team through internal consultation with Council officers and key external stakeholders.

External consultation will be undertaken in accordance with the special consultative procedure required under the Act.

Dates	Activity
5th October	City Strategy Committee considers this statement of proposal and decides whether to send this proposal out for external consultation
31 days (Proposed Oct 30th to 29th November).	Period of public consultation
November Date TBC	City Strategy Committee considers the report on all written and oral submissions and decides whether to adopt the proposal bylaw.
December Date TBC	The Bylaw is adopted and comes into force.

Have your say

The Council is keen to know what residents, ratepayers and stakeholders think about the review and the proposed changes. All parts of the bylaw are open to comment regardless of whether changes are proposed.

Please make a submission online at www.wellington.govt.nz, or email your submission to policy.submission@wcc.govt.nz, or complete the attached submission form and send it to: Public Places Bylaw Review, Freepost, Wellington City Council, PO Box 2199, Wellington.

You can get more copies online at www.wellington.govt.nz, the Service Centre, libraries and by emailing policy.submission@wcc.govt.nz or phoning (04) 499 4444.

Public consultation beings on 30th October and closes on the 29th of November at 5pm.

Questions:

Q. 1 Do you support the proposed extension of the Evan's Bay freedom camping site? Yes/No. Comments

Q. 2 Do you think the balance of providing for an additional 10 large vehicle sites, and 20 standard sites is appropriate? Yes/No. Comments

Q. 3 Are there any other comments you wish to make on any part of the bylaw? Comments

Please indicate whether you wish to make an oral submission to the city councillors.

1. Introduction and reason for the proposal

This statement of proposal outlines the review of the Council's Public Places Bylaw.

All bylaws made under the Local Government Act 2002 (the Act) must be reviewed every ten years. The Public Places Bylaw is due for review by July 2018. The review is composed of analysis by Council, followed by public consultation on findings and proposals.

The Public Places Bylaw is made under the Act and allows the Council to set controls on activities in public places which may cause a nuisance, relate to the use of any public place including the road, cemeteries, beaches and local and regional parks.

The Public Places Bylaw also contains bylaws made under other acts including freedom camping, vehicles in public places, litter and advertising signage for commercial sex premises.

The Council has reviewed the Bylaw and found it remains the most appropriate way to regulate behaviours in public places.

To address issues relating in public places in Wellington, proposed changes to the bylaw include:

- an extension to the Evan's Bay freedom camping site;
- amended powers to manage damage to public places; and
- other minor changes for clarity.

The findings of the review are summarised in this statement of proposal document. Also included are a summary of structural changes and the reasons for the changes and a copy of the proposed bylaw.

The Council has proposed amendments to the Public Places Bylaw in order to:

- ensure that the bylaw is fit for purpose;
- ensure that the offences and breaches of the bylaw are clearly identifiable;
- update the meaning and interpretation of definitions and a number of provisions; and
- make minor clarifications and remove outdated references.

This document contains:

- background information;
- process and proposed timeline for proposed bylaw amendments;
- bylaw review proposals;
- New Zealand Bill of Rights Act implications; and
- the proposed draft bylaw.

2. Background

This section describes the public places bylaw and review requirements.

The Public Places Bylaw provides the Council with the powers to:

1. set controls to manage the perceived problems from activities or uses that give rise to nuisance and inappropriate behaviour which impact on public safety;
2. control the perceived problems from activities that cause obstructions and damage to public places;
3. provide controls on the use of cemeteries, beaches, reserves, local and regional parks; and
4. manage trading in public places.

The bylaw establishes the Council's mechanism for decision-making.

The bylaw was last reviewed in July 2008 and is due for its 10 year statutory review by July 31st 2018.

The Freedom Camping section of the bylaw was last amended in part (but not reviewed) in 2015.

3. Review discussion and proposals

This discussion reflects analysis of the bylaw by Council staff. The public consultation process is designed to bring any public concerns or suggestions into the review process.

3.1 Is the bylaw still appropriate under the Local Government Act 2002?

The Council finds that a bylaw is still appropriate and is required to enforce any issues in public places, and is necessary to allow the Council to manage any issues going forward.

The bylaw is made under the principles of the Local Government Act 2002 section 145 which sets out the safe and appropriate use of public places which enables the Council to promote a safe environment for the public.

Without the bylaw, the Council would be unable to authorise its staff and the NZ Police to undertake enforcement to reduce nuisance in public places, which would jeopardise public safety. Therefore, the Council does not recommend letting the bylaw lapse and has reviewed the bylaw to implement a new version before the statutory expiry date.

Proposed Changes

Statutory Review

A 10 year statutory review is required to keep a bylaw in place. Without doing a review, a bylaw would lapse and the Council would not have an appropriate mechanism to effectively regulate issues in public places. Therefore, a review must be undertaken in order for the Council to continue to have the bylaw available as a regulatory instrument.

Secondly, the decision to retain the bylaw as a regulatory tool requires a review of whether the existing bylaw is fit for purpose.

Is the bylaw the most appropriate way of addressing the problem?

Yes—the bylaw is the most appropriate way of enabling the Council to enforce issues relating to ensure public safety and protect the public from nuisance.

The bylaw is an instrument of delegated legislation with legal standing which the Council can use to pursue prosecutions for more serious offending. Without a bylaw, the Council would not be able to recoup costs through the court process such as damage to public property or enforcing prohibited behaviours which may be dangerous or offensive in a public place.

From an enforcement perspective, the bylaw also enables the NZ Police to move on individuals who are causing a nuisance in a public place or issue a notice for offences under the bylaw.

The bylaw also allows for infringement fines to be issued for freedom camping offences, littering and some traffic offences.

The review has identified the following proposed changes:

1. Changes to the size of Evan's Bay freedom camping site

The perceived problem is that there are not enough freedom camping sites within Wellington city to meet demand. The Council propose to increase the capacity at a popular freedom camping site at Evan's Bay by up to 30 spaces.

Is a bylaw made under the Freedom Camping Act 2011 the most appropriate way of addressing the problem?

The Freedom Camping Act 2011 is legislation put in place by the government delegating the power to allow local authorities to make bylaws to regulate the use of freedom camping sites.

The Council can only make bylaws prohibiting or restricting freedom camping in specific public places if it is necessary to:

- protect the area, or
- protect the health and safety of people who may visit the area; or
- protect access to the area.

The Council has identified that the proposed bylaw amendment is necessary to help manage the following issues.

Wellington City Council first introduced a bylaw made under the Freedom Camping Act in 2013.

An Amendment was last made to the Bylaw in 2015 to restrict camping to self-contained vehicles only and to reduce the size of the most popular site Owhiro Bay due to overcrowding.

Protecting Access to the Area

The Council has monitored the freedom camping sites across the region and has noted the popularity of the Evan's Bay site. As the site is part of an existing Marina Car Park it is an ideal site to expand, particularly for larger camping vehicles which cannot easily park in smaller spaces. An extension of this site would provide a better configuration and cater for all sizes of self-contained camping vehicles.

Expanding this site by up to 30 parks will recoup sites the Council has recently lost and cater for the projected growth in freedom camping by 2020.

New Zealand Bill of Rights Act 1990 (NZBORA) implications

Everyone lawfully in New Zealand has the right to freedom of peaceful assembly (section 16), association (section 17), and movement (section 18). The Freedom Camping Act 2011 provides a specific statutory framework for local authorities to manage camping by only restricting these rights in areas where it is justified and necessary.

The Council considers that by proposing to extend the site, the degree of encroachment into public space would only present a very small additional restriction of public freedom and does not unlawfully interfere with the rights of people to move and reside in Wellington. The restrictions on freedom camping are reasonable under the Freedom Camping Act in the interests of protecting public places and visitors.

