
ORDINARY MEETING

OF

COMMUNITY, SPORT AND RECREATION COMMITTEE

AGENDA

Time: 9.15 am
Date: Wednesday, 14 October 2015
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

MEMBERSHIP

Mayor Wade-Brown

Councillor Ahipene-Mercer
Councillor Coughlan
Councillor Eagle (Chair)
Councillor Foster
Councillor Free
Councillor Lee
Councillor Lester

Councillor Marsh
Councillor Pannett
Councillor Peck
Councillor Ritchie
Councillor Sparrow
Councillor Woolf
Councillor Young

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 focus of the Community, Sport and Recreation Committee is to build strong, safe, healthy communities for a better quality of life. It will be responsible for social infrastructure (including social housing), social cohesion, encourage healthy lifestyles, support local community events, protect public safety, and provide a wide range of recreation and sporting facilities for residents and visitors to use and enjoy.

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 16 September 2015 will be put to the Community, Sport and Recreation 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 Community, Sport and Recreation 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 Community, Sport and Recreation Committee.

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

2. General Business

FIRE BYLAW REVIEW ORAL SUBMISSION

Purpose

1. To provide a copy of the written submission of the New Zealand Fire Service who wish to make an oral submission on the Fire Prevention Bylaw – Review 2015 (the Fire Bylaw).

Recommendations

That the Community, Sport and Recreation Committee:

1. Receive the oral submission.

Summary

2. On 12 August 2015 the Community, Sport and Recreation Committee agreed to consult on the Fire Bylaw in accordance with sections 83 and 86 of the Local Government Act 2006 (LGA). Consultation ran from 28 August to 30 September 2015.
3. In total 21 submissions were received. Only one submitter, the New Zealand Fire Service (the Fire Service), wishes to be heard. A copy of the Fire Service submission is attached.

Attachments

Attachment 1. Fire Service Submission - Fire Bylaw Review 2015

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Authors	Leila Martley, Senior Policy Analyst Geoff Lawson, Principal Advisor
Authoriser	Gunther Wild, Manager Policy and Reporting

SUPPORTING INFORMATION

Consultation and Engagement

Public consultation ran from 28 August to 30 September 2015

Treaty of Waitangi considerations

Not applicable.

Financial implications

There are no financial implications at this point.

Policy and legislative implications

The submission will be considered as part of the bylaw review.

Risks / legal

Legal advice was taken in preparing the consultation for the draft changes to the bylaw.

Climate Change impact and considerations

Not applicable.

Communications Plan

Not applicable at this point.



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Fire Prevention Bylaw
Wellington City Council
Po Box 2199
Wellington

30 September 2015

Attention: Policy Team (Geoff Lawson)

Dear Geoff

New Zealand Fire Service Commission- Wellington Fire Bylaw

Thank you for the opportunity to provide feedback on the Wellington City Council's Fire Bylaw. The New Zealand Fire Service Commission (the NZFS) also appreciates the opportunity to provide feedback early on in the process prior to the bylaw being released for public comments. This has ensured that the operational requirements of the NZFS Commission were considered when drafting the changes to the Bylaw. This submission therefore builds upon the past correspondence between the Council and the NZFS Commission and the previous letter sent to Kevin Lavery of Wellington City Council from Area Commander/Manager Peter Dempsey of the NZFS Commission.

The parts of the Bylaw that the NZFS Commission wishes to comment on are stated below:

Appendix B- Section 2: Fires allowed without Council Permission

The NZFS Commission is supportive of clauses 2.1 and 2.2 as the definition of "outdoor fire devices" excludes incinerators. This will allow the use of outdoor heating and cooking devices in a safe manner, provided that the conditions are complied with such as the flames being no taller than 1.5 metres.

Appendix B- Section 3: Fires that require Council Permission

The NZFS Commission is supportive of clauses 3.1 and 3.2 as permits would only be given where special circumstances occur or where there is no reasonably practical alternative for the following:

- all outdoor fires in public places and on private land including hangi and umu; and
- the burning of rubbish and vegetation.

