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**ORDINARY MEETING**

**OF**

**COMMUNITY, SPORT AND RECREATION COMMITTEE**

**AGENDA**

**Time:** 9.15 am  
**Date:** Wednesday, 12 August 2015  
**Venue:** Committee Room 1  
Ground Floor, Council Offices  
101 Wakefield Street  
Wellington

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**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](mailto: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.*

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## **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 meetings held on 9 June 2015 and on 16 June 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.



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## 2. Petitions

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### **KEITH SPRY TEACHING POOL TO BE OPEN TO THE GENERAL PUBLIC WHEN NOT IN USE FOR SWIMMING LESSONS.**

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**Primary Petitioner:** Nerys Foster  
**Total Signatures:** 262 as at 23 June 2015

**Presented by:** Nerys Foster  
**Contact Officer:** Julian Todd  
**Director Responsible:** Greg Orchard

#### **Recommendation**

That the Community, Sport and Recreation Committee:

1. Receive the information.

#### **Background**

1. The ePetition “Keith Spry teaching pool to be open to the general public when not in use for swimming lessons” was initiated by Nerys Foster on 25 March 2015 and closed on 25 June 2015.
2. The purpose of the petition is to allow the public to be able to use Keith Spry Pool’s teaching pool when not in use for private swimming lessons, or when only a few lanes are in use. The use of the pool would be for 5-10 year olds who currently have no suitable place to swim.
3. The ePetition was open to all members of the public with internet access to the Council’s website. It received 262 signatures as at 23 June 2015.

#### **Officers’ response**

4. Since the opening of the new extensions to the Keith Spry Pool in February 2015 the management team at the pool have been monitoring the use and demand for the new pools in order to develop a programme that meets the needs of the local community.
5. The programmes pool, to which the ePetition refers, was specifically developed and designed to serve the needs of learn to swim. This was identified as a priority in a previous Long Term Plan and in response to these factors learn to swim has been given priority within this pool over its first two terms of operation.
6. Having had the opportunity to assess usage and demand for learn to swim over the previous two terms managers have now confirmed an initial set of times that this pool will be available for casual use.

**Item 2.1**

7. These initial times are: during the school term Monday to Friday 6pm to 7.30pm; during school holiday periods Monday to Friday 12pm to 3pm; and throughout the year on Sundays 2pm to 6pm.
8. These casual sessions are being made available from 1 August 2015 and are being publicised through our usual channels.
9. It should be noted that there are additional operating costs for the introduction of casual sessions to this pool. As such the management team will continue to monitor demand and usage of this pool, both casual and learn to swim, and will continue to make adjustments to the overall programme of the pool to meet the demands of the local community.

**Attachments**

Nil

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## **DRINKING BAN IN KILBIRNIE**

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**Primary Petitioner:** Keiran O'Meara  
**Total Signatures:** 273 as at 15 July 2015

**Presented by:** Keiran O'Meara  
**Contact Officer:** Macaela Flanagan  
**Director Responsible:** Greg Orchard

### **Recommendation**

That the Community, Sport and Recreation Committee:

1. Receive the information.

### **Background**

1. The ePetition "Drinking ban in Kilbirnie" was initiated by Keiran O'Meara on 9 April 2015 and closed on 30 June 2015.
2. The purpose of the petition is to make Kilbirnie a liquor free zone.
3. The background information provided by the petitioner states that:  
"On a daily basis there are drunk people gathering in the community centre grass space getting intoxicated and sniffing glue, this is happening all the time and it is intimidating and also completely inappropriate that this is allowed to happen right outside a child care centre."
4. The ePetition was open to all members of the public with internet access to the Council's website. It received 273 signatures as at 15 July 2015.

### **Officers' response**

5. The petitioner was provided with guidance about the process for requesting an alcohol control area be considered by Council. The evidence prepared and submitted by the community shows the size and nature of the problem. To date there has not been a formal request from the Kilbirnie community.
6. An alcohol control area is only one type of intervention that can be used to address anti-social behaviour. A public meeting was held by Councillor Marsh on 16 June which explored the question of whether Kilbirnie needs an alcohol control area (liquor ban). This meeting was well attended and discussion focussed on begging, anti-social behaviour, and public drinking.
7. Officers at the meeting outlined a range of potential initiatives to address these concerns including coordinating the community outreach team, the Police, Council officers, residents and members of the Kilbirnie business community. These are currently being explored with key stakeholders. Officers will provide updates to Committee on the progress being made in Kilbirnie to combat the unwanted behaviours.

8. The meeting was supportive of progressing the process to request an alcohol control area; however the Council has yet to receive a formal request.

*Process for alcohol control areas*

9. Legislation requires that local authorities must be satisfied that there is evidence that the area to which the alcohol control area 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 that it can be justified as a reasonable limitation on people's rights and freedoms.
10. A decision to progress with an alcohol control area rests on a number of different elements – including the evidence provided by the community, Police data, previous policy decisions, requirements from legislation and Council recorded data. The assessment of these factors shape a recommendation to the Committee about whether to progress with making a bylaw change. If the Council decided to progress with a bylaw, the process involves using the Special Consultative Procedure to get community views on the proposal.

**Attachments**

Nil

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### 3. General Business

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## SOCIAL AND RECREATION FUND - JULY 2015

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### Purpose

1. Provides recommendations for the distribution of the Council's Social and Recreation Fund.

### Summary

2. The Council provides grants to assist community groups to undertake projects that meet community needs. Grants are also a mechanism for achieving the Council's objectives and strategic priorities, especially those priorities that rely on community organisations carrying out specific activities.
3. The 2013 review of the grant criteria proposed a move away from generic criteria in favour of specific criteria for each fund. While each pool may share a number of criteria, others would be tailored to suit the particular demands of that community of interest and relevant Council outcomes.

### Recommendations

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Agree to fund the projects as listed below:

	Organisation	Project	Total Project Cost	Amount requested	Recommended Amount	Comments
1	Aro Creative Inc	Community Noticeboards	\$510	\$400	\$0	Lower priority given pressure on available funding. This is not a community driven request and not aligned with the Aro Valley Community Council.

**Item 3.1**

2	Barbarian Productions Limited	Vogelmorn Community Activity	\$3,845	\$3,645	\$0	The request is for general support for a number of projects with unclear outcomes. Would recommend any future applications focus on a specific project with clear outcomes. This group has applied for project funding in the Arts and Culture Fund.
3	Big Buddy Mentoring Trust	Recruiting Mentors	\$96,774	\$15,000	\$8,000	Support for mentoring programme, Officers will work with group to discuss current work in the Eastern suburbs with families.
4	Churton Park Community Association Inc	Operational support	\$4,600	\$1,500	\$1,500	Support for local residents association
5	Community Patrols of New Zealand - Wgtn District	Community Patrol support	\$17,500	\$15,000	\$1,200	Support for West patrol operating expenses , CPNZ are resourced centrally to do some of this work, capital costs (vehicle purchases) have not been supported through our grants.
6	Eastern Southern Youth Trust	Strathmore Art	\$13,500	\$13,500	\$5,000	Support for community mural project at Taiaroa Park, complementing City Arts and Community Services projects.
7	Footy for All Charitable Trust	Able2 Football	\$5,000	\$5,000	\$5,000	Working with vulnerable people, providing soccer project, good connections with agencies.

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8	Highland Park Progressive Assoc. Inc	Residents' Association Operational Funding and 2015/16 Projects	\$2,725	\$1,805	\$1,500	Active local residents group, working on projects at Fort Buckley and Highland Trig.
9	Ignite Sport Trust	Ignition indoor multi sport competition	\$8,125	\$1,000	\$0	Event can self fund through fees paid by teams entering the sports competition, estimated Wgtn ratepayer participation 40%.
10	IHC New Zealand Incorporated	Social Enterprise Support Worker	\$13,728	\$13,728	\$0	Lower priority given pressure on available funding, no specific social enterprise project proposed.
11	InsideOUT Koāro	InsideOUT Regional Schools Coordinator	\$12,220	\$12,220	\$0	Lower priority-given pressure on available funding and ongoing support for youth development organisations and pastoral provision provided by schools.
12	Island Bay Softball Club	Pitching & Coaching Clinics	\$5,255	\$4,496	\$4,307	Support for koha based youth sport programme targeting Maori and Pacific young people.
13	Johnsonville Senior Citizen Club Inc	Johnsonville Seniors monthly trips	\$5,000	\$5,000	\$0	Officers will work with group to explore other funding opportunities/ sponsorship for this project to provide free monthly bus trips for seniors. Council supports group with rental costs for meetings.
14	Khandallah Plunket Toy Library	Pretend Play Toys	\$1,509	\$1,509	\$500	Contribution (50/50) to toys for group with 175 member families.

**Item 3.1**

**Item 3.1**

15	Lions Club of Johnsonville Inc.	Johnsonville Lions Community Christmas Parade	\$18,200	\$8,000	\$4,000	Contribution to community celebration event, seeking road closure costs, application also in Arts and Culture Fund
16	Matu Sako New Zealand Incorporated	Wellington Myanmar Ethnics Development	\$8,087	\$8,087	\$0	Council supporting existing organisations who provide services across migrant and refugee communities, including courses and training. Group are located in Council supported office space at Anvil House.
17	Miramar Peninsula Community Trust	Seatoun Village Hall and St Christopher's Church	\$28,500	\$20,000	\$17,500	Support for establishment phase for new community centre facility in Seatoun, subject to confirmation of legal status.
18	Multicultural Council Wellington Inc	Multicultural Council of Wellington Inc	\$2,500	\$2,500	\$0	Group are supported through ongoing accommodation assistance for their rental.
19	NZ Council of Victim Support Groups - Wellington	Service delivery to victims of crime and trauma.	\$58,286	\$12,000	\$9,000	Delivers on WHO Safe City Priorities - also a Important partner with police in supporting victims as well as in local emergency welfare provision
20	Pride Awards Trust	Pride Awards Ceremony 2015	\$24,546	\$1,250	\$1,250	Contribution to awards which recognise young people who spend their time volunteering or helping others in their community.