2. Changes to address issues around damage to public places

Due to issues raised regarding damage to public property, changes have been proposed to provide the Council with sufficient powers to prohibit disturbing or damaging any thing within a public place or damaging any thing in a way likely to cause a nuisance to any person.

There are two proposed changes to the bylaw to address damage:

- a. The current bylaw as it is drafted only prohibits the removal of any thing such as soil, sand, gravel, rock, flora, fauna etc.. and does not clearly specify that those things also cannot be disturbed or damaged within the park or public place.

The addition of the words 'disturb' and 'damage' clarifies more broadly that no council property may be deliberately damaged. This was drafted with the following issues in mind:

- prohibiting any person from fatally damaging any eel;
 - disturbing or damaging vegetation; and
 - damaging the grass berm or any other thing.
- b. A new provision is required to specify that it is an offence to disturb or damage a public place in a way which is likely to cause a nuisance to another person. This change is to address the issues raised during early engagement which included:
 - damage to sports fields;
 - unauthorised digging of tracks in parks and reserves; and
 - to clarify that it is an offence for any person to cause damage to a public place without prior permission from the Council.

Is the bylaw made under the Local Government Act 2002 the most appropriate way of addressing the problem?

Yes—a bylaw prohibiting the public from both causing damage in a public place is appropriate.

Damage also clarifies more broadly that no council property may be deliberately damaged or removed which is consistent with the purpose of the bylaw to prescribe controls against causing damage to public places.

The proposed new provision makes it an offence for any person to cause damage in a way which is likely to cause a nuisance to another person.

New Zealand Bill of Rights Act 1990 (NZBORA) implications

The Council considers that the proposed bylaw is not inconsistent with NZBORA, and does not unlawfully interfere with the rights of people to use a public place. The restrictions are reasonable in the interests of protecting public places and the environment.

Provisions made under other enactments

The following provisions are considered by the Council to be the most appropriate way of addressing the following issues:

Act	Issue
Local Government Act 2002	All other issues relating to causing a nuisance in a public place
Freedom Camping Act 2011	Freedom camping activities, restrictions and prohibitions
Litter Act 1979	Clean any fish in a public place
Land Transport Act 1998	Prohibiting vehicles on beaches Vehicles causing an obstruction in a public place Vehicle access
Prostitution Reform Act 2003	Prohibiting advertising relating to sexual premises and services

Attachment 2: Structural Changes

Public Places Bylaw 2008	Proposed Bylaw 2017
Sections	New Sections
1.Public Access Council may set conditions Restrictions affecting public access Fees and charges	1. Public Places Council may set conditions Restrictions affecting public access Fees and charges Assembly Activities requiring written approval Display of articles and trading Hoardings, posters and notices (Signage) Advertising for commercial sex premises and services
2.Public Places Assembly Activities requiring written approval Display of articles and trading Hoardings, posters and notices Advertising for commercial sex premises Management of adverse effects Vehicles on beaches Camping Road and property identification Traffic Skateboards and skates Vehicle access Encroachments Building work and excavations Fences, walls and stability of land Animals Litter Sports and games Remove sand, soil or other matter Smoking	2. Beaches, Cemeteries, Parks and Reserves Freedom camping (Camping) Life-saving equipment Preparation or maintenance of graves Conduct in cemeteries Sports and games
3.Beaches Life-saving equipment Protection of life-saving staff and equipment	3. Property and Access Road and property identification Traffic Vehicle access Encroachments Building work and excavations Fences, walls and stability of land
4.Cemeteries Preparation or maintenance of graves Conduct in cemeteries	Incorporated into new section 2
5.Enforcement Offensive behaviour Offences Exemptions	4. Offences in Public Places Offensive behaviour Use of a public place Using a public place after hours Skateboards and skates Distributing material relating to sexual services Placing signage on council property without permission

	Smoking Offences in Beaches, Cemeteries, Parks and Reserves Conduct in cemeteries Management of adverse effects Protection of Life-saving staff and equipment Vehicles on beaches Litter Sports and games Remove sand, soil or other matter Disturb, damage in a way likely to cause injury to a person Offences relating to Property and Access Traffic Building work and excavations
	Exemptions
Deletions	Animals

Public Places Bylaw 2008	Type of Change
This part of the bylaw regulates a diverse range of activities. It seeks to maintain standards of public health and safety, protect the public from nuisances, minimise the potential for offensive behaviour and to manage various types of land associated with or under the control of the Wellington City Council for the well-being and enjoyment of the public in public places.	Updated wording 1.Purpose
	New section specifying sections made under each act
1. Definitions	2. Definitions
	Additional and updated definitions for: 'nuisance' as defined in the Health Act 1956, 'Cable Car Lane', 'beach', 'cemetery' and 'freedom camping' and removal of a former 'camping' definition prior to the Freedom Camping Act 2011 coming into force and 'signage'.
Subpart 1 - Public access	
2. Council may set conditions	
2.1 Subject to the provisions of this Bylaw, any other Act and any Instrument, all public places shall be open for use by the public at such times and at such charges and upon such conditions as the Council may prescribe or vary from time to time.	Updated wording 3.1
2.2 The Council may set or vary conditions for use of a public place by resolution, or by licence with any person.	Updated wording 3.2
2.3 A person shall not use the public place in contravention of the conditions set by the Council regulating the use of the public place.	Moved to new offences section 22.2(b)
2.4 A person shall not use a public place after closing hours.	Moved to new offences section 22.2 (c)
3. Restrictions affecting public access	
3.1 The Council shall have the right to prevent any game being played or any other activity whatsoever being undertaken that is likely to damage the place or harm a person or which is otherwise undesirable, disorderly, or dangerous.	Updated wording 4.1
3.2 The Council may close any public place at any time for the purpose of maintaining or improving it, or for holding sports matches or any other performances, or for any other purpose that the Council considers necessary or proper.	No change 4.2
3.3 The Council or a member of the police requested by the Council, may exclude or remove any person: a. who has acted in a manner that is contrary to conditions of use set by the Council, or b. who is not bona fide using the place for its normal intended purposes, or	Updated wording 4.3

c. who has contravened any of the provisions of this Bylaw, or d. for any good and sufficient reason relating to the efficient, reasonable, and fair management of the place.	
4. Fees and charges	
4.1 The Council may set fees and charges, either temporarily or permanently, as a condition for access to, or use of, any public place. Payment of such fees shall be a condition for access to or use of that place.	Updated wording 5.1
(No section 5)	
Subpart 2 - General provisions - public places	
6. Assembly	
6.1 To minimise disruption to pedestrians and other users, the organiser of an event, demonstration, competition, parade or procession that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council as soon as reasonably practicable prior to the event.	Updated wording 6.1
6.2 After receiving notification, the Council will provide relevant traffic management information to the organiser and/or Police.	Deleted
7. Activities requiring written approval	
7.1 Written approval from the Council is required for the following activities: 1. Street appeals and charity fundraisers 2. Street performances and busking The Footpath Management Policy provides information on how to obtain approval for these activities.	Updated wording 7.1 Retained note
8. Display of articles and trading	
8.1 To minimise disruption to other users and enable the Council to manage public places written approval is required for the following: 1. Retail displays, kiosks and stalls 2. Promotional signage 3. Outdoor area special licences 4. Trading 5. Open air markets 6. Private seating, furniture etc associated with trading activities. Note: The Council's Footpath Management Policy and Trading in Public Places Policy provides information on how to obtain approval for these activities in public places.	Updated wording 8.1 8.2 8.3 Deleted note
9. Hoardings, posters and notices	
9.1 Council approval is required for hoardings in public places	New title (Signage) Updated wording 9.1
9.2 The approval of hoarding sites under this clause may be subject to conditions, including: placement fees dates a hoarding may be erected	Updated wording 9.2 incorporated in the new 9.1 clause.