This condition would only allow the burning of rubbish and vegetation and other outdoor fires on the basis that there are no other suitable, reasonably practical ways to dispose of the material such as disposing to landfill. Often, these types of fires can be very large in the early stages and can create a number of call outs from the NZFS based on calls from concerned residents. Having these types of fires controlled by a permit will enable controls to be put on the size, scale and management of the fire.

The proposed approach is consistent with the Hutt City Council Fire Prevention Bylaw which prohibits vegetation and incinerator fires except where special exemptions apply.

Our Ref: 4261542
NZ1-11355407-6 0.6

Appendix B- Section 4: General Conditions for outdoor fires in all areas at all times

The NZFS Commission is supportive of the provisions listed in Section 4 as it promotes the use of best practice fire management. By only allowing fires to be lit during day time hours mitigates the risk of fires becoming out of control when unattended during the hours of the night. It also ensures that fire suppression means such as water is readily available in the case that a fire becomes out of control and needs to be quickly extinguished by the owner. The standards also advise when the weather conditions are not appropriate for fires to be lit.

Appendix B- Section 5: Total fire ban during periods of extreme fire risk.

The NZFS Commission is supportive of Clause 5, allowing the Council to impose a total fire ban. Clause 5.3 which imposes a condition allowing fires to be permitted within a fire ban if special circumstances apply is consistent with the Hutt City Council Fire Prevention Bylaw and ensures that risks are adequately assessed during the high risk period.

Appendix B- Section 7: Process for obtaining Councils written approval

The NZFS Commission is supportive of the inclusion of Clause 7.3 that the Council may grant or decline permit applications and to suspend or revoke applications at its sole discretion. This removes the requirement for the NZFS Commission to provide input into the decisions around granting or declining permits.

Appendix B- Section 8: Councils Powers to extinguish fires

The NZFS Commission is supportive of Clause 8.1 whereby it gives the owner or occupant the opportunity to extinguish the fire when the fire is in breach of the bylaw. This reduces the responsibilities of the NZFS. The NZFS Commission is also supportive of Section 8.2 which gives Council the powers to extinguish the fire if the owner/occupier fails to follow instruction or if no one is present on the property. The Council then may ask the NZFS to attend to the fire on behalf of them, and recover the costs of attending from the owner/occupier.

The NZFS Commission encourages the Council to consider adding in a reference to the NZFS as Councils agent under Clause 8.2 when referring to the powers for extinguishing fires. This would make it clear to the persons breaching Clause 8.1 that the NZFS can be called.

I am happy to discuss any aspect of this submission with the Draft Bylaw Team. If you have any further questions or comments relating to this submission, or wish to discuss it further, please feel free to contact me at the contact details below.

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17 September 2015

The NZFS Commission wishes to present its comments to the Council in person.

Yours sincerely



Claire Fell
Planner

on behalf of

Beca Ltd

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Copy

Mitchell Brown, New Zealand Fire Service Commission

Our Ref: 4261542
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UPDATE ON ALCOHOL CONTROL AREAS

Purpose

1. The purpose of this paper is to provide an update on the requirements local authorities face when creating or amending an alcohol control bylaw and a summary of queries from the community regarding liquor bans.

Summary

2. Changes to legislation in 2012 require that a higher threshold be met in order to impose or keep an alcohol control area/liquor ban.
3. Areas currently covered by the bylaw are subject to the new thresholds when the bylaw is up for review. If the areas do not meet the thresholds, the ban will need to be removed.
4. The Council's alcohol control bylaw must be reviewed by 18 December 2018.
5. Several communities have recently approached the Council seeking further information and guidance on how to obtain an alcohol control areas in their community.
6. Requests from communities to amend the bylaw to include their suburb in the liquor ban area will be channelled into the mandatory bylaw review. Officers continue to work with communities on building the evidence base and progressing non-regulatory initiatives in the meantime.
7. Bylaws affect rights and freedoms. There is a prescribed process the Council must follow to make an alcohol control bylaw. This process requires evidence of need, and that a bylaw would be appropriate and proportionate.
8. The Council plans to begin the alcohol control bylaw review process in early 2017.