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21	Refugee Trauma Recovery	Safety & Wellbeing Day	\$4,260	\$4,260	\$2,000	Contribution to safety and resilience event, Officers will ensure Council and partners are involved
22	Sexual Abuse Prevention Network-umbrella Wellington Rape Crisis	Sexual Abuse Prevention Network Co-ordinator Wages	\$46,774	\$15,000	\$10,400	Delivers on WHO Safe City priorities: Support for preventative education programme working across sector- contributes to safe city outcomes.
23	Shakti Ethnic Women's Support Group (Wellington) Inc.	Salary subsidies for Women's Advocate and volunteer training costs	\$68,825	\$10,825	\$8,000	Delivers on WHO Safe City priorities - works closely with refugee and migrant women
24	Tawa Progressive & Ratepayers Association Inc.	Sponsoring a float in the Tawa Christmas Parade	\$2,956	\$2,956	\$0	Lower priority given pressure on available funding, group can approach community board for direct support
25	Te Whare Rokiroki (Maori Women's Refuge)	2 Social Worker's Salaries	\$74,728	\$41,728	\$10,000	Delivers on WHO Safe City priorities: Support for Maori focussed work, working closely with Women's Refuge, contributes to Council outcomes of a people centred city ensuring healthy and resilient communities

**Item 3.1**

**Item 3.1**

26	The Wellington Boys' and Girls' Institute	Challenge for Change Events	\$63,450	\$31,600	\$0	This programme along with the Journeys and Parenting programmes are supported directly through ongoing 3 year contract funding (13/14-15/16).
27	Victoria University Wellington Cricket Club	Kelburn Park Cricket Nets Upgrade	\$54,800	\$10,000	\$5,000	One off contribution to artificial turf costs for this well used facility, promotes health and physical activity
28	Wellington Women's Refuge Group Inc	Training and Education Coordination	\$46,950	\$31,950	\$0	Delivers on WHO Safe City priorities: Organisation supported through ongoing 3 year contract funding (15/16-17/18).
29	Worser Bay Life Saving Club (Inc)	Coach for Worser Bay Life Saving Club	\$4,000	\$4,000	\$1,000	Contribution to surf lifesaving club activity, delivers to safe city outcomes.
<b>Totals</b>			<b>\$697,153</b>	<b>\$297,959</b>	<b>\$95,157</b>	

## Background

4. Grants and funding are included in the Annual Plan to provide an appropriate mechanism for the Council to respond to community groups that are undertaking projects that:
  - Meet a need identified by the community.
  - Align with council's strategic goals and community outcomes.
  - Rely to some extent on participation and engagement by community organisations
5. This is first of three funding rounds for 2015-16 with a July 14 closing date. The next Social and Recreation Fund closing date, along with funding for Neighbours Day projects and activities will be 28 October 2015.
6. The Social and Recreation Fund has specific criteria (Attachment 1), with a number of priority or focus areas;
  - Build capability and capacity within the community

- Promote personal and community safety
  - Physically active communities encouraging health and wellbeing
  - Youth
  - Community preparedness
  - Residents and Progressive Associations.
7. The assessment process funding may include consultation with; the applicant, persons or organisations referred to in the application and other Council officers. The assessment process includes analysis of how projects serve Council strategic outcomes and meet fund criteria. To ensure funds are used appropriately, conditions may be included. In cases where groups might have outstanding accountability reports or awaiting confirmation of incorporation as an incorporated society or charitable trust.
8. The original information provided through online application has been made available to Councillors.

### **Discussion**

9. The Social and Recreation Fund supports community organisations for projects that meet the criteria for the fund, there are 29 applications with organisations requesting a total of \$297,958.
10. Officers are recommending the Community, Sport and Recreation Committee support 18 projects with grants totalling \$95,157.

### **Contact Officers**

Jenny Rains, Community Services Manager

Mark Farrar, Senior Advisor Funding and Relationships

### **Attachments**

Attachment 1. Social and Recreation Fund - Criteria

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Author	Mark Farrar, Team Leader Funding and Relationships
Authoriser	Greg Orchard, Chief Operating Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

The assessment process funding includes consultation with; the applicant, persons or organisations referred to in the application and other Council officers, across a range of activity areas, in the case of these applications across Parks, Sports and Recreation, Community Services and City Arts and Events.

### **Treaty of Waitangi considerations**

Applications that could have implications for Maori are referred to Council's Treaty Relations Office. For each of these grant funds there are specific criteria and questions relating to Maori, for the Social and Recreation Fund applicants are asked to describe how their project serves to assist Maori potential.

### **Financial implications**

The Long Term Plan makes provision for community grants in several places - 2.1.6 - Community environmental initiatives, 3.1.4 - Grants and creative workforce, 4.1.4 – (Arts and) Cultural grants, and 5.2.4 - Grants (Social and Recreation). The Social and Recreation Fund comes under project C668.

### **Policy and legislative implications**

Council funds have been created to assist community initiatives in line with Council strategy. Council Officers engage and consult widely with a range of groups and organisations before funding applications are made and throughout the assessment process.

### **Risks / legal**

N/A

### **Climate Change impact and considerations**

N/A

### **Communications Plan**

N/A

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## Attachment 1 - Social and Recreation Fund Criteria

### Criteria

Your project makes a positive contribution to achieving the Council's Strategic outcomes:

Towards 2040: Smart Capital strategy

- People Centred City: Contributes to healthy, vibrant, affordable and resilient communities, with a strong sense of identity and 'place' expressed through urban form, openness and accessibility.
- Connected City: Supports a city with easy physical and virtual access to regional, national and global networks.
- Eco-City: Allows the city to proactively respond to environmental challenges and seize opportunities to grow the green economy.
- Dynamic Central City: Supports a central city of creativity, exploration and innovation, helping Wellington to offer the lifestyle, entertainment and amenity of a much bigger city.

Long Term Plan 2012-22 priorities:

- An inclusive place where talent wants to live
- A resilient city
- A well managed city
- Annual Plan priorities for the relevant year.

The project is Wellington-based and mainly benefits the people of Wellington (exceptions may be made for projects based elsewhere in the region, but which significantly benefit Wellington City residents).

The applicant is a legally constituted community group or organisation

The applicant provides evidence of sound financial management, good employment practice, clear and detailed planning, clear performance measures, and reporting processes.

The applicant outlines how physical accessibility has been built into project development.

The applicant outlines how pricing has been set to ensure access by a wide range of people or by the intended users.

The project should show evidence of community support, collaboration, and building partnerships with other organisations (e.g. social media interest, letters of support from other organisations/leaders).

**Item 3.1 Attachment 1**

The applicant must show that the project discernibly improves community wellbeing and adds value to the range of similar types of services in the community.

Māori are often over-represented in many determinants of social deprivation. Outline whether and how the specific needs of Māori have been incorporated into the planning of your project.

Emergent and innovative community projects can be supported through this fund. Applicants that apply under this category will need to demonstrate the transformative nature of the project.

**Focus Areas**

**Build capability and capacity within the community**

Priority will be given to projects that:

- strengthen the local community, address local issues, strengthen and contribute to social wellbeing
- Support volunteers and foster skill development and training for the community.

**Promote personal and community safety**

Priority will be given to projects that:

- Support community activity that enhances Wellington as an International Safe Community
- Support projects that enhance community safety and/or personal safety.

**Physically active communities encouraging health and wellbeing**

Priority will be given to projects that:

- Target communities of interest, including youth and seniors.
- Support the strategic planning of sports codes

**Youth**

Priority will be given to projects that:

- Involve young people in the development and delivery of the project
- Help young people gain a better understanding of community, an increased sense of belonging as active citizens and positive contributors to society
- Promote volunteer opportunities for young people.

**Community Preparedness**

Priority will be given to projects that:

- Strengthen local neighbourhood connectedness in an ongoing manner
- Increase community resilience and emergency preparedness locally

**Criteria for Residents and Progressive Association applicants:**

The organisation must:

- 
- be registered with Wellington City Council Community Services as a residents/progressive association
  - have a committee
  - meet at least twice a year and keep minutes of these meetings
  - have an active membership of 10 or more, excluding the committee
  - keep accurate and detailed accounts
  - agree to make their accounts and minutes available to Wellington City Council on request.

When submitting an application Residents and Progressive Associations should give a summary of their current membership, meeting pattern (e.g. monthly) and provide a copy of minutes from recent meetings.

### **Neighbours Day Aotearoa Funding**

- A maximum grant of \$500 can be allocated for each project.
- Projects planned for the end of November 2014 through to 29 March 2015 will fit the timeframe of this funding round.
- The grant will support projects from registered organisations or societies. If you are a non-legal entity group then we can offer assistance to find an umbrella organisation. Your project or event will need to meet the necessary requirements.



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## THE SOCIAL HOUSING SERVICE POLICY - DRAFT PRINCIPLES

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### Purpose

1. This paper presents to the Committee a number of recommended principles to govern changes to the Social Housing Service Policy.

### Summary

2. The Council is reviewing the Social Housing Service Policy. At the same time there are a number of changes being made in the operating environment for social housing by the Government.
3. In this environment it is important that the Council's policy position is transparent so that applicants can make the appropriate housing choices and to ensure that as a priority the Council houses those who cannot be housed by other providers.
4. Under the current settings the Council risks masking social housing demand from the Ministry of Social Development (MSD) by housing applicants who would normally be eligible for greater support through the Income Related Rent subsidy (IRRS) and provided by a community housing provider. Sometimes the Council also provides a greater level of discount than would be expected for some tenants.
5. This paper recommends that the Committee agrees a set of principles that will guide the policy development and review. These principles are in line with the existing principle that the Council will provide *appropriate and affordable housing to low-income households who otherwise have barriers to accessing housing*.

### Recommendations

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Note that the wider housing work programme includes a number of interlinking work streams
  - a. Housing Strategy work stream
  - b. Social Housing Policy review
  - c. City Housing Business Model Review.
3. Agree to continue the current Council objectives for social housing and principles to guide decision-making and the way City Housing delivers its services.
4. Agree that in order to meet the Council objectives for social housing within the current environment the Council social housing principles must also provide a transparent rental setting process which
  - a. ensures that the Council is not masking social housing demand
  - b. continues to house those in housing need who cannot be housed by others
  - c. provide a range of rental discounts recognising that some households have increased affordability
  - d. supports the development of quality third sector providers to help respond to

growing demand.

5. Note the linkages between this paper, the City Housing Business Model Review and the City Housing Options for Partnerships papers being considered by this Committee.