approval of the hoarding design	
9.3 Hoardings erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council	Updated wording 9.2
9.4 Posters or notices displayed on hoardings shall be covered after the event and removed within 24 hours of the end of the event, or such other time as approved by the Council.	Updated wording 9.3
9.5 With the exception of approved hoardings under this clause, no one shall affix or place a poster or notice to any Council ornament, statue, structure, building, or facilities in a public place without the Council's prior approval.	Updated wording Moved to new offences section 22.2 (f)
9.6 Responsibility for compliance with this part of the bylaw lies with the person who displayed the poster or notice, or the organiser, promoter or person in charge of the advertised good, service or event or, in the case of an election, the candidate or a delegate of that candidate.	No change 9.4
10. Advertising for commercial sex premises and services	
10.1 Application must be made to the Council to place signage that advertises any commercial sex premise or commercial sex service so as to be visible from any road or public place.	Updated wording 10.1
10.2 In exercising its discretion to grant permission, the Council may have regard to the following criteria: 1. the extent to which the signage depicts or implies sexual activity 2. the extent to and manner in which the sign depicts nudity (the depiction of nudity is not encouraged) 3. the size, number and cumulative effects of the signage 4. the extent to which words and/or images could be offensive. (The Council will decline applications for signage that are found to be offensive)	Updated wording and formatting 10.2
10.3 No person in a public place may tout for business or otherwise verbally advertise on behalf of any commercial sex premise or commercial sex service.	Updated wording Moved to new offences section 22.2 (e)
10.4 No person may distribute in any public place any handbills, writings or pictures of which the primary purpose, whether explicitly or implicitly, is to advertise, identify or inform the public of any commercial sex premise or commercial sex service.	Updated wording Moved to new offences section 22.2 (e)
11. Management of adverse effects	
11.1 The following activities are prohibited in public places unless Council approval has been granted: 1. Hunting game 2. Gathering food 3. Gathering firewood 4. Operating/driving a vehicle on a beach 5. Carrying or discharging a firework, firearm, catapult or other weapon. Note that these activities may be approved in a Reserve Management Plan.	Deleted section Updated wording Moved to new offences section 22.3 (j) 22.3 (k) 22.3 (l) 22.3 (o) 22.3 (p)

12. Freedom Camping	Section numbering updated
<p>12.1 The purpose of this bylaw is to encourage responsible camping in Wellington, as part of a nationally consistent approach to freedom camping. This bylaw regulates camping in specific public places to:</p> <ul style="list-style-type: none"> protect the area protect the health and safety of people who may visit the area protect access to the area. <p>Note: This bylaw addresses camping as defined by the Freedom Camping Act 2011. The Wellington City Council Homeless Strategy addresses issues relating to homelessness.</p>	deleted
<p>Interpretation</p> <p>12.2 The following definitions apply to the camping bylaw: The Act means the Freedom Camping Act 2011. Definitions: Where this bylaw uses terms also used in the Act, those terms have the same meaning as defined in section 4 of the Act. Camp or camping means to stay overnight, or more than one night, at any public place:</p> <ul style="list-style-type: none"> a. in a building, tent, or other structure; or b. in a car, campervan, caravan, or other vehicle. c. resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue. <p>Certified self-contained vehicle (CSC vehicle) means a vehicle designed and built for the purpose of camping, which has the capability of meeting the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days without requiring any external services or discharging any waste, and complies with New Zealand Standard 5465:2001.</p>	Moved to definitions
<p>Restricted and prohibited areas as outlined in Schedule One</p> <p>12.3 A person must not camp in an area in which camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for Camping in Wellington (11KB PDF), unless they have prior written consent from the Council.</p>	No change 12.1
<p>12.4 A person may camp in an area in which camping is restricted, as identified in Schedule One: Restricted and Prohibited Areas for Camping, but must comply with the specific restrictions listed for that site unless they have prior written consent from the Council that waives these restrictions.</p>	No change 12.2
<p>Areas where camping is permitted</p> <p>12.5 Camping is permitted in any local authority area in Wellington City, unless it is restricted or prohibited in an area under this bylaw or any other enactment.</p>	No change 12.3

<p>12.6 Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt unless allowed in a reserve management plan. Campers are advised to camp in the restricted areas identified in Schedule One of this bylaw. For clarity, the Freedom Camping Act's non-site-specific offences do apply to Council reserves, and any site-specific restrictions or prohibitions on Council reserves to be administered under this bylaw must be included in Schedule One of this bylaw.</p>	Updated wording 12.4
<p>Prior written consent from the Council 12.7 If written consent is sought in accordance with clause 12.3 above then it must be applied for in writing to the Council at least two weeks in advance of the date planned for freedom camping in the prohibited area.</p>	Updated wording 12.5
<p>12.8 If written consent is sought from the Council in accordance with clause 12.4 above then it must be applied for in writing to the Council at least two weeks in advance of the date planned for camping in the restricted area.</p>	Updated wording 12.6
<p>12.9 Camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs: Maps - Schedule 1: Restricted and Prohibited Areas for Camping (11MB PDF)</p>	Proposed change to restrictions at the Evan's Bay Marina site. 12.7 Schedule 1
<p>Approval process 12.10 Applications will be considered for camping in public places for special purposes. Consent may be granted at the Council's sole discretion, with or without conditions. Applications to camp in accordance with clauses 12.3 and 12.4 above must be made in writing and provide the following information: 1. the location 2. the duration of occupation 3. the number of people 4. the provisions to ensure that there is no damage or effects to the public place and 5. the reason why the camping is proposed.</p>	Updated formatting 12.8
<p>12.11 The Council will consider applications based on the information requested in clause 12.10 above. In general, the applicant will be notified of the outcome within 10 working days. The Council may require modifications to the application and these will be discussed with the applicant before consent is granted.</p>	Deleted
<p>13. Road and property identification</p>	
<p>13.1 The Council shall have the right to cause to be painted or affixed on a building, the name of the road, private road or public place to which it has frontage.</p>	Updated wording 16.1
<p>13.2 The owner of every property, building or group of buildings forming part of a complex shall mark such property, building or complex with the number allocated by the Council, regardless of any other identification a property or building may have. The marking shall be:</p>	Updated wording and formatting 16.2