Recommendations

That the Community, Sport and Recreation Committee:

1. Notes the criteria that must be satisfied to have a liquor ban/alcohol control area in place.
2. Agrees that communities interested in the Wellington alcohol control bylaw will have their requests considered as part of the wider alcohol control bylaw review to begin in early 2017.

Background

9. Amendments to the Local Government Act 2002, through the Local Government (Alcohol Reform) Amendment Act 2012, have changed the considerations a local authority needs to have regard to when creating or amending an alcohol control bylaw.
10. The Wellington Consolidated Bylaw 2008, section four: liquor control, sets the parameters for alcohol control areas in the city. The consumption or possession of alcohol in any public place (including while in a vehicle), is prohibited within the Wellington Central Area, Oriental Bay, Mt Victoria Lookout, Aro Valley, Central Park, Mt Cook and Newtown (the control area) which is the area inside the boundaries depicted

in the attached map. This prohibition is effective at all times. Police are responsible for enforcing the bylaw.

11. The most recent amendment process in 2010 included public consultation on extending the ban to cover the entire city. The Council received 604 submissions on the proposal: 462 opposed a city-wide ban, 134 supported it and eight were unsure. Independent research by AC Neilson of 600 randomly selected Wellington City households found that 47 percent opposed a city-wide ban while 39 percent supported it. The Council voted down a city-wide ban, and elected to extend the boundary to include Newtown and Mount Cook.

Discussion

Changes to alcohol legislation

12. The Local Government (Alcohol Reform) Amendment Act 2012, which amended the Local Government Act 2002 (the Act), increased the threshold for introducing alcohol control areas. S147A of the Act imposes requirements on local authorities, including that the authority must be satisfied that:
- the bylaw can be justified as a reasonable limitation on people's rights and freedoms;
 - there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
 - the bylaw is appropriate and proportionate in the light of that crime or disorder.
13. Further to this, any alcohol control bylaw already in place may only continue if:
- the territorial authority is satisfied that the level of crime or disorder experienced before the bylaw was made (being crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area concerned) is likely to return to the area to which the bylaw is intended to apply if the bylaw does not continue.
14. Section 11 of the Amendment Act states that all alcohol control bylaws created before the commencement of the Amendment Act will be revoked on 18 December 2018 unless they lapse earlier, or are reviewed and the higher thresholds applied before then.

Review of the Wellington alcohol control bylaw

15. Wellington's alcohol control bylaw will need to be reviewed before 18 December 2018.
16. A review of the Wellington alcohol control bylaw will require the Council to review all of the current areas under the control area and satisfy itself that the ban is necessary to keep crime and disorder down.
17. Bylaws affect rights and freedoms. There's a prescribed process the Council must follow to make an alcohol control bylaw. This process requires evidence of need, and that a bylaw would be appropriate and proportionate.
18. There is potential that reviewing the bylaw could mean that some alcohol control areas may need to be removed from the ban area if the required evidence of a high level of crime or disorder that can be linked to alcohol is not available for those areas.
19. Any areas not currently covered by the current alcohol control bylaw but that are to be considered during the next review are also subject to the new criteria.