## **Background**

6. On 23 October 2014 the paper to this Committee noted that the Council policy settings are overly simplistic and do not provide the flexibility to provide different levels of service across our portfolio to meet different types of housing demand in Wellington City. The Committee also noted that our rent setting policy does not easily align with current Government policy nor does it recognise housing demand or the changing nature of tenant's circumstances and assist them to meet their aspirations.
7. Subsequently on 26 November 2014, this Committee agreed to consult on the Social Housing Service Policy and agreed to release the discussion document to aid consultation.
8. A paper was presented to this Committee on 9 June 2015 summarising the feedback from consultation as follows.
  - In general it was considered that the Council is housing the appropriate kinds of tenants. It was considered that the policy should more explicitly prioritise homeless people. There were a range of questions regarding some of the current priority groups, such as refugees and migrants, and whether specific groups, like students who don't easily fit the student accommodation market, should also be considered. In most cases these additional groups would already fall within the existing eligibility criteria.
  - The level of rent paid (or subsidy received) was, in some cases, not considered to be equitable. There was a high level of support for income related rents and also for those on higher incomes to pay a greater share of their rent if they are able to do so.
  - The process by which market rents are set was generally considered fair but this should be more contestable and transparent
  - The range of rental limits and caps that the Council sets were considered to be ineffective. In some cases rent reductions are almost completely offset by a loss in Accommodation Supplement or other assistance. Questions were raised about why the rent freeze for those over 80 years of age does not apply to others in similar financial circumstances. The fixed cap rent increase limits, e.g. \$20/week for a single person do not take into account the tenant's ability to pay.
  - The current asset limits were considered to be out of step with the intention for which they were established (to enable a deposit to be saved for a house). They are difficult to enforce and did not recognise the needs of tenants at different life stages. Tenants indicated that some choose not to disclose assets or choose to dispose of assets rather than risk losing access to their unit.
  - Tenants frequently expressed a willingness to consider alternative housing and felt the Council had a role in facilitating this.
9. There were similar and consistent views expressed by the social agencies that provided feedback on the existing policy. A number of the agencies, including the

Salvation Army, Victoria University and others, expressed a willingness to work with the Council in finding solutions. A separate paper on partnerships addresses this issue.

10. The issues raised are inter-related and complex in terms of how they apply within the policy and it is difficult to arrive at an easily administered and understood policy without accepting some trade-offs across the range of tenants that the Council houses.
11. The tenant groups that appeared to be under the greatest pressure were those who were either benefit dependent (e.g. Job Seeker, Supported Living Payments) or low income working family households.
12. The constraint of not having access to Income Related Rent makes it difficult to provide affordable rents for the lowest income tenants at the current (30%) discount levels. At the same time there are tenants with higher incomes who are likely to be able to afford to pay more and remain within affordability expectations.

#### *Letter to the Minister for Social Housing*

13. On 23 October 2014 this Committee also agreed that the Council should meet and present a strategy to the Minister of Social Housing on how the Council could work collaboratively with the Government on meeting social housing needs in Wellington. The Committee also agreed to seek a change to section 5 of the 'Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014' to remove the exclusion of local authorities from the eligibility criteria for registration as a "class 1: social landlord" by deleting clause 5 (b) 1.
14. A letter was sent to the Minister on 5 May 2015 having been signed by the Mayors of Auckland, Tauranga and Wellington. The Mayor of Christchurch also noted that she supported the letter.
15. The Minister has recently responded and restated the Government's position that the IRRS and community housing provider status will not be extended to local government housing providers. It was reiterated that the options for Councils were to transfer or lease their housing units to a registered community housing provider to enable eligible tenants to access the income related rent subsidy. It also recommended that anyone in housing need on a council waiting list should contact Work and Income to have their eligibility for social housing assessed.

## **Discussion**

### **Our Existing Principles**

16. The Council objectives for social housing are to provide:
  - appropriate and affordable housing to low-income households who otherwise have barriers to accessing housing.
  - safe and secure housing to a good standard.
  - communities where people feel safe, have a sense of belonging and are proud to call home.
  - support for Council tenants to improve their quality of life and well-being and to contribute to and benefit from living in Wellington.
17. To achieve these objectives the following principles will guide our decision-making and the way we work:
  - work in partnership to improve the lives of tenants.

- ensure the housing portfolio is financially sustainable into the future and affordable for tenants.
- respond to demand for social housing equitably and efficiently.
- commitment to resilient and cohesive communities.
- provide a high quality service to tenants.

18. Officers recommend that the Committee confirms these existing objectives and principles.

### **Recommended Changes**

19. Given the current environment there are additional principles that need to be considered to ensure that the Council is meeting its agreed objective of providing *appropriate and affordable housing to low-income households who otherwise have barriers to accessing housing*.

20. There is considerable overlap between the services provided by the Council and other community housing providers; predominantly Housing New Zealand.

21. The Council and MSD operate separate processes for applying for housing and assessment of housing need. This makes the assessment of social housing demand unclear for the following reasons:

- the Council is masking housing demand as any tenant we house who might actually be eligible for IRRS is not recorded within MSD's statistics on social housing demand.
- MSD's assessments of housing demand for Wellington continue to assume that the Council maintains its current role and bears the cost of not being able to access IRRS. MSD does not appear to acknowledge that the Council houses tenants who may otherwise be eligible for greater assistance.
- it ignores the fact that some tenants would be in more affordable housing if they had been able to access IRRS and the financial and social impact on those households.

22. The Council can provide a more transparent application process for households in housing need which enables the households to be more fully informed of their housing options, and which enables the Council to ensure it is meeting its objective of providing housing to those who otherwise have barriers to accessing housing.

23. This process would enable MSD's purchase intentions, the support for third sector providers and expansion of IRRS to be more fully informed of social housing demand in Wellington.

24. The rental policy should include the objectives to:

- ensure that the Council is not masking social housing demand
- continue to house those in housing need who cannot be housed by others
- provide a range of rental discounts recognising that some households have increased affordability, and;
- support the development of quality third sector providers to respond to growing demand.

25. It is recommended that the Committee agree to adopt these principles to support the review of the rental policy.

**Examples of Rental Choices**

26. The following two examples illustrate the choices individuals have when making housing decisions in Wellington, what levels of assistance they receive and what share of the rent they finally pay themselves.

Example 1) A Single Adult – Rental Options

27. A single adult renting a property with a market rental of \$250/week is faced with the following choices in Wellington.

Income Levels	Private Rental market \$250/week		Council Housing 70% of Market - \$175/week		State Housing \$250/week	
	Tenant receives Accommodation Supplement of	Would pay the balance of the rental	Tenant receives Accommodation Supplement of	Would pay the balance of the rental	Landlord receives IRRS of	Tenant pays
\$15,000	\$100	\$150	\$86	\$89	\$187	\$63
\$20,000	\$100	\$150	\$85	\$90	\$168	\$82
\$30,000	\$52	\$198	\$37	\$138	-	\$250
\$40,612	-	\$250	-	\$175	-	\$250

The upper income limit for a single adult to remain eligible for Council housing is \$45,188 (after-tax).

Example 2) A Couple with Children – Rental Options

28. A “Couple and children” household renting a property with a market rental of \$350/week is faced with the following choices in Wellington.

Income Levels	Private Rental market \$350/week		Council Housing 70% of Market - \$245/week		State Housing \$350/week	
	Tenant receives Accommodation Supplement of	Would pay the balance of the rental	Tenant receives Accommodation Supplement of	Would pay the balance of the rental	Landlord receives IRRS of	Tenant pays
\$15,000	\$165	\$185	\$95	\$151	\$287	\$63
\$20,000	\$165	\$185	\$95	\$151	\$268	\$82
\$30,000	\$165	\$185	\$95	\$151	\$229	\$121
\$40,000	\$118	\$232	\$47	\$198	\$167	\$183
\$50,000	\$70	\$280	-	\$245	\$96	\$254
\$64,532	-	\$350	-	\$245	-	\$350

The upper income limit for two adults with 1 – 3 children to remain eligible for Council housing is \$58,136 - \$76,440 (after-tax).

29. In both cases **at the lowest incomes**, the Council cannot offer rentals equivalent to IRRS under the current structure of assistance from the Government without fully subsidising the rental itself.
30. If the Council acts in the best interests of the lowest income applicants and has a transparent rental policy, it would
- require these applicants to have registered on the Housing Register with the Ministry of Social Development (MSD) so that these applicants are fully informed of their housing options

- house those applicants who are eligible for IRRS but who cannot be housed through the MSD processes
- house those who are in housing need but who are not able to access IRRS
- develop formal partnerships with key community housing providers to access IRRS and support services so the Council can provide greater housing support for vulnerable Wellingtonians. These applicants would still go through the MSD application process so that they can access IRRS.

31. In this way the Council is no longer masking social housing demand by directly housing applicants who might otherwise be able to access IRRS and who would consequently be in more affordable rental properties.
32. The Council can then target its housing to those who are unable to be housed by MSD.
33. One mechanism to meet the housing needs of those eligible for IRRS is to develop partnerships with key community housing providers as noted above. For those in need of transitional housing assistance officers are exploring partnering with HNZC, MSD, Night Shelter and the Salvation Army to develop a Transitional Housing Model as part of Te Mahana.

*Affordable Rent Limits*

34. Associated with this issue is the Council policy of offering additional rental discounts to tenants under rental stress. The current policy allows for an affordable rent limit which allows for consideration of a rent reduction for any tenant whose rent exceeds 35% of net household income (not including the disability allowance) after tax and after Accommodation Supplement entitlement.
35. In most circumstances this rent reduction results in a consequent reduction in Accommodation Supplement and other benefits with little benefit being passed to the tenant. This is very clear in the policy of MSD and was also raised as an issue by submitters. The majority of the cost of the rent reduction policy is borne by the Council.
36. If an applicant is unable to be housed by MSD and the rent is unaffordable within City Housing rent relief may still be appropriate to ensure the housing need is met. At the point where this rent relief is reviewed and if the rent remains above affordability limits then the tenant would again apply to MSD for housing assistance and access to IRRS.