1. at least 50mm in height and 2. of a colour in contrast to its background and 3. easily visible from the road to which it has frontage and 4. maintained by the owner in a way that easily identifies the property at all times.	
13.3 The requirement in this bylaw for an owner to mark a property, building or complex with the allocated number does not apply to: 1. property without buildings and 2. property not allocated a number by the Council.	Updated wording 16.3
13.4 The owner of a newly subdivided property must inform a subsequent purchaser of the address allocated by the Council.	Deleted
13.5 When the Council advises the owner of a property that an address needs to be displayed or changed, the owner must arrange to do so within 15 working days, or as otherwise instructed.	No change 16.4
14. Traffic	
14.1 The Council may under the provisions in this bylaw or under Part 7 (Traffic) impose any controls relating to vehicles in a public place to give effect to the proper use and enjoyment of the place.	Updated wording 17.1
14.2 If a member of the police or an authorised Council officer believes it to be in the interest of safety or for the convenience or in the interest of the public or for the use and enjoyment, protection and preservation of the public place, he or she may direct the driver or person in charge of any vehicle in or on any public place to: remove the vehicle from any specified place, or cease parking it in any specified or general place, or drive it in any area.	Updated wording 17.2
14.3 No person shall drive, stop, stand or park any vehicle in any public place other than on any roadway or in any car park provided for the purpose, and then only in accordance with any controls or restrictions imposed by the Council.	No change Moved to new offences section 22.4 (u)
14.4 No person shall drive, stop, stand, park or leave any vehicle, bulk bin, container or other object in a public place in such a manner as to obstruct the normal or safe entry to, or exit from, or movement of other vehicles, or pedestrians within a public place.	No change Moved to new offences section 22.4 (v)
14.5 Any vehicle, whether attended or not, in breach of this bylaw may be removed by the Council in accordance with the Vehicle Removal provisions in Part 7: Traffic of the Consolidated Bylaw.	No change 17.3
15. Skateboards and skates	
15.1 Use of a skateboard, roller-skates or inline-skates in a public place is allowed, except in areas with signs stating otherwise.	Updated wording Moved to new offences section 22.2 (d)
15.2 Every one who uses a skateboard, roller-skates or in-line skates shall ensure no damage is caused to Council property and shall show reasonable	Deleted Incorporated into single provision

consideration for other persons using the public place.	22.2 (d)
16. Vehicle access	
16.1 The prior written approval of the Council will be required before any person constructs, repairs, removes, widens or narrows any vehicle access.	Updated wording 18.1
16.2 Before granting approval, the Council will consider what is reasonably necessary to: 1. ensure the safe and convenient use of the road by pedestrians and vehicles and 2. protect the road (including any footpath or berm) adjacent to the vehicle access	Updated wording 18.2
16.3 Approval granted by Council may be subject to conditions, including: 1. use of materials and dimensions 2. timeframe for completion 3. a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to the Council's property. The estimated cost of work shall be approved by the Council 4. a requirement that the applicant is responsible for arranging the construction work to meet the approved conditions, and shall pay the costs 5. a requirement that all construction work be carried out in compliance with the Wellington City Council Code of Practice for Working on the Road.	Updated wording and formatting 18.3
16.4 In setting conditions, the Council will have specific regard to the criteria in any codes of practice, Land Transport Safety Authority Guidelines or other standards that are currently in force within the Council's jurisdiction.	Deleted Incorporated into new provision 18.3 (e)
16.5 If the Council decides any vehicle access is in a bad or unsafe state of repair or there has been a significant deterioration or change in vehicle access use, the Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, renew or remove such access to the satisfaction of the Council.	No change 18.4
16.6 It is the owner's responsibility to carry out any work required in the notice, and pay all costs.	Deleted Incorporated into new provision 18.3 (d)
16.7 If any vehicle access is constructed without the Council's prior written approval, or contrary to the terms of the Council's prior written approval, the Council may remove or alter that work located on the road. The Council's costs may be recovered from the person who undertook the work or the person(s) serviced by the vehicle access	Updated wording 18.5
17. Encroachments	
17.1 No person shall put up any structure of any kind or undertake an excavation in a public place without prior	No change Moved to new offences section

written approval of the Council, and then only in compliance with any condition under which such approval may be granted.	22.4 (w)
17.2 Any property owner ('the encroacher') may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council has discretion whether to authorise an encroachment by granting land owner consent and if required an encroachment licence to the applicant in accordance with any relevant Council policy. Relevant legal factors for the Council to consider when considering an application for an encroachment licence include whether the encroachment will: 1. compromise the primary use of legal road to facilitate free pedestrian and traffic movement 2. unreasonably interfere with a property owners' right of access to any road across the frontage between the road and private property.	Updated wording 19.1 19.2
17.3 An encroachment licence may authorise the occupation of the encroachment area for parking, boundary marking, airspace, subsoil or access structures, for the maintenance or beautification of the encroachment area, or any other purposes the Council considers desirable.	No change 19.3
17.4 An encroachment licence issued by the Council shall be subject to such conditions that the Council considers appropriate, at the sole discretion of the Council.	No change 19.4
17.5 The encroacher must own the land adjoining or in the vicinity of the encroachment area that benefits from the encroachment and continue to own this land for the period of the encroachment.	No change 19.5
17.6 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.	No change 19.6
18. Building work and excavations	
18.1 The prior written approval of the Council will be required before any person carries out building work or excavations on a public place. In setting conditions, the Council will have specific regard to the criteria in any codes of practice, Land Transport Safety Authority Guidelines or other standards that are currently in force within the Council's jurisdiction.	Updated wording 20.1
18.2 Approval granted by the Council may be subject to conditions, including a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to the Council's property. The estimated cost of work shall be approved by the Council.	Updated wording 20.2
18.3 If any building or excavation work is carried out on a public place without the Council's prior written approval, or contrary to the terms of the Council's prior	Updated wording 20.3

written approval, the Council may remove or alter that work. The Council's costs may be recovered from the person who undertook the work, or the person for whom the work was being done.	
18.4 If any damage occurs to the place, the Council may require the place to be reinstated.	Updated wording 20.4
19. Fences, walls and stability of land	
19.1 The Council may require the owner of any land which has no fence, wall or retaining wall adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use or administration of the public place.	No change 21.1
19.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which could cause injury to persons or damage to a public place, the Council may give notice requiring the owner to repair, remove or replace the fence, wall or retaining wall, or make the land safe.	No change 21.2
20. Animals	
20.1 No person shall take any animal into a public place, except as provided in the Animals Bylaw.	Deleted
20.2 No person shall ride or lead any animal in a manner likely to endanger any person.	Deleted
21. Litter and refuse	
21.1 No person shall, on any part of any public place clean or otherwise prepare any fish.	No change Moved to offences section 22.3 (q)
22. Sports and games	
22.1 The organiser of any planned team games and sporting activities, marching drill, musical or other group activity in any part of a public place shall notify the Council as soon as reasonably practicable prior to commencing the activity.	Updated wording 11.1
22.2 The Council may require the organiser to agree to conditions for use of the public place.	No change 11.2
22.3 A person must not, if contrary to any notice, or if expressly forbidden to do so by an authorised officer; 1. play a sport or game in a public place 2. enter in or remain on any part of a public place marked out as a playing area for a sport or game while the sport or game is in progress.	Updated wording and formatting Moved to new offences section 22.3 (r)
Note: The purpose of this clause is to minimise conflict between users, ensure that a particular site is suitable for the proposed activity and enable the Council to manage any environmental impacts of the activity.	Deleted and incorporated into new provision 11.2
23. Remove sand, soil or other matter	
23.1 No person may damage or remove from a public place any soil, sand, gravel, rock, flora, fish, fauna, or any naturally occurring thing not previously left by that person without having obtained the prior approval from the Council.	Proposed change Updated wording Moved to new offences section 22.3 (s)
24. Smoking	