20. Given the new requirements, it is recommended that the bylaw be reviewed in its entirety, not a suburb-by-suburb approach. There are several factors that support this:
- a) the need to review the bylaw by December 2018
 - b) the changes to the threshold for implementing alcohol control bylaws is likely to see the existing alcohol control area challenged (s147A Local Government Act)
 - c) the need to satisfy the special consultative procedure for any changes to the bylaw (s156 Local Government Act)
 - d) the current interest in alcohol control areas from several communities
 - e) a perceived increase in anti-social behaviour throughout the city (this may be due to a number of factors which would require a city-wide lens, such as cuts to District Health Board funding and subsequent cessation of the delivery of day-time health services, and the migration/perception of migration of the problem through various parts of the city)
 - f) revisiting the alcohol control areas suburb-by-suburb means the Council is regularly asked to revisit the boundaries and consider new information for an alcohol control area which is a timely process – a city wide review would be more efficient, and it would assist officers to advise communities on the review process
 - g) a city-wide approach would ensure that all evidence considered for an alcohol ban would be analysed simultaneously, increasing the transparency and efficiency of the review.
21. Community groups in Kelburn, Brooklyn, Oriental Bay and Kilbirnie have contacted the Council regarding extensions to the alcohol control area.
22. Members of the community have been provided with guidance should they wish to ask the Council to consider an extension of the alcohol control area. The guidance states that a community should collect and prepare evidence to support its claim, and submit this to the Council along with a letter to formalise the request. Council officers would then review the evidence, alongside other data (from the contact centre, Police, other initiatives in the area, etc), and prepare a paper for Committee either in support or against the alcohol control area request.
23. In line with the above recommendation, any forthcoming requests will be wrapped into the one required review commencing 2017.

Community interest

Kelburn

24. A number of residents close to Kelburn Park have voiced concern with what they consider excessive, late-night noise in Kelburn Park and the nearby streets that lead into the city. The residents attribute the excessive noise to Victoria University students from the nearby Weir House. Weir House has a 10pm curfew, and often the students leave Weir House at 10pm and continue into town, often stopping at/passing through Kelburn Park.
25. These residents have requested that the Council, the University and the Police to intervene. Council officers are working closely with Victoria University and the Police to improve strategies to combat the problems residents in the area are facing. Officers are undertaking a review of the Park on Saturday nights and have thus far found no excessive noise, but are continuing to monitor the area.
26. The residents have written several times to request a liquor ban at Kelburn Park.

Brooklyn

27. A small business owner in Brooklyn has presented two petitions to Council over the past few years, the most recent in April 2015. He wants all suburban centres (particularly Brooklyn)/30kmph zones included in the alcohol control area. His most recent petition gained marginal support, only receiving 10 signatures.
28. The main issue with public drinking in Brooklyn is focussed on one individual well-known to Police, social outreach workers, Local Hosts and local businesses.
29. A meeting was held with Soup Kitchen outreach staff, the petition author, Council officers and Councillor Eagle to discuss the problem. Council officers will continue to advise the author with regard to any views on reviewing the alcohol control bylaw. Soup Kitchen Outreach staff will investigate the problem further, and have agreed to a meeting with the Police and Community Services team to discuss the individual causing issues in Brooklyn. The petition author is interested in continuing the process for an extension to the alcohol control area by working with other community groups (ie Kilbirnie).

Kilbirnie

30. A recent community meeting organised by Councillor Marsh focussed on the question 'does Kilbirnie need a liquor ban?' and attracted approximately 70 residents. The discussion topics varied from beggars, to public drinking, to mental health facilities (or the lack thereof) and general anti-social behaviour. There was considerable support by the meeting's attendees for an alcohol control area in Kilbirnie.
31. Residents were very vocal on the increase in anti-social and aggressive behaviour in the town centre. Both the end of funding to day centres and their subsequent closure, as well as the extension of the alcohol control area to include Newtown in 2010, were raised by residents as factors to the problem in Kilbirnie.
32. The Kilbirnie Business Network recently met with Council officers to discuss a 'Kilbirnie response' to the increase in anti-social behaviour in the area. The Council has approved the proposal, which provides resource through the Business Network to lead and coordinate a community response, looking at a number of tools to remedy the situation. The Kilbirnie community plans to send a formal request for a liquor ban in their suburb, which will likely be undertaken as part of the wider Kilbirnie response. A project manager has been brought in to lead the response, and is currently meeting with Council officers and social service providers to design the project.
33. One community member was the author of a Council petition (closed late June) for a liquor ban in Kilbirnie that collected over 270 signatures. The petition was presented to the Community, Sport and Recreation Committee on 12 August.