*Higher Income Tenants*

37. **At the highest incomes** and under the current policy of 70% market rent the Council is offering rentals that are more affordable than offered by any other provider.
38. The current policy needs to be more transparent for these tenants. If they are able to be housed in the private market then the Council should not be providing the level of assistance to these tenants that the policy currently allows for.
39. This will require a change in the Council's rental policy to more closely align with other forms of rental assistance. Options to address this would include reducing the level of discount available to higher income households; for example setting rent at 80 – 90% of market rent for those households on higher incomes.
40. The opportunity for this group of tenants is to develop "products" that assist them into other housing options, either home ownership or private rental.
41. For those tenants who are eligible for Accommodation Supplement the increase in rent would be largely offset by increased assistance and for the Council this would result in increased rental revenue.

### **Implications**

42. These changes are consistent with the existing principle that the Council will provide “Appropriate and affordable housing to low-income households who otherwise have barriers to accessing housing”.
43. The proposal would help ensure that
  - those applicants who are eligible for IRRS are given that opportunity
  - MSD has a more complete picture of social housing demand in Wellington, and
  - the Council is moving its role towards housing those who are unable to be housed by Housing New Zealand or registered community housing providers.

### *Applicants*

44. From an applicant’s perspective they will continue to apply to City Housing if they are unable to be housed by MSD. This could be because
  - they are ineligible for IRRS
  - they are eligible for IRRS but MSD cannot place them in appropriate housing.
45. Where the Council is able to work in partnership with a registered community housing provider there will be an ability to place applicants from the MSD Housing Register within our housing units. They could then access IRRS and the rental revenue would be shared between the Council and the community housing provider. This will require a formal service agreement between the Council and the community housing provider.

### *Existing Tenants*

46. The majority of existing tenants would not be impacted by the recommended changes in approach.
47. There would be an expectation that if tenants find Council housing to be unaffordable that they would apply for IRRS through MSD before the Council considered any rental relief measures. The interagency processes between the Council and MSD will need to be refined in these instances to ensure that the housing need is recorded and informs MSD’s purchasing intentions.

If rental discounts for higher income tenants are adjusted there will be a rental impact for these tenants some of which will be offset by increased Accommodation Supplement entitlements. This is a minority of tenants and the degree of impact will depend on the thresholds for changes in discount levels. This would be subject to consultation in any subsequent policy change.

### **Next Actions**

48. Officers will meet MSD officials to discuss the application of this policy change. There will need to be practical steps taken on information sharing or validation to enable the Council to validate any applicant’s eligibility for IRRS. The Council will seek a formal agreement with MSD on this process so that this works as seamlessly as possible for applicants.
49. The next steps in the policy review process are as follows:
  - A draft policy and consultation document - November 2015. This timeframe may be subject to reaching agreement with MSD.
  - Oral Hearings – March 2016.
  - Final Policy for approval – April 2016. This is in line with the City Housing Business Model review timeframe.

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**Attachments**

Nil

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

A consultation plan will be developed for any changes that are agreed to be made to the policy.

### **Treaty of Waitangi considerations**

No considerations at this point.

### **Financial implications**

Not applicable at this point.

### **Policy and legislative implications**

The policy review will take into account the decisions made in this paper.

### **Risks / legal**

There is a risk that agreement will not be able to be reached with the Ministry of Social Development on an information sharing agreement.

### **Climate Change impact and considerations**

Not applicable.

### **Communications Plan**

A communication plan will be developed as part of the consultation process for the reviewed policy.



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## **CITY HOUSING OPTIONS FOR PARTNERSHIPS**

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### **Purpose**

1. This paper updates the Committee on options for partnerships with registered Community Housing Providers (CHPs) to enable the Council's tenants to access the Government's Income Related Rent Subsidy (IRRS).

### **Summary**

2. The Crown's Social Housing Reform Programme, which was launched in 2013, is still in development with the final outcomes remaining uncertain. It is clear, however, that local government providers are extremely unlikely to ever qualify as CHPs.
3. In October 2014 officers were directed to explore options to develop housing partnerships with registered community providers to access IRRS for those tenants who would be eligible.
4. There are a small number of CHPs operating in Wellington city and the total of non-HNZC or Council social housing units in the city is around 200 properties. Few are funded for or able to provide the wrap-around support services many social housing tenants require.
5. Officers have begun discussions with Community Housing Aotearoa (CHA), the peak body for community housing providers, on the optimum policy and business settings for a CHP to successfully lease and manage local government stock. The Salvation Army has also initiated discussions with the Council to develop a formal working relationship to manage a portion of the Council's social housing portfolio.

### **Recommendations**

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Note that the wider housing work programme includes a number of interlinking work streams:
  - a. Housing Strategy work stream
  - b. Social Housing Policy Review
  - c. City Housing Business Model Review.
3. Note that the final outcomes of the Government's Social Housing Reform Programme are still unclear as many aspects of this programme are still in development.
4. Note that the outcome of partnering with Community Housing Providers is to enable the Council to offer an Income Related Rent option for low income households within the Council's housing stock.
5. Agree that officers progress discussions on partnering options with the Salvation Army Social Housing arm and report back in November 2015.
6. Note that the objectives of this relationship would include:
  - a. Retained ownership of the housing asset

- b. Enable access to IRRS for those who require this level of support but cannot access it through the Council and who cannot be housed elsewhere
  - c. Provide access to support services for high needs tenants
  - d. Have an equitable revenue sharing arrangement between the Council and the Community Housing Provider.
7. Note that the Crown's amendments to the Residential Tenancies Act requiring minimum standards of insulation and smoke alarms for rental properties are to be consulted on later this year and that officers will provide a draft submission at that time.

## **Background**

6. Partnerships with government and third sector agencies have contributed to the Council's successful delivery of social housing for many years.
7. In the 2013 Budget announcements the Government commenced the Social Housing Reform Programme (SHRP) to extend eligibility for Income Related Rent subsidies (IRRS) to new tenants of registered community housing providers (CHPs) referred from the Ministry of Social Development (MSD).
8. Tenants who are eligible for IRRS pay 25% of their income as rent to the community housing provider landlord and MSD pays the community housing provider the difference between that amount and the market rent.
9. Therefore the community housing provider receives the full market rent, albeit at a rate acceptable to MSD for a social landlord. As noted in the Committee paper in June 2015, the rates that have been disclosed by MSD appear to be within the range of the full market rates for Council's housing units but there is no way to accurately test this.
10. Since MSD began managing the housing register for HNZA and CHPs in April 2014 around 200 applicants have been placed with CHPs nationwide.
11. The Government's attention is firmly focussed on Auckland and Christchurch where the housing market is in a greater crisis. MSDs purchasing intentions for Wellington are for more one-bedroom places (an estimated 70), to maintain current levels of purchasing of two and three-bedroom places and purchase slightly more four-bedroom and larger places (an estimated 20) for the next two to three years
12. This translates into demand for few new IRRS eligible tenancies outside of HNZA in the city. It should be kept in mind, however, that this analysis of demand ignores the Council's provision of housing to a similar market segment in the city. The paper on Rental Policy Principles addresses this point and seeks to establish a transparent rental policy position so that the level of social housing demand is more clearly defined.
13. However, under the Housing Restructuring and Tenancy Matters (Community Housing Provider) Regulations 2014 local government is excluded from accessing Income Related Rent unless it foregoes control of its housing business.
14. At the 23 October 2014 meeting of the Community Sport and Recreation Committee officers presented two options that would enable Council to keep control of the housing assets while enabling eligible tenants to access IRRS –
  1. Establish an arm's length entity and this entity could seek registration as a community housing provider. Any new tenants placed in the new entity by MSD would then be eligible for IRRS.

OR

2. Enter into a partnership with a registered community housing provider. Under a partnership the Council could lease or rent properties to the community housing provider, and the community housing provider would operate the tenancy and access income related rent for tenants placed by MSD.
15. In October 2014 officers considered it unwise to significantly restructure our housing business in response to Government's policy changes as the implementation of those changes were in a development stage and the actual final state uncertain.
16. Officers were directed to explore options to develop housing partnerships with registered community providers to access IRRS for those tenants who would be eligible and report back on the opportunities and the implications of potential partnerships by 30 June 2015.
17. The Committee also resolved to present to the Minister of Social Housing on how the Council can work collaboratively with the Government on meeting social housing needs in Wellington and where possible clarifying why local government has been excluded from accessing the income related rent subsidy.
18. This paper updates the Committee on partnership options and the Minister of Social Housing's response regarding local government tenants' access to the income related rent subsidy. It also outlines the approaches other Councils are taking to address these issues and raises some other recent changes by the Government that impact on the Councils housing role.

## **Discussion**

### *Local Government access to income related rent*

19. As recently as 18 June 2015 in a letter to the Mayor the Minister for Social Housing reiterated that the options for Councils were to transfer or lease their social assets to a CHP to enable eligible tenants to access the income related rent subsidy.

### *Potential partners for Wellington city*

20. The Council already partners with other housing providers and support agencies. We currently lease seven properties to CHPs and 12 properties to Housing New Zealand Corporation (HNZC). For example, a three bedroom house is leased to the Salvation Army for short term emergency housing. The units leased to HNZC were initially used to rehouse tenants from the earthquake prone Gordon Wilson Apartments on the Terrace and are being used as temporary housing to support their other earthquake strengthening and refurbishment programmes.
21. As at July 2015 there are 33 CHPs registered with MBIE; 5 currently include Wellington in their 'geographic locations' – Accessible Properties, Dwell Housing Trust, Habitat for Humanity, Keys Social Housing Limited and The Salvation Army.
22. **Accessible Properties** – is a major national provider of supported and social housing owning or managing around 1000 properties. In 2014 they built eight properties in Johnsonville, with Social Housing Unit (SHU) funding from the Crown, as part of a programme to develop 167 homes throughout the country. Once the programme is completed Accessible Properties total social housing stock will be around 194 units.
23. Accessible Properties have leased one standalone house from City Housing since 2002 for supported accommodation.