24.1 Smoking is prohibited in the following locations: 1. In proximity to dangerous goods in any public place, 2. Cable Car Lane (except for the balcony extending from 284 Lambton Quay).	No change Moved to new offences section Updated definitions 22.2 (g) 22.2 (h)
Subpart 3 - Beaches	
25. Life-saving equipment	
25.1 The Council may, at its discretion, authorise, on any beach, any volunteer life-saving club to: 1. provide and use life-saving appliances and boats; 2. use any such appliances and boats provided by the Council; and erect and, as may from time to time be necessary, remove from any place 'Danger' notices.	Updated wording 13.1
26. Protection of life-saving equipment	
26.1 No person shall use, move or damage any appliance or signal provided by the Council or by any volunteer life-saving club, at any beach, except for the purpose of saving life or with the approval of the Council or the club.	Moved to new offences section 22.3 (n)
26.2 No person shall obstruct any member of a life-saving club carrying out life-saving activities.	Moved to new offences section 22.3 (m)
Subpart 4 - Cemeteries	
27. Preparation or maintenance of graves	
27.1 All fences, enclosures, tombstones, vaults, headstones and other monuments on any plot shall be kept in proper order and repair by the purchaser of that plot or their representative.	Updated wording 14.1
27.2 The Council may from time to time set the specifications for memorial hardware and structures that can be installed on plots.	Updated wording 14.2
27.3 Any memorial items, hardware or structures that do not comply with the Council's specifications or that have fallen into a state of decay or become broken or pose a hazard may, at any time, be removed from the cemetery by the Council.	Updated wording 14.3
28. Conduct in cemeteries	
28.1 The following activities require Council approval. Council approval may be subject to such conditions as it deems necessary: 1. Interments and disinterments 2. Installing a fence, tombstone, vault or other monument on a plot 3. Working in a cemetery.	Updated wording and formatting 15.1 Moved to new offences section 22.3 (i)
Subpart 5 - Enforcement	
29. Offensive behaviour	
29.1 No person in any public place shall wilfully obstruct, disturb, annoy or interfere with any Council agent or officer in their work or any person in the use or enjoyment of any public place.	Moved to new offences section 22.2 (a)
30. Offences	
30.1 Every person who does not comply with any requirement or condition, or acts contrary to any	Moved to new offences section 22.1

prohibition, made in this bylaw, or made by resolution, commits an offence against the bylaw.	
31. Exemptions	
31.1 The prohibitions and restrictions contained in this part of the bylaw shall not apply to any Council agent or officer when engaged in the performance of their regular duties.	No change 23.1
31.2 An Iwi's customary rights are not affected by this bylaw.	No change 23.2
Effective from 31 July 2008	Date TBD

Attachment 4: Proposed Bylaw

Proposed Wellington City Council Public Places Bylaw 2017

Wahi ā-iwi 2017

1. Purpose

This part of the consolidated bylaw regulates a diverse range of activities. It seeks to protect the public from nuisance, minimise the potential for offensive behaviour, maintain public health and safety and manage land under the control of the Council to enhance the public's well-being and enjoyment of public places.

This bylaw is made under sections 145 and 146 of the Local Government Act 2002 and the following Acts:

- 1) section 10 of this bylaw is made under section 12 of the Prostitution Reform Act 2003.
- 2) section 12 of this bylaw is made under section 11 of the Freedom Camping Act 2011;
- 3) sections 17,18 and clause 22(o) are made under section 22AB of the Land Transport Act 1998;
- 4) clause 22 (q) is made under section 12 of the Litter Act 1979; and

2. Definitions

Beach means the foreshore (including the inter-tidal zone above the mean low water spring) and any area above mean high water springs that can reasonably be considered the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation typically found in a marine environment.

Cable Car Lane means the public place connecting Lambton Quay to the Cable Car terminal (excluding the balcony extending at 6 Cable Car Lane).

Cemetery means any land held or otherwise set aside for the burial of the dead that is vested in or under the control of the Council from time to time.

Certified self-contained vehicle (CSC vehicle) has the same meaning as defined by NZS 5465.

Commercial sex premises means premises used or intended to be used primarily for exposing, selling or hiring goods or services related to sexual behaviour. To avoid any doubt this includes strip clubs, strip bars, rap parlours, peep shows, lap dancing bars, escort agencies, adult bookshops, adult video shops, adult cinemas, sex shops; but does not include hospitals, health care services, chemists, community welfare facilities, or premises where therapeutic massage is offered and which are not brothels in terms of the Prostitution Reform Act 2003.

Freedom camp means to camp (other than at a camping ground) within 200m of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using 1 or more of the following:

- (a) a tent or other temporary structure;
- (b) a caravan; and
- (c) a car, campervan, house truck, or other motor vehicle.

Freedom camping does not include the following activities:

- (a) temporary and short-term parking of a motor vehicle;
- (b) recreational activities commonly known as day-trip excursions; and
- (c) resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

Sign means a board, including any frame or other support device such as a notice board for displaying posters or notices announcing future events or advertising for election purposes, but excludes sandwich boards.

Nuisance has the same meaning as section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Number includes and alphabetic symbol attached to the number allocated by the Council.

Public place means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes and hovercraft, ship or ferry or other vessel, train or vehicle carrying or available to carry passengers for reward.

Reserves management plan has the same meaning as “management plan” found in section 41 of the Reserves Act 1977.

Street appeals means coordinated and organised events by organisations who ask for, or seek, any subscription, collection or donation from members of the public, and usually involves more than one collection person operating at the same time.

Street performance means a musical, dramatic or other performance involving musical, theatrical or circus performance skills including busking, playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature.

Trading means the act of selling or trading, or offering to sell or trade goods or services, with or without use of a vehicle.

Vehicle access means any section of legal road that facilitates the access of vehicles from private property to the formed carriageway, and includes that part of a driveway on private property that impacts on the point of entry onto or from legal road.

Section One: Public Places

3. Council may set conditions

3.1 The Council may, from time to time and subject to the provisions of this bylaw, prescribe conditions by resolution, by way of licence or otherwise) for access to any public place.

3.2 The Council may by resolution, or by way of a licence set conditions for the use of a public place.

4. Restrictions affecting public access

4.1 The Council may restrict any activity being undertaken in a public place which is likely to damage the place, or cause a nuisance or harm to any person.

4.2 The Council may close any public place at any time for the purpose of maintaining or improving it, or for holding sports matches or any other performances, or for any other purpose that the Council considers necessary.

4.3 Any authorised officer under this bylaw may exclude or remove any person from a public place:

- a. who has acted in a manner that is contrary to conditions of use set by the Council;
or
- b. who is not bona fide using the place for its normal intended purposes;
- c. who has contravened any of the provisions of this Bylaw; or
- d. for any good and sufficient reason relating to the efficient, reasonable, and fair management of the place.

5. Fees and charges

5.1 The Council may set fees and charges, either temporarily or permanently, where payment is a condition for access to, or use of any public place.

6. Assembly

6.1 To minimise disruption to pedestrians and other users, the organiser of any event, demonstration, competition, parade or procession that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council as soon as reasonably practicable prior to the event so that the Council may arrange any necessary traffic management.

7. Activities requiring written approval

7.1 Written approval from the Council is required for street appeals, charity fundraisers, street performances and busking. The Footpath Management Policy provides information on how to obtain approval for these activities.

8. Display of articles and trading

8.1 Written approval from the Council is required for retail displays, kiosks and stalls.

8.2 Council may consider and grant at its discretion licences for:

- a. open air markets;
- b. outdoor dining;
- c. trading in a public places;
- d. any seating and furniture; and
- e. any promotional signage associated with trading activities.

8.3 The Council may prescribe conditions for any licence and revoke any licence at any time.

9. Signage

9.1 Written approval is required for signage in public places. Approval may be subject to Council setting conditions including placement, fees and the duration a sign may be erected.

9.2 Any sign erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.

9.3 Posters or notices displayed on notice boards shall be covered or removed within 24 hours of the end of the event, or such other time as approved by the Council.

9.4 Responsibility for compliance with this bylaw lies with the person who displayed the poster or notice, or the organiser, promoter or person in charge of the advertised good, service or event or, in the case of an election, the candidate or a delegate of that candidate.

10. Advertising for commercial sex premises and services

10.1 Written approval is required from the Council for signage that advertises any commercial sex premise or commercial sex service that will be visible from any road or public place.