Oriental Bay

34. A resident of Oriental Parade has contacted the Council and the Police about damage caused to his property and the endangerment to people by bottle-throwing from the reserve under St. Gerard's monastery on Mount Victoria. He has requested that this area be included in the liquor ban.
35. The resident also has the written support of the Executive Committee of the Oriental Bay Residents' Association. Officers have met with the resident as well as Police and are working on options to deter the activity, including looking at increased planting at the reserve below the monastery.

Next Actions

Review of the bylaw

36. Section 11 of the Amendment Act means that all alcohol control bylaws created before its commencement will be revoked on 18 December 2018 unless they lapse earlier, or are reviewed and the higher thresholds applied before then.
37. In early 2017 officers will begin reviewing the bylaw in line with the information given in this paper and from the community. If required, officers will prepare a statement of proposal report for Council approval prior to consultation with the public. Officers would then report back to Council with recommendations prior to the bylaw lapse date in December 2018.

Learning from other councils

38. There is no guidance for local authorities when determining what evidence will satisfy the 'high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area' threshold. Wellington City Council can learn from other councils going through alcohol control bylaw review, and analysing how councils interpreted the legislative changes.
39. For example, Auckland Council is currently going through the process of reviewing its alcohol control areas; it is likely some of its alcohol control areas will no longer be covered by the bylaw as a result of the higher thresholds. The changes to the Act make 'blanket bans' (eg liquor bans in all parks) difficult, if not impossible, to maintain.
40. Some councils, including Auckland, have sought information from the public to use as evidence. Waiting to review the Wellington alcohol control bylaw until other councils have done so will provide valuable lessons for the Council to consider when determining the 'high level of crime or disorder' thresholds.

Responding to communities

41. As detailed earlier in the paper, several Wellington communities have residents that want liquor bans in their area. Officers have provided various members of these communities with guidance on how to progress their alcohol control applications. However, as stated above, any one community's application should not be considered in isolation and will be brought into the single review.
42. Officers will advise interested communities that existing and potential new liquor ban areas will be reviewed on a city-wide scale as part of a single review, the process to begin in 2017. Until such time as the bylaw is reviewed, officers will encourage interested communities to continue collecting evidence to support their request for a liquor ban.
43. The public objection process included in the Sale and Supply of Alcohol Act 2012 is another way in which concerned communities may have their say on alcohol in their areas, however this on a premises by premises basis.
44. Officers will continue to lead and support communities to lead non-regulatory activities and projects that aim to reduce instances of anti-social behaviour. When it is time to review the bylaw, officers will consider the evidence/application supplied by the community alongside other information available to the Council, such as Police data, previous policy decisions, and other initiatives underway to address the problem.

Attachments

Attachment 1. Map of alcohol control area - Wellington

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Authoriser	Peter Brennan, Manager Property/Acting Chief Operating Officer

SUPPORTING INFORMATION

Consultation and Engagement

This paper came about by the two petitions and other community queries regarding extensions to the alcohol control area bylaw. When the Council embarks on a review of the bylaw, any changes to the bylaw will require a consultative process.

Treaty of Waitangi considerations

No Treaty of Waitangi considerations were required during the drafting of this paper; however considerations will need to be given when the Council begins a review of the bylaw.

Financial implications

There are no financial implications resulting from this paper, however considerations will form part of the bylaw review.

Policy and legislative implications

This paper covers the changes to legislation that require new criteria to be considered when reviewing an alcohol control bylaw. These changes will impact on the review of the bylaw.

Risks / legal

This paper outlines a number of risks associated with the review of the bylaw, such as the ban area potentially being removed from areas that do not meet the criteria. Legal advice was obtained to assist in the drafting of this paper.

Climate Change impact and considerations

There are no climate change impacts or considerations arising from this paper.

Communications Plan

Interested communities will be informed that a review of the Council's alcohol control bylaw will begin in early 2017.