24. **Dwell Housing Trust** (until 2013 the Wellington Housing Trust) – is the only local CHP and currently provides 84 properties in the Wellington region, a mixture of affordable rentals and shared home ownership properties. In 2014 they bought the surplus Council land in Vennell Street, with SHU funding, and built eight rental and first home ownership properties.
25. While City Housing does not have a formal relationship with Dwell it is an organisation with close links to Council and an active interest in the provision of affordable housing in the city.
26. **Habitat for Humanity New Zealand Ltd** – are a network of regional affiliates that work in partnership with people of goodwill and families in housing need, to eliminate substandard housing by building, renovating and selling simple, decent homes on an affordable basis. They have utilised SHU funding in Auckland and Canterbury. Habitat Auckland will be building 15 two storey 3 and 4 bedroom homes over a 2- 3 year period. The medium density development delivers typical site sizes of 200 sq m with houses selling to the public in a range from around \$320,000 for to \$540,000; considered very affordable for Auckland. Habitat for Humanity also provides rental accommodation to low income individuals and families. The rent is based on a tenant's income and subsidised by Habitat for Humanity.
27. Habitat are active within the Wellington region with a range of products such as home repairs and a smaller programme of assisted home ownership. Like Dwell, they are often reliant on support in funding (in dollars or in kind) to deliver housing projects.
28. **Keys Social Housing Ltd** – are a Hamilton based CHP providing affordable homes and social services for wellbeing, employment, education and training, disaster, health, legal/civil services, parents and caregivers, youth services, basic needs, ethnic services, family violence, ISO capability mentors, mental health, special needs/disability. Working primarily with the mentally ill.
29. Keys provide support services to around 50 City Housing tenant households but do not currently directly provide any social housing in the city.
30. **The Salvation Army** – is also a national housing and community services provider. They currently deliver a range of social housing services including 293 houses for elderly people, 198 supportive accommodation beds, and seven emergency houses. They also hold a range of Government contracts for support services.
31. The Crown had seen the Salvation Army as a potential buyer of HNZC stock under the stock transfer programme. However in March this year the Army decided against negotiating with Government for the large scale transfer of Housing New Zealand stock stating that after a robust external study testing its capacity to become a major social housing landlord they did not believe the lives of tenants would be sufficiently improved by such a transfer. The Salvation Army did not believe it had the expertise, infrastructure and resources to successfully manage any social housing transfer of size.
32. In partnership with Government and other community housing providers, the Salvation Army has built 39 homes for the elderly in Mangere and West Auckland. It is also in a housing development partnership in the Christchurch suburb of Hornby with four other community organisations. As part of this development, the Salvation Army will provide an additional 10 houses suitable for families. The Salvation Army also has plans to develop further social housing in Auckland.

33. The Salvation Army has leased a number of units from City Housing over the past decade and currently manages one standalone house for emergency family accommodation.
34. The Salvation Army provided feedback on the Council's social housing policy review and expressed an interest in entering a formal relationship with the Council to provide a range of housing and support services for tenants. It registered as a CHP in April this year.
35. Officers have had an initial meeting with The Salvation Army Social Housing (SASH) unit with the aim of growing the existing relationship.
36. This could provide an option for low income applicants to access IRRS and be housed within Council housing. They could then also have access to the range of other services provided by the Army.
37. Officers recommend that the Council progresses this relationship. Any formal agreement would require Council approval.
38. **Trust House (Wairarapa)** – is the social services arm of the Masterton Licensing Trust. They purchased 541 HNZN properties for \$10.5m in 1999 and currently have 528 properties from Dannevirke to Martinborough.
39. Trust House has expressed an interest in expansion. CEO Alan Pollard has stated that the Trust aims to buy up to 1500 HNZN properties over the next few years, in the area from New Plymouth to Hastings and down to Wellington. The state houses would have to be sold "at the right price" so a provider could offer an improved management service for the tenant and the asset. There would also have to be excess capital that could go back into the homes.
40. **Emerge Aotearoa Ltd** (until 1 July 2015 Richmond Services) – is not a CHP but provide a range of mental health and disability support services, including supported accommodation, supported living (ACC) and supported landlord services nationwide.
41. They currently lease one standalone property from City Housing as part of their supported landlord offering. They have demand for more properties in Wellington and want to lease, or buy, further suitable properties from the Council.
42. **Port Nicholson Block Settlement Trust /Tenths** – have a strategic goal to; achieve social and whanau well-being supported by contributions from the financial strength of the Trust. An important part of social goals will relate to education, health, housing and care for those in need.
43. City Housing currently have a ground lease with the Tenths Trust for the land at 559 Adelaide Road, on which are the Granville Flats. Officers have begun investigations into options for redevelopment of this site.
44. **Community Housing Aotearoa (CHA)** is the peak body for the community housing sector with 88 members nationally, including City Housing. They have been working with various Crown agencies on behalf of their members support growth of quality Third Sector housing provision in New Zealand.
45. Officers have had initial discussions with the CEO of CHA to explore how we can work together to achieve mutual objectives including the development of other "products" to assist tenants into other housing options.

*Other Councils' initiatives*

46. Despite the wide ranging impact of the SHRP on local government housing provision there is no one source of information on the various Councils' intentions. In 2014 a forum for local government social housing providers was initiated by Auckland Council staff following a discussion by Metro Mayors proposing that we work more collaboratively in this area. Since then officers have met several times to discuss common issues and the potential for a common approach to the reforms and to government. Regular attendees are – Auckland, Wellington, Christchurch and Dunedin – with teleconference links with Hamilton and Tauranga. Officials from MSD, Treasury and HNZA have sat in on some sessions as has Mike Reid from LGNZ.
47. The following overview is therefore incomplete and in some areas unverified.
48. **Auckland Council** owns 1412 Housing for Older People (HfOP) rental units and facilitates ownership of an additional 150 units known as own-your-own units. The housing portfolio covers 62 sites over 26 hectares spread across the city. In June this year the Auckland Development Committee agreed to engage with the Community Housing sector to explore a partnership model for providing accommodation for older people.
49. Through securing a partner, Auckland Council could gain access to IRRS, which was estimated at \$38m over 10 years. Their substantive criteria for selecting a community housing partner are; their ability to access IRRS by being a registered CHP and having the necessary experience in the provision of social housing, including tenancy and assets management. Through the partnership they intend to develop the portfolio and extend services to tenants, and by securing Government funding, at no extra cost to Auckland ratepayers.
50. **Christchurch City Council's** social housing service is the most like Wellington's in size (2640 units, pre-earthquakes, compared to Wellington with 2148) and policy settings and is the largest local government provider of social housing in New Zealand. Rents charged are significantly lower than market rates and their housing policy requires that social housing be financially self-supporting and not funded from rates. Following consideration of the significant feedback received during public consultation in 2014, the Council decided to create a separate entity to manage its social housing portfolio.
51. This new social housing entity will work towards becoming eligible to receive the IRRS which will allow the Council's social housing to be improved and grown into the future.
52. One of the key purposes of the new social housing entity will be to maintain the Council's current number of units and ensure that the social housing service can continue and grow into the future. It will be formed between the Council and other organisations interested in providing social housing in Christchurch. It will be structured as a non-profit organisation and seek registration as a CHP with any surplus funds invested back into social housing units of facilities.
53. The objectives of the Christchurch City Council proposal -
  - Have more flexibility in the future ownership, management and development of the Council's own social housing portfolio
  - Ensure that the portfolio has a financially viable and sustainable future
  - Maintain the capacity to provide the current number of social housing units in the Council's portfolio and to act as a catalyst for the provision of at least 1,000 additional units in the city.

54. The purpose of the Council's social housing objective is to better address the shortage of social housing and the implementation of the Government's Social Housing Reform Programme. Tenants will continue to be Christchurch City Council tenants until the new entity comes into existence.
55. Following an Expression of Interest seeking potential partners for the provider, short listed organisations have signed a Memorandum of Understanding with the Council regarding negotiations for the establishment of the provider. These organisations, the Housing Management Board (comprising 4 councillors overseeing the establishment of the CHP), and the Council's lead negotiator - the Director of Community and Democracy Services (on behalf of the 49% Council interest in the provider), and the Council's Housing Unit Manager are in negotiations to establish the CHP.
56. The parties are to agree on the structure for the provider and the key points for the lease between the Council and the provider. Once the provider is formed, it can seek registration as a CHP with MBIE. The parties are working at pace and intend seeking registration this year.
57. Other examples of Council's intending to exit direct provision include:

<b>Council</b>	<b>Units</b>	<b>Typology</b>	<b>Tenant</b>	<b>Rents</b>	<b>Intentions</b>
Hamilton	344	One bedrooms	65+	67% market	Currently looking to sell to CHPs
Tauranga	246	-	65+	Breakeven	Strategic review to be undertaken 2015/16
Whakatane	79	-	65+	-	Transfer to a CHP in 2015/16
Carterton	38	One Bedrooms	65+	Subsidised	Transfer to a local non-CHP Trust in 2015/16 in the hope tenants could access IRRS

**Other Government changes impacting on Council's Housing Role**

*Residential Tenancies Act minimum standards requirements*

58. On 9 July 2015 Housing Minister Nick Smith announced proposed changes to the Residential Tenancies Act which would see homes required to have insulation and smoke alarms, among a number of other changes. These requirements go some way towards lifting the quality of rental housing as envisaged by the rental WOF initiative proposed by Council.
59. Under the proposed amendments:
- all landlords will be required to state the level of insulation in a property in new Tenancy Agreements from 1 July 2016
  - HNZA and CHPs will be required to meet the insulation and smoke alarm standards by 1 July 2016
  - all other landlords will be required to meet the insulation and smoke alarm standards by 1 July 2019. This includes the Council's housing.
60. While we have good asset information for the portfolio we do not have information on insulation at the level of detail required to meet the minimum standards.

61. Officers have begun development of a programme of data collection and analysis in order to measure the level of compliance of the City Housing portfolio with the minimum standards. This will be a major, unbudgeted undertaking potentially requiring invasive testing and we would not be able to meet the insulation standards by 1 July 2016.
62. The Residential Tenancies Act amendments are expected to be consulted on later this year and officers recommend that the Council make a submission during the public consultation process.

### **Next Actions**

63. Officers will continue to monitor the SHRP and advocate for inclusion of local government within the social housing sector.
64. Officers will continue discussions on a working relationship with the Salvation Army Social Housing arm in order to test the viability of the partnering approach, for both Council and a CHP, and report back to the Committee in November 2015.
65. Subject to Council approval, it is expected that any agreement would have the following objectives
  - The Council retaining ownership of the housing asset
  - Enabling access to IRRS for those who require this level of support but cannot access it through the Council and who cannot be housed elsewhere
  - Providing access to support services for high needs tenants
  - An equitable revenue sharing arrangement between the Council and the Salvation Army/CHP.
66. Officers will develop a draft submission on the Residential Tenancies Act amendments when they are released for public consultation later in the year.