10.2 The following criteria may be considered when assessing an application for permission:

- a. the extent to which the signage depicts or implies sexual activity;
- b. the extent to and manner in which the sign depicts nudity (the depiction of nudity is not encouraged);
- c. the size, number and cumulative effects of the signage; and
- d. the extent to which words and/or images could be offensive. (The Council will decline applications for signage that are found to be offensive.)

Section Two: Beaches, Cemeteries, Parks and Reserves

11. Sports and games

11.1 The organiser of any game, sporting activity or group activity proposed to take place in any part of a public place must notify the Council as soon as reasonably practicable prior to commencing the activity.

11.2 The Council may set conditions for use of the public place such as to manage the potential for any damage caused by the activity and minimise conflict between users.

12. Freedom Camping

Restricted and prohibited areas as outlined in Schedule One

12.1 A person must not camp in an area in which freedom camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping in Wellington, unless they have prior written consent from the Council.

12.2 A person may camp in an area in which freedom camping is restricted, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping, but must comply with the specific restrictions listed for that site unless they have prior written consent from the Council that waives these restrictions.

Areas where camping is permitted

12.3 Freedom camping is permitted in any local authority area in Wellington City, unless it is restricted or prohibited in an area under this bylaw or any other enactment.

12.4 Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt unless allowed in a reserve management plan. Campers are advised to camp in the restricted areas identified in Schedule One of this bylaw. For clarity, the Freedom Camping Act's non-site-specific offences do apply to Council reserves, and any site-specific restrictions or prohibitions on Council reserves to be administered under this bylaw must be included in Schedule One of

this bylaw.

Prior written consent from the Council

12.5 A written application is required two weeks in advance of the planned date for consent to camp in a prohibited area.

12.6 A written application is required two weeks in advance of the planned date for consent to camp in a restricted area.

12.7 Freedom camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs: Maps - Schedule 1: Restricted and Prohibited Areas for Camping (11MB PDF)

Approval process

12.8 Written applications will be considered for camping in public places for special purposes. Consent may be granted at the Council's sole discretion, with or without conditions. Applications to camp in accordance with clauses 12.1 and 12.2 above must be made in writing and provide the following information:

- a. the location;
- b. the duration of occupation;
- c. the number of people;
- d. the provisions to ensure that there is no damage or effects to the public place; and
- e. the reason why the camping is proposed.

13. Life-saving equipment

13.1 The Council may at its discretion authorise on any beach any volunteer life-saving club to provide and use life-saving appliances and boats, and erect and remove any danger notices as necessary.

Cemeteries

14.1 The purchaser of a plot or their representative must keep all fences, enclosures, tombstones, vaults, headstones and other monuments on any plot in proper order and repair.

14.2 The Council may from time to time set specifications for memorial hardware and structures that may be installed on plots.

14.3 Any memorial items, hardware or structures that do not comply with the Council's specifications that have fallen into a state of decay, become broken or pose a hazard may, at any time, be removed from the cemetery by the Council.

15. Conduct in cemeteries

15.1 Written permission must be obtained before installing a fence, tombstone, vault or other monument on any plot; prior to any interment or disinterment and carrying out any work in a cemetery.

Section Three: Property and Access

16. Road and property identification

16.1 The Council may require from time to time numbering to be painted or affixed on a building, the name of the road, private road or public place to which it has frontage.

16.2 The owner of a property, building or group of buildings forming part of a complex must mark the property with the number allocated by the Council, regardless of any other identification a property or building may have. The marking shall be:

- a. at least 50mm in height and
- b. of a colour in contrast to its background and
- c. easily visible from the road to which it has frontage and
- d. maintained by the owner in a way that easily identifies the property at all times.

16.3 Clauses 16.1 and 16.2 do not apply to property without buildings, and property not allocated a number by the Council.

16.4 When the Council advises the owner of a property that an address needs to be displayed or changed, the owner must arrange to do so within 15 working days, or as otherwise instructed.

17. Traffic

17.1 The Council may under the provisions in this bylaw or under the Traffic Bylaw impose any controls relating to vehicles in a public place to give effect to the proper use and enjoyment of the place.

17.2 If instructed to do so by an authorised officer, any person must move a vehicle in or from any public place where that vehicle may be impacting upon the safety, convenience and enjoyment of the public using that place.

17.3 Any vehicle, whether attended or not, in breach of this bylaw may be removed by the Council in accordance with the Vehicle Removal provisions in Part 7: Traffic of the Consolidated Bylaw.

18. Vehicle access

18.1 Prior written approval must be obtained before any person may construct, repair, remove, widen or narrow any vehicle access way.

18.2 When considering an application for vehicle access, the Council will take into account what is reasonably necessary to protect the grass berm from damage and ensure the safe and convenient use of the road by pedestrians and vehicles.

18.3 Conditions may be set by way of licence or written permission for the construction of a vehicle crossing which may include:

- a. use of materials and dimensions;
- b. timeframe for completion;
- c. a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to Council's property;
- d. a requirement that the applicant arranges the construction work to meet the approved conditions and pays all associated costs; and
- e. a requirement that all construction work be carried out in compliance with the Wellington City Council Code of Practice for Working on the Road and/or with specific regard to any relevant NZTA guidelines in force within the Council's jurisdiction.

18.4 The Council may by notice require the property owner which the vehicle crossing provides access to, to repair, reconstruct, renew or remove such access to the satisfaction of the Council.

18.5 The Council may remove or alter any work located on the road constructed without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the property owner serviced by the vehicle access.

19. Encroachments

19.1 Any property owner ('the encroacher') may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council may at its discretion authorise an encroachment by granting land owner consent, and if required, an encroachment licence to the applicant in accordance with any relevant Council policy.

19.2 The Council may consider whether the proposed encroachment will compromise the primary use of the road to facilitate free pedestrian and traffic movement, and/or unreasonably interfere with a property owner's right of access to any road across the frontage between the road and the private property.

19.3 An encroachment licence may authorise the occupation of the encroachment area for parking, boundary marking, airspace, subsoil or access structures, for the maintenance or beautification of the encroachment area, or any other purposes the Council considers appropriate.

19.4 An encroachment licence issued by the Council shall be subject to such

conditions that the Council considers appropriate, at the sole discretion of the Council.

19.5 The encroacher must own the land adjoining or in the vicinity of the encroachment area that benefits from the encroachment and continue to own this land for the period of the encroachment.

19.6 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.

20. Building work and excavations

20.1 Prior written approval of the Council is required before any person carries out building work or excavations on a public place.

20.2 Council approval may be subject to conditions, including a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to the Council's property. The estimated cost of work shall be approved by the Council.

20.3 The Council may remove or alter any work building or excavation work undertaken without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the person for whom the work was being done.

20.4 If any damage occurs to the place, the Council may require it to be reinstated.

21. Fences, walls and stability of land

21.1 The Council may require the owner of any land which has no fence, wall or retaining wall adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use or administration of the public place.

21.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which could cause injury to persons or damage to a public place, the Council may give notice requiring the owner to repair, remove or replace the fence, wall or retaining wall, or make the land safe.

22. Offences

22.1 Every person who does not comply with any requirement or condition, or acts contrary to any prohibition made in this bylaw, or made by resolution, commits an offence against this bylaw.