### **Attachments**

Nil

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Authoriser	Greg Orchard, Chief Operating Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

Consultation has not been undertaken.

### **Treaty of Waitangi considerations**

There are no Treaty of Waitangi considerations in this proposal.

### **Financial implications**

A partnership will only be entered into if there are financial benefits to the Council and to tenants.

### **Policy and legislative implications**

This proposal is within the current social housing policy settings and the direction of the Social Housing Reform Programme.

### **Risks / legal**

Legal advice will be sought prior to any legal agreement being finalised.

### **Climate Change impact and considerations**

Not applicable

### **Communications Plan**

A communications plan will be developed once the details of any partnership are clear.



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## **CITY HOUSING BUSINESS MODEL REVIEW**

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### **Purpose**

1. To update Councillors on the components being considered under the City Housing Business Model Review, the interdependencies with other work underway and the timetable for completion.

### **Summary**

2. The 2008 Deed of Grant with the Crown ring-fenced income and developed an initial Works Programme to upgrade the Council's social housing portfolio. A number of factors have impacted the original business model which, without action, are likely to impact on Council's ability to deliver on the second phase of the upgrade programme and current operational service levels. Taking this and the Crown's Social Housing Reform Programme (SHRP) into account, the City Housing Business Model Review (BMR) will provide an accurate picture of the current baseline and potential gaps.
3. Officers have broken the business into a number of components and identified a number of work streams to ensure that a robust understanding of the current model is achieved.
4. A case for change will be developed subject to the findings of the review.

### **Recommendations**

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Note that the wider housing work programme includes a number of interlinking work streams:
  - a. Housing Strategy work stream
  - b. Social Housing Policy Review
  - c. City Housing options for partnerships.
3. Note that there are a number of City Housing work streams underway with the purpose of better understanding the current business model.
4. Note that the findings of the review will enable a clear view of the long-term sustainability of the social housing portfolio at the existing service levels.
5. Note the scope and timetable for the City Housing Business Model Review work programme.
6. Note that officers will provide updates as required and provide Councillors with the final report in early 2016.

## Background

5. When the Crown-Wellington City Council social housing partnership was agreed in 2008, the deal looked to secure Council's social housing activity for the 30 year term of the agreement.
6. A number of unforeseen events have impacted the original business model. While clearly an excellent foundation for the housing assets' future, the combined impact of; the global recession, the Christchurch earthquakes - with the flow on effect to insurance and construction costs, the increase to GST with no compensatory increase to the Crown's financial contribution and more recently, the Crown's Social Housing Reform Programme; required an examination of the housing business model in the areas of policy, operations and partnerships.
7. On 14 March 2013 officers briefed the Strategy and Policy Committee on the City Housing work programme including an update on the Housing Upgrade Programme (HUP) and advised that a number of unforeseen events had had a negative impact on City Housing's financial model and potentially on the HUP work programme.
8. The City Housing Work Programme, as presented to Council in this briefing and including the areas requiring examination, is depicted in Table 1 below:

Table 1

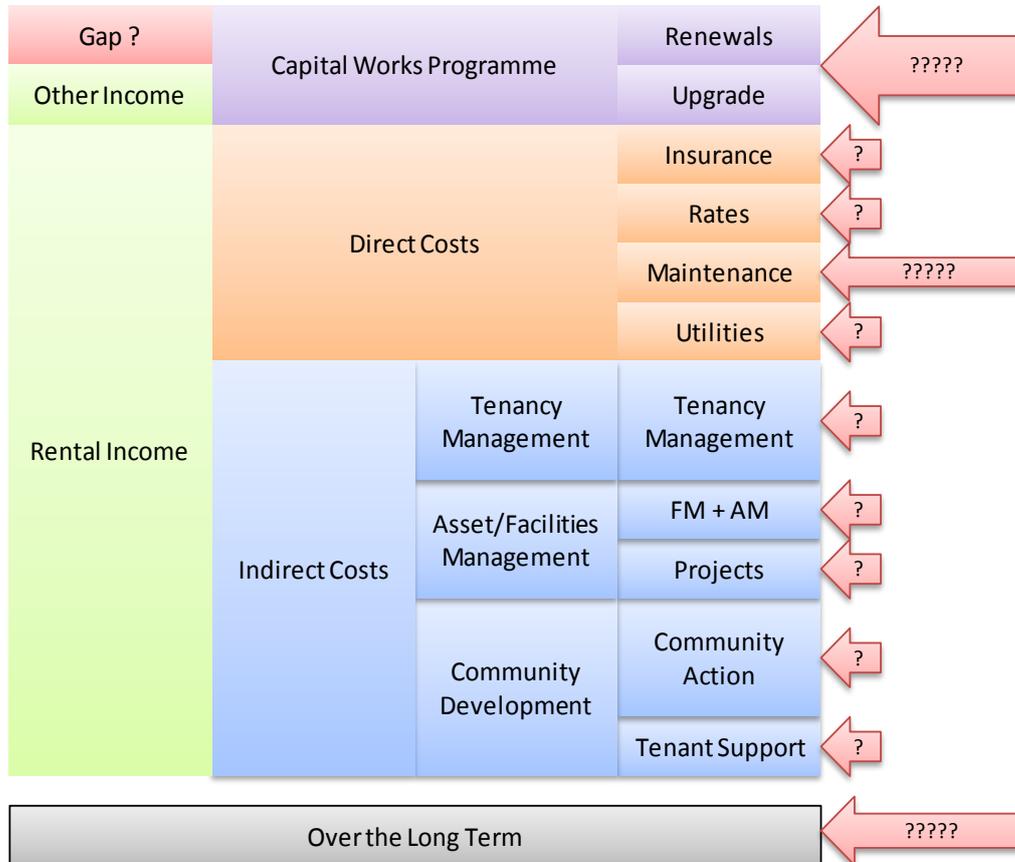
City Housing Work programme			
Policy	Processes	Assets	Partnerships
Review policy settings on: <ul style="list-style-type: none"> <li>• vision, principles &amp; objectives</li> <li>• eligibility</li> <li>• targeting</li> <li>• rental</li> </ul>	Review of: <ul style="list-style-type: none"> <li>• Tenancy management practices</li> <li>• Community Action Programme and Engagement</li> <li>• Insurance</li> </ul>	Asset Strategy including: <ul style="list-style-type: none"> <li>• Portfolio Analysis</li> <li>• Minimum housing standard</li> <li>• Investment/Divestment plan</li> <li>• Arlington Business Case</li> <li>• Development of HUP 2013-23</li> </ul> Review of maintenance contract and renewal programme Maintenance and Renewal Strategy	Crown(maintain and develop) <ul style="list-style-type: none"> <li>• MBIE/Treasury for HUP programme</li> <li>• HNZA /MSD for operational issues</li> </ul> Tenancy and Community Action partnerships (review and expand) Sector partnerships and initiatives Explore the possibility of public /private partnerships

9. Some of these work streams are well advanced and have been or will be the subject of other reports to Councillors. This paper outlines the Business Model Review section of the work programme.

## Discussion

10. The Council's social housing portfolio is currently managed by City Housing as a business unit of Council under the *Policy for Wellington City Council's social housing service (2010)*. Councillors approved a review of that Policy in 2014 and officers have reported back on the initial engagement phase of the review.
11. The Council's vision for the provision of social housing is –  
*To ensure the basic housing needs are met for people on low incomes who face barriers to accessing affordable and appropriate housing in the private sector and whose needs are not being met by other social housing providers.*  
The Council objectives for social housing are to provide:
  - Appropriate and affordable housing to low-income households who otherwise have barriers to accessing housing.
  - Safe and secure housing to a good standard.
  - Communities where people feel safe, have a sense of belonging and are proud to call home.
  - Support for Council tenants to improve their quality of life and well-being and to contribute to and benefit from living in Wellington.
12. City Housing's role is to give effect to the Council's social housing vision by managing the Council's housing assets in accordance with the following Council- approved objectives:
  - Work in partnership to improve the lives of tenants.
  - Ensure the housing portfolio is financially sustainable into the future and affordable for tenants.
  - Respond to demand for social housing equitably and efficiently.
  - Commitment to resilient and cohesive communities.
  - Provide a high quality service to tenants.
13. City Housing is responsible for asset and tenancy management as well as the delivery of the Housing Upgrade Project and community development via the Community Action Programme.
14. The review will provide a comprehensive assessment of the component parts of the Council's social housing service and will identify any shortfall in Council's ability to deliver the second phase of the upgrade programme and the current levels of service until the expiry of the Crown Deed of Grant period (30 June 2037). The review will also identify potential levers for Council to consider to address any shortfall. This is illustrated in the diagram below:

**Item 3.4**



15. It should be noted that officers have received initial legal advice that the agreement with the Crown does not stipulate any conditions for the sustainability of the social housing portfolio or service beyond the Crown Deed of Grant period - 30 June 2037.

**Business Model Review work streams**

***Rental Policy Review***

16. Under current policy all eligible tenants are charged 70% of the market rents, with a range of other mechanisms that are intended to ensure rents are affordable to low income households. The Council foregoes around \$9m in rental revenue annually due to these discounts and analysis undertaken under the rental policy suggests the benefits of those discounts are not always accessible to tenants.

The objectives of the Social Housing Rental Policy review are to:

- ensure that the objectives of the Social Housing Rental Policy are met
- ensure that social housing assistance is provided to Wellingtonians in need
- balance rents charged and subsidies provided to ensure the Council has sufficient revenue to fund its upgrade programme, and can continue to operate and maintain the portfolio
- improve and clarify the Council's Social Housing Operational Policy
- Consider implications, opportunities and risk of recent Government changes to the social housing sector environment.

- The review of the Council's social housing policy also seeks to clarify who is eligible, rent setting and the process for future reviews.

***VOIDS Management for HUP***

17. Review of the impact of the Housing Upgrade Programme on voids, occupancy and revenue. City Housing has moved over 1000 tenant households since the physical Upgrade started in 2010. Over that period the process has been improved and streamlined and a review of the Rehousing strategy carried out, but there may be opportunities to reduce the number and length of time units are off-line, thereby improving rental revenue, reducing maintenance spend and assisting more households into accommodation.