Public places

22.2 No person may:

- a. in any public place wilfully obstruct, disturb, annoy or interfere with any person in their use or enjoyment of a public place;
- b. use any public place in contravention of the conditions set by the Council regulating the use of that place;
- c. use a public place after closing hours;
- d. ride a skateboard in a manner which causes a nuisance or damage to a public place. (Skateboards and roller-skates may be used in a public place except where signage prohibits it);
- e. verbally advertise on behalf of, or distribute in any public place any handbills, writings or pictures of which the primary purpose, whether explicitly or implicitly, is to advertise, identify or inform the public of any commercial sex premise or commercial sex service;
- f. place posters on any Council ornament, statue, structure, building or facility in a public place without the Council's prior approval;
- g. smoke in close proximity to hazardous substances in any public place; or
- h. smoke in Cable Car Lane.

Beaches, Cemeteries, Parks and Reserves

22.3 No person may:

- i. install a fence, tombstone, vault or other monument on any plot, or carry out any interments, disinterments or other work in a cemetery without the prior written approval from Council;
- j. hunt game in a public place;
- k. carry or discharge a firearm, catapult or any other weapon in a public place;
- l. discharge a firework in a public place;
- m. obstruct any member of a life-saving club carrying out life-saving activities;
- n. use, move or damage any appliance or signal provided by the Council or by any volunteer life-saving club, at any beach, except for the purpose of saving life or with the approval of the Council or the club;
- o. operate or drive a vehicle on a beach;
- p. gather food or firewood in a public place without prior permission from the Council;
- q. clean or prepare any fish in a public place;
- r. play a sport or game in a public place, if contrary to any notice, or if expressly forbidden to do so by an authorised officer; or enter in or remain on any part of a public place marked out as a playing area for a sport or game while the sport or game is in progress;

- s. disturb, damage or remove from a public place any soil, sand, gravel, rock, flora, fish, fauna, or any naturally occurring thing without having obtained prior written approval from the Council; and,
- t. disturb or damage a surface in a manner which is likely to be injurious to or cause a nuisance to any person, or to cause damage to that public place without having obtained prior written approval from the Council.

Property and Access

22.4 No person may:

- u. drive, stop, stand or park any vehicle in any public place other than on any roadway or in any car park provided for the purpose, and then only in accordance with any controls or restrictions imposed by the Council;
- v. drive, stop, stand, park or leave any vehicle, bulk bin, container or other object in a public place in such a manner as to obstruct the normal or safe entry to, or exit from, or movement of other vehicles, or pedestrians within a public place; and
- w. put up any structure of any kind or undertake an excavation in a public place without prior written approval of the Council, and then only in compliance with any condition under which such approval may be granted.

23. Penalties

23.1 Freedom Camping

A person in breach of section 12 of this bylaw commits an offence under the Freedom Camping Act 2011 and is liable to a fine not exceeding \$200.

23.2 Litter

A person in breach of clause 22(q) of this bylaw commits an offence under the Litter Act 1979 and is liable to a fine not exceeding \$400.

23.3 Land Transport

A person in breach of sections 17, 18 and clause 22 (o) of this bylaw is liable to the fine in the Land Transport Act not exceeding \$500.

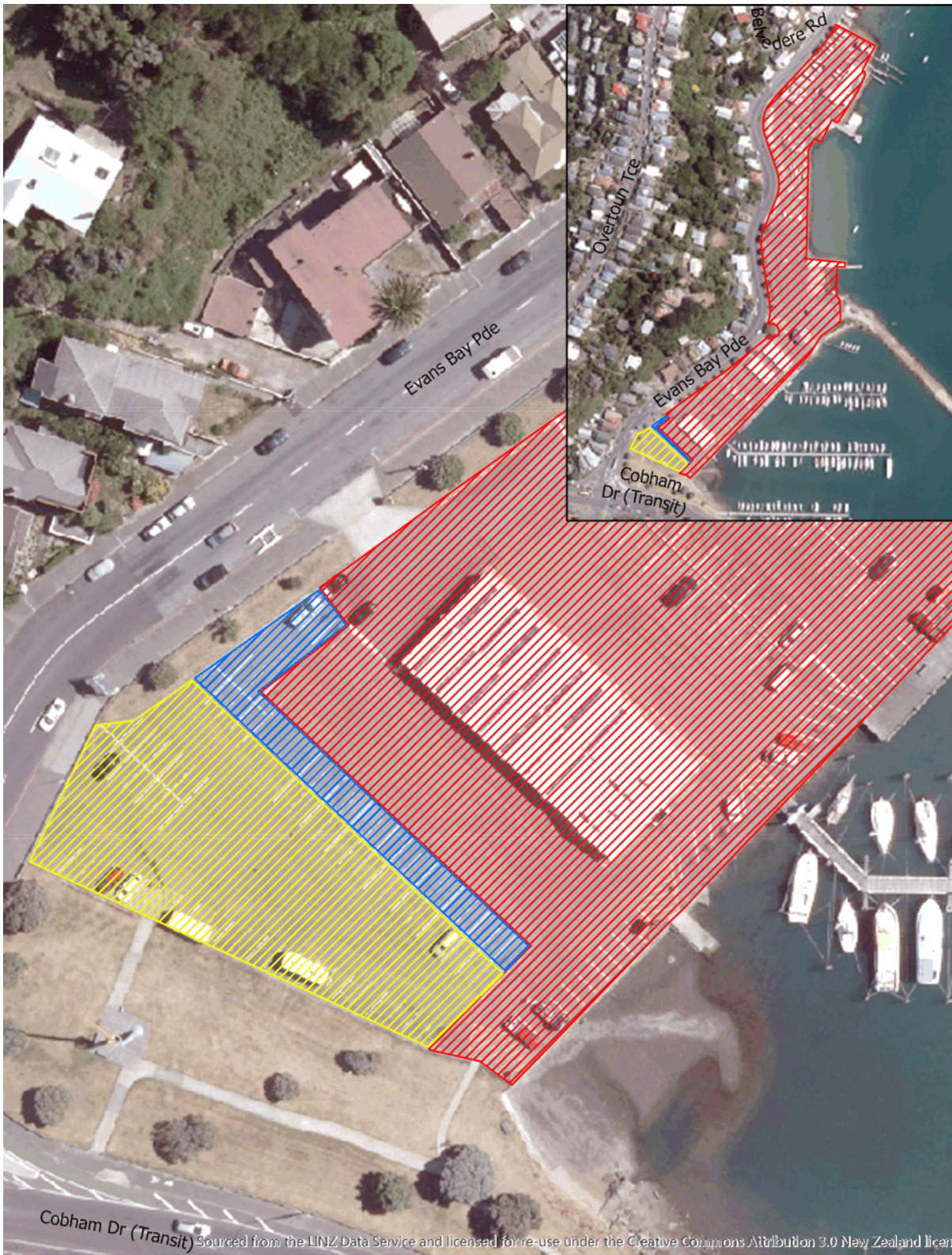
23.4 Local Government Act

A person who is convicted of an offence under this bylaw is liable to a fine not exceeding \$20,000.

23. Exemptions

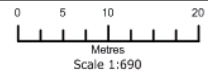
23.1 The prohibitions and restrictions contained in this part of the bylaw do not apply to any Council agent or officer when engaged in the performance of their regular duties.

23.2 An Iwi's customary rights are not affected by this bylaw.



Proposed & Existing Evans Bay Marina Freedom Camping Restrictions and Prohibited Area.

- Current area, with restrictions
- Proposed extension area, with restrictions
- Camping prohibited



Property boundaries, 20m Contours, road names, rail line, address & title points sourced from Land Information NZ. Crown Copyright reserved. Property boundaries accuracy: +/-1m in urban areas, +/-30m in rural areas. Census data sourced from Statistics NZ. Postcodes sourced from NZ Post. Assets, contours, water and drainage information shown is approximate and must not be used for detailed engineering design. Other data has been compiled from a variety of sources and its accuracy is not guaranteed.