Alternative options for management of relocations and voids are being investigated.

***Arrears Recovery Review***

18. Various types of debt are encountered in City Housing including rent and tenant damage in both current and former tenancies. The review looks at the current processes for dealing with the different debt types, comparisons to external benchmarks and debt performance metrics, as well as mitigation factors to avoid the debt before it is incurred. Options for improvement are being explored.

***Tenant liability Review***

19. Tenant liability is being analysed in terms of historical costs by complex and recovery rate, as well as the gap between cost and recovery. The current facilities maintenance process for identifying and charging tenant liability is being scrutinised, along with a review of pre and post upgrade performance. This information can then be used to create strategies to avoid/control/identify tenant damages and narrow the gap between cost and recovery.

***External Partnerships Review***

20. Review the range of leasing/service contracts in place including; what is the outcome of these services, the cost of delivering these services / opportunity cost / variable costs, income and cost/benefit analysis.

There is an opportunity to link to the partnerships work stream.

***Asset Management and Maintenance Review***

21. Review of the complete delivery model for asset management, maintenance and renewals, including City Housing resources, other Council asset resources, out-sourced contracts and asset and FM management tools.

The scope of the review includes delivery models, costs for delivery, and scopes of work.

The key 10 year Strategic Outcome that this piece of work relates to is "Be regarded by our peers as one of Australasia's best social housing asset managers".

***OPEX Maintenance Modelling***

22. A comprehensive opex maintenance model is being developed that captures all the main components of repairs and maintenance, excluding planned opex renewals as this will be modelled in SPM (Strategic Asset Management Planning software tool) and output as part of a Long Term Opex Model.

Components to be modelled include planned, scheduled maintenance, cleaning, security, management fee, unplanned, reactive maintenance and tenant damages.

Analysis is required of historical and current costs to determine the optimum cost drivers for modelling.

This work stream will be aligned to the review of the organisation wide Facilities Maintenance Contract currently underway.

***Long Term Capex Model***

23. Capital Expenditure model by Complex/Building that incorporates both renewals and upgrade expenditure from:

- Baseline renewals up to the point of an upgrade.
- Renewals associated with an upgrade from the point of upgrade completion.

HUP Phase 2 Upgrade - cost and timing.

The model will allow scenarios to be run on changes to the timing of specific upgrades and the associated impact on the renewals as well as pull together the opex element of renewals.

***HUP Phase 2 Review***

24. Evaluation of Phase 2 of the HUP Programme including:

Reviewing the original concept designs and scope, original estimates, original assumptions around seismic capability, asbestos and other major factors; review project cost breakdown, Project Management, resourcing and timing.

The HUP Works Programme is also under review alongside analysis of historical cost/breakdown, cost metrics, resource modelling and the rationalisation of renewals works vs scope.

***Asset Data***

25. A collection of Building Information Management data relating to City Housing current housing portfolio is being gathered. The results will baseline the current property condition to allow a better understanding of all maintenance and lifecycle costs going forward.

Work streams are:

**Non HUP – Asset and condition data**

Programme of physical surveys of all units recording what asset we have and what the current condition grade is. This will include photos, assessment of quality aspects and the creation of three dimensional models of buildings linked to a Building Information Management system.

**HUP – Asset and condition data**

Programme of physical surveys of a percentage of units recording what asset we have and what the current condition grade is. This collection will be a statistically significant sample and will be extrapolated across the entire asset.

***HUP Phase 2 Renewals Model***

26. A simulation that will allow robust modelling of future renewals associated with upgraded properties using the concept designs as a basis. The model will need to be integrated with the base asset / renewals data as one changes the other.

The model as a minimum needs to be static and reflect the current HUP Phase 2 concept designs. Ideally the model will be dynamic and allow scenario/option analysis going forward. Assumptions need to be clearly stated.

***Portfolio Assessment Framework (PAF)***

27. An assessment framework has been developed and agreed by Council which enables City Housing to objectively assess and compare properties in the present and potential future social housing portfolio to ensure the Council is well-placed to meet its strategic objectives.

***PAF Assessment of Portfolio***

28. An assessment of the non-HUP upgraded portion of the portfolio is being carried out using the Portfolio Assessment Framework. The outputs will be schedule of properties for retention and upgrade, disposal, retention and better use / development.

The Long Term Capex Model projected costs are inputs to the assessment framework, along with the 3 yearly asset valuations for 2015, the seismic review and a review of the HUP concept designs. It is expected that the assessment will be carried out using the data we currently have, and updated as new information becomes available.

***Arlington Site 1***

29. Continued investigation into delivery models and options available to Arlington Site 1, legal advice on sale of strategic asset under LGA, investigation into Public Works Act (S40), first right of refusal to HNZC under the Deed of Grant and structural assessment of Site 3.

***Service Level Review***

30. Review of the service level of the current City Housing business model focused on Tenancy Management and Community Development (Tenant Support and CAP), with a view to look at the cost, benefits, performance and outcomes.

Asset Management			Tenancy Management		Community Development
PAF	Facilities Management	HUP	Tenancy Management	Tenant support	CAP

Service Level costs will be determined by doing a position analysis estimating approximately how much time is spent on the different functions. This analysis can then be used to determine the direct personnel costs for each function and used as a basis for apportioning associated costs such as floor space, IT, admin etc.

A Tenancy Management Review is underway, considering the “pure” tenancy management service, excluding maintenance, tenant support and CAP. The level of service and associated costs will be compared with other social housing providers as well as commercial tenancy management providers.

Analysis of the Community Action Programme (CAP) is being carried out, it’s inputs, outputs, outcomes and measures the level of investment in the Community Action

Programme to date and out to year 20 of the HUP programme. Examples of international benchmarking in this type of community investment and its effectiveness.

The benefits of the investment in the Community Action programme are being considered along with their linkage to the wider strategic outcomes for Council and Crown.

Analysis into the CAP evaluation methodologies is being carried out with conclusions and recommendations for the future, analysis of the cost and benefits of the Tenant Support work Framework and work programme, as well as assessment of the effectiveness of Tenant Support and Tenancy Case Management and its impact on the business, using deadweight costs.

#### ***Insurance Review***

31. The current City Housing insurance policy is being reviewed, including; completion of a Council wide Insurance Management Strategy (IMS), engagement of GNS to re-assess risk profile of the housing stock in a big earthquake event, assessment of the options available against the IMS to recommend City Housing's alignment or not, insurance option modelling to determine best way to structure the funding of the risk (self-insured, policy cover, combo).

Insurance option modelling is also being carried out in relation to fire cover, with documentation of fire systems now in place that should be lowering risk and premiums.

Investigation into other liability insurance such as income protection. Legal opinion on City Housing responsibilities under section 16 Force Majeure of the Deed of Grant and a review of the local and overseas market appetite for Social Housing insurance.

#### ***Overhead Analysis & Modelling***

32. Overhead analysis will consider the components covered in this allocated cost and compare to what an external management company would include.

This will also determine how overheads would be treated in any financial modelling options of alternative housing delivery models.

#### ***Rates Analysis & Modelling***

33. Examine the mechanism for setting rates and the link between Rateable Value and Market Value and reconcile current rates charges, including mapping of rates accounts to Site/Building Codes.

A financial model to be built to determine rates for future change scenarios, determining Rateable Value(RV) from Market Value(MV), being a rent capitalisation model and to set long term rates multiplier assumptions.

#### ***Utilities Analysis & Modelling***

34. Utility bill expectations are being calculated over a given period of time, starting with the current portfolio costs including electricity, water and gas. An agreed level of maintenance will be considered in the cost modelling, identifying volume changes as a result of HUP, potential price increases, linking any changes to volume to changes in specification and developing a high level model for future HUP demand.

#### ***Financial Models***

35. An Income Statement and Cash Flow model is being developed for City Housing to be used across work streams for scenario based analysis. A number of scenarios will

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need to be created and these will need to be continually updated through the process as further refining of assumptions and information is acquired.

A number of scenarios are being investigated through the process.

**Next Actions**

36. Officers will proceed with the aspects of the Business Model Review as outlined in this paper, and report back to Councillors in the timeframes described herein.

**Attachments**

Nil

Author	Peter Hunter, Best Practice Manager
Authoriser	Greg Orchard, Chief Operating Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

Consultation has been undertaken with internal stakeholders in the development of this paper

### **Treaty of Waitangi considerations**

No considerations at this point.

### **Financial implications**

This programme of work is to develop a current baseline. Options for change will impact future financial years.

### **Policy and legislative implications**

Options for change will feed into the social housing policy review.

### **Risks / legal**

Not applicable at this point.

### **Climate Change impact and considerations**

Not applicable

### **Communications Plan**

A communications plan will be developed once the options for change have been identified.

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## EXTENDING WELLINGTON'S SMOKEFREE OUTDOOR AREAS

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### Purpose

1. This report outlines officers' advice on extending smoke free outdoor areas and a recommended approach to seeking community views. The Community, Sport and Recreation Committee's (the Committee) approval is asked to note the advice and agree the recommended approach.

### Summary

2. In May 2015 the Council requested officer advice on continued moves towards a Smokefree Capital. This request follows public support expressed through submissions on the Council's Long Term Plan, and at last year's Smokefree Midland Park event and in a number of petitions and requests.
3. The Council's educational approach to smokefree means there is no mandated consultation process to follow. Officers recommend a representative survey, rather than running a consultation process. This allows a snapshot of public opinion through the Council's research panel rather than an open submission process.
4. The aim of conducting a survey is to provide robust information to the Committee on what Wellingtonians think about making public outdoor areas smokefree and building a broad base of evidence for future decisions in this space. In contrast, the consultation format prioritises stakeholders having their say.
5. If the decision was sought to make a particular area smoke free and if this would require action beyond an educational approach, the Council will need to request further advice and provide formal opportunities for affected parties to have their say on that particular initiative.
6. More than 80% of Wellingtonians do not smoke, and most people dislike being exposed to cigarette smoke. However, officers do not consider a smoking bylaw to be a viable mechanism for promoting smokefree outdoor areas. Smoking is a legal activity and smokers need to be supported to quit rather than confronted by an enforcement regime.
7. Officers will report back to the Committee on 25 November 2015 with feedback from the survey and any options for extending smokefree outdoor areas. A consultation process will only be needed where options go beyond the educational approach.

### Recommendations

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Agree to seek community views on extending smoke free outdoor areas by conducting a representative survey.
3. Note that officers will report back to the Committee with feedback from the survey and with advice on extending smoke free outdoor areas on 25 November 2015.

## **Background**

8. The Council declared all of Wellington City's sports parks and playgrounds smoke free in June 2012, in support of the Government's goal of making New Zealand smoke free by 2025.
9. Amendments to the Smoke-free Environments Act in 2003 made the grounds and sports fields of all New Zealand schools smoke free. Many councils have since made their playgrounds and sports parks smoke free.
10. The Council adopted an educational approach as recommended by public health authorities. With this approach the Council's role is to make clear the reasons and expectations for the smoke free areas, rather than 'police' them.
11. The most effective and recommended 'enforcement' of smokefree outdoor areas is clear signage, supportive messaging through the available media channels to increase community awareness, and polite and friendly reminders, especially from peers.
12. A key objective of the educational approach is to reduce the visibility of smoking and 'de-normalise' smoking to reduce uptake. Reducing the visibility of smoking also helps people trying to quit.
13. A survey conducted in 2013 for the Council by Regional Public Health and the Cancer Society found the majority of support for smokefree outdoor areas was for children's playgrounds (84%) and sports fields (70%). Support was also seen for local parks and reserves (49%), alfresco dining areas (38.3%) and the golden mile shopping streets (30.5%).
14. In May 2014, the Council also declared Midland Park and Waitangi Park Smokefree. The call for public comment was met with widespread approval. Of the 31 responses, 27 were positive, three were negative and one was mixed.

## **Discussion**

15. The Committee has requested officer advice on the best way forward for extending smokefree outdoor areas in Wellington.
16. Officers recommend continuing with the Council's educational approach and conducting a survey to see what citizens think about extending smokefree outdoor areas. This will allow the Council to assess the support for extending the range of smokefree areas across the city and people's views on the Council's current approach to managing this issue.
17. Current smokefree outdoor areas are managed within operational policy and formal consultation is unnecessary.
18. Citizens with a particular interest have informal opportunities such as the Council's e-petition, external e-petition providers (eg AVAAZ), public participation, and meeting directly with councillors to express their views.
19. Officers will work with Regional Public Health to evaluate the current smokefree outdoor areas as part of assessing what works and what doesn't with the current approach. This work will inform officer's advice to the Committee in November.

## **Options**

20. Officers will report back with options in November, following a survey of community views on extending smokefree outdoor areas. The survey will cover the full range of options, from extending smoke free areas to all parks and reserves, to targeting

specific well-used and highly visible spaces such as Civic Square. Support for going beyond parks and playgrounds will also be assessed, for example alfresco dining areas and the golden mile shopping streets.

21. More work would be needed should public support indicate options that go beyond the current educational approach, and the Committee want to investigate such options.

### **Next Actions**

22. If the Committee agrees with this approach, officers from the Research Team will conduct a representative survey to assess the level of support for extending the smoke free areas within the city. The results of this survey will be reported back to the Committee in October.

### **Attachments**

Nil

Author	Nigel Taptiklis, Senior Policy Advisor
Authoriser	Greg Orchard, Chief Operating Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

This report proposes conducting a representative survey to see what citizens think about extending Wellington's smokefree outdoor areas. Consultation will occur should the survey indicate support for additional smokefree areas that go beyond the Council's current educational approach.

### **Treaty of Waitangi considerations**

There are no immediate Treaty considerations.

### **Financial implications**

There are no immediate financial implications.

### **Policy and legislative implications**

There are no direct policy and legislative implications with conducting this survey.

### **Risks / legal**

There are no legal risks with the recommended approach.

### **Climate Change impact and considerations**

There are no direct climate change impacts.

### **Communications Plan**

A communications plan is not needed at this stage.

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## **REVIEW OF FIRE PREVENTION BYLAW**

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### **Purpose**

1. The Committee is asked to agree to public consultation on a statement of proposal presenting a review of *Part 3: Fire Prevention* of the Wellington City Consolidated Bylaw 2008 (the Fire Bylaw). The Committee is also asked to agree the proposed amendments to the Fire Bylaw that are discussed in the statement of proposal.

### **Summary**

2. The Local Government Act 2002 (LGA) requires local authorities to review all bylaws at least every 10 years. Any bylaw not reviewed is automatically repealed. The fire bylaw must be reviewed by December 2015.
3. The LGA empowers the fire bylaw and sets out the processes for the development and review of all bylaws. Council officers have reviewed the fire bylaw and found that, subject to proposed amendments addressed in the statement of proposal, it remains an appropriate bylaw under the LGA to address the problems of fire risk and nuisance that could arise without the powers in the bylaw, and is the most appropriate form of the bylaw.
4. As part of the review, Council officers have identified several problem areas in the operation of the Fire Bylaw that could be improved. These are:
  - there is uncertainty about which fires require a permit
  - many cooking and heating fires in purpose built containers require permits, but cause very few nuisance complaints or safety risks
  - burning rubbish is allowed with a fire permit – these fires can be dangerous, cause conflict between neighbours, and lead to many public calls about flames and smoke that the Fire Service must respond to – this can affect Fire Service availability to respond to emergency calls
  - the Fire Service can only legally extinguish the fire if it is threatening people or property, or looks like it is getting out of control.
5. In order to address these problems, officers propose amendments to the Fire Bylaw to:
  - allow for more types of cooking and heating fires to be lit outdoors, on private land, without a permit
  - make it clear that all fires in public places require a permit
  - make it clear which fires on private land require a permit
  - limit the circumstances in which a fire can be used to burn rubbish (to circumstances where there are no suitable alternatives and/or special circumstances)
  - include information on how to safely manage a fire
  - include more information on the need for applications to include all the information requested by Council and for it to be on the prescribed application form and accompanied by any prescribed fee

- provide the Council with powers to extinguish an outdoor fire that does not comply with the bylaw (which can then be delegated to the Fire Service if desired)
  - make general clarifications and remove a clause on fire danger that is now covered by the Fire Safety and Building Evacuation Regulations 2006.
6. The proposal to put more limits on the burning of rubbish may be unpopular with those who currently burn rubbish, but the nuisance caused by smoke and ash, and the risks of diverting the Fire Service from more urgent fires, needs to be balanced against the right to burn rubbish. Officers propose to write to all current fire permit holders to ensure that submissions from these stakeholders are encouraged.

## **Recommendations**

That the Community, Sport and Recreation Committee:

1. Receive the information.
2. Agree that the proposed, amended, Part 3: Fire Prevention of the Wellington City Consolidated Bylaw 2008 (the proposed fire bylaw) is the most appropriate way of addressing the public safety issues and the nuisance issues from smoke and ash in Wellington's urban fire district.
3. Agree that the proposed fire bylaw is the most appropriate form of bylaw under the Local Government Act 2002 (LGA).
4. Agree that the proposed fire bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
5. Agree that the proposed fire bylaw as described in the statement of proposal (Attachment 1 of this report) and reflected in Appendix B of that statement undergo public consultation in accordance with section 86 of the Local Government Act 2002.
6. Agree that the proposed fire bylaw described in the statement of proposal and reflected in Appendix B of that statement, is likely to have a significant impact on the public due to its regulatory nature and therefore, under section 156 of the LGA should be consulted on using the special consultative procedure under the LGA.
7. Agree to adopt the statement of proposal (Attachment 1 of this report), and initiate the special consultative procedure under section 83 of the Local Government Act 2002.
8. Agree to delegate to the Chair of the Community, Sport and Recreation Committee and the Chief Executive the authority to amend the statement of proposal to include any amendments agreed by the Committee, and any associated minor consequential edits.

## **Background**

7. This statement of proposal (Attachment 1) relates to a review of Part 3: Fire Prevention of the Wellington City Consolidated Bylaw 2008 (the fire bylaw).
8. The LGA Amendment Act 2006 introduced requirements into the LGA for local authorities to review bylaws at least every 10 years. Any bylaw not reviewed is automatically repealed. The fire bylaw must be reviewed by 17 December 2015 in order to remain in force.
9. The fire bylaw is empowered under Section 145 of the LGA, mainly, to protect the public from nuisance (for example, ash and smoke), and public safety (threat to life and

property from fire). Section 146(c) of the LGA also empowers the Council to make a bylaw to prevent the spread of vegetation fires.

10. The LGA specifies the bylaw review and development process.

### **Discussion**

11. The fire bylaw provides the Council with powers to control outdoor fires in public places and on private land, and manage the risks associated with outdoor fires. The main components of the fire bylaw are:
- outdoor fires that are not in a “properly constructed fireplace” require a fire permit from the Council (this generally means any open fire that is not contained in a fireplace that has a building consent requires a permit, except for gas or charcoal barbecues)
  - the Council can impose a complete fire ban in times of fire risk
  - precautions against fire danger (about safe storage of flammable material)
  - prohibitions in the interests of safety (for example, no lighting of fires within three metres of a building, or not putting ashes in a flammable container).
12. A review requirement is to consider if the fire bylaw is still an appropriate and relevant bylaw for Wellington. Officers consider that without the fire bylaw, the Council may not be able to:
- institute fire bans in times of extreme fire risk, potentially leading to fires getting into dry vegetation in the Town Belt and spreading rapidly, posing grave threat to people and property
  - control fires on private land in residential areas, leading to safety risks, as well as no control on ash and smoke, which is a nuisance for affected neighbours.
13. In this context officers recommend the fire bylaw be retained and that it remains the most appropriate bylaw to address these problems (fire risks, nuisance smoke and ash), and the most appropriate form of the bylaw under the LGA.
14. As part of the review, Council officers have identified several problem areas in the operation of the Fire Bylaw that could be improved. These are:
- there is uncertainty about which fires require a permit.
  - many cooking and heating fires in purpose built containers require permits, but cause very few nuisance complaints or safety risks.
  - burning rubbish is allowed with a fire permit – these fires can be dangerous, cause conflict between neighbours, and lead to many public calls about flames and smoke that the Fire Service must respond to – this can affect