MAP PRODUCED BY:
 Wellington City Council
 101 Wakefield Street

ORIGINAL MAP SIZE: A4
 AUTHOR: presto2j
 DATE: 19/09/2017

Absolutely Positively
Wellington City Council
 Me Heke Ki Pōneke

UNREINFORCED MASONRY FUNDING

Purpose

1. To agree to reallocate the underspend of the Unreinforced Masonry Fund and to request amendment by the Ministry of Business, Employment and Innovation of the funding agreement under the Hurunui/Kaikoura Earthquakes Recovery (Unreinforced Masonry Buildings) Order 2017, (the Order in Council).

Summary

2. On 25 February 2017, in response to the magnitude 7.8 Hurunui/Kaikoura earthquake on 14 November 2016, the Government announced a \$3m funding package for mandatory securing of street facing Unreinforced Masonry (URM) buildings on key routes with high foot or vehicular traffic. The urgency followed lessons learned in Christchurch where on 22 February 2011, 39 people were killed by unreinforced masonry.
3. The \$3m funding package consisted of a \$2m allocation by the Government and a \$1m allocation by the Council.
4. Although the 14 November earthquake was centred some distance from Wellington, it still caused significant damage to the city, and a heightened risk of large aftershocks still remains. There is a separate threat to a possible significant earthquake on one of the Wellington fault lines or subduction zone.
5. The Council initially identified 244 buildings that would meet the criteria in the Order in Council and funding was allocated on that basis. Further analysis and investigation reduced this number to 98.
6. Six months into the identification process, a number of practical issues have emerged that require attention:
 - The Order in Council allows building owners to undertake work on URMs without the need for a Building Consent, providing that the work is carried out or reviewed by a Chartered Professional Engineer. Some engineers are indicating concern about their liability, and are seeking the protection of having a building consent. We are working through this issue with the industry in an effort to minimise potential delays.
 - Around half the building owners wish to undertake URM securing and earthquake strengthening at the same time. While this is consistent with the intent of the initiative, it affects the ability to meet the deadline.
 - The estimated costs of the work are considerably greater than the Government/Council contribution which is capped at a maximum of \$25,000 per building.
 - Many building owners are concerned that they will face enforcement action if they are unable to meet the deadline of 31 March 2018.
7. The reduction in the number of affected buildings from 244 to 98 has resulted in a current projected underspend of \$300,000.
8. The underspend presents opportunity for the Council to reallocate and reconsider how the underspend is used to assist building owners facing financial hardships.

Recommendations

That the City Strategy Committee:

1. Receives the information.
2. Agree to return half of the \$300,000 underspend to the Built Heritage Incentive Fund (BHIF) and reinvest half back into revised URM programme, with amended criteria as listed.
3. Agree to the amended Criteria as:
 - Refund owner's partial costs for services incurred to demonstrate the building was determined safe by an engineer who assessed the building using the URM guidelines.
 - Partial refund where parapets are removed from non-heritage listed buildings where this would not require resource consent.
 - Apply a provision for scalability where large buildings requiring extensive modification may justify additional funding, in proportion to the overall expenditure. This would be no more than an additional \$10,000 per building, and only where the total cost of URM work exceeds \$100,000.
4. Delegate to the Chief Executive the authority to approve the spending against these amended criteria. (Subject to the agreement of MBIE on the revised approach.)
5. Note that Officers will engage with MBIE to request amendment of the funding agreement to align with the revised approach.

Background

9. The magnitude 7.8 Hurunui/Kaikoura earthquake increased the chance of a magnitude 6 or above aftershock within 12 months. That risk remains. GNS puts the risk at three times higher since the 2016 earthquake.
10. The Order in Council required the Council to require owners of buildings with dangerous street-facing unreinforced masonry to secure parapets and façades on their buildings within 12 months of the notice being issued. Building owners were issued with notices under Section 124 of the Building Act 2004 (as modified by the Order in Council).
11. The Council allocated \$300,000 from the 2016/17 BHIF allocation and allocating \$700,000 of the BHIF for the 2017/18 financial year. This combined funding was to pay for up to half of the costs of securing work to a maximum of \$15,000 for a URM façade and/or \$10,000 for a URM parapet.
12. The purpose of the funding package was to increase public safety on key routes by reducing vulnerability of URM parapets and façades in the event of a future earthquake.
13. Wellington has around 100 buildings with the same characteristics as those which fell in Christchurch. The Wellington Earthquake modelling anticipates fatalities from these buildings. The 14 November earthquake, as well as subsequent and potential aftershocks has led to a heightened seismic risk posed to areas such as Wellington, Lower Hutt, Marlborough, and Hurunui.

14. The Council is working to engage with the owners as effectively as possible. The Council is working closely with MBIE to ensure that a coordinated approach is taken to engage with URM building owners.

Discussion

Key Issues

15. Six months into the process, a number of practical issues have arisen that increase the risk of the deadline not being met.
- The Order in Council allows building owners to undertake work on URMs without the need for a Building Consent, providing that the work is carried out or reviewed by a Chartered Professional Engineer. However, engineers are becoming increasingly risk averse and concerned about their liability, given that they are responsible for the final sign off. They are seeking the protection of having a building consent. We are working with the engineering profession in an effort to mitigate the risk of this causing undue delays.
 - About half of building owners wish to undertake URM securing and earthquake prone strengthening at the same time. While this is consistent with the intent of the initiative, it affects the ability to meet the deadline. Officers are continuing to work through this with building owners.
 - The estimated costs of the work are substantially greater than the \$25,000 total available for each building. The Council will seek to amend the criteria to allow this to be addressed.
 - Many building owners are concerned that they will struggle to meet the deadline of 31 March 2018, and the prospect of enforcement action being taken against them.

Addressing the Underspend and amending the criteria

16. The underspend presents opportunity for the Council to reconsider and reallocate how that funding is spent to assist building owners suffering from financial hardship as a result of this programme. It is recommended that the following three changes are made to the criteria
- Refund owner's partial costs for services incurred to demonstrate the building was determined safe by an engineer who assessed the building using the URM guidelines. The Council is unable to subsidise this cost under the current settings.
 - Partial refund where parapets are removed from non-heritage listed buildings where this would not require resource consent. The current OIC does not allow for partial or full demolition.
 - Create a provision for scalability where very large buildings may justify additional funding, in proportion to the overall expenditure. The limits in the current funding do not match the cost imposed on larger buildings. It is recommended that this would be no more than an additional \$10,000 per building, and only where the total cost of URM work exceeds \$100,000.

Next Actions

17. If Councillors agree to the recommendations, Officers will proceed accordingly to assist building owners.
18. Officers will engage with MBIE to request amendment of the funding agreement to align with the revised approach.

19. Officer will regularly update Councillors on progress with the URM initiative.

Attachments

Nil

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Authoriser	Mike Mendonca, Chief Resilience Officer David Chick, Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

Officers have been and will continue working with building owners throughout this work.

Treaty of Waitangi considerations

No Treaty considerations.

Financial implications

The financial implications are discussed in the paper.

Policy and legislative implications

The policy and legislative implications are discussed in the paper.

Risks / legal

If criteria for funding are not changed this increases the risk of work not being completed by the statutory deadline.

Climate Change impact and considerations

None.

Communications Plan

There is an existing communications for the securing of the Unreinforced Masonry work; this will be amended as required following the Committee's decisions.

Health and Safety Impact considered

There are significant public safety risks if the unreinforced masonry is not secured, particularly if Wellington has another significant earthquake before this is completed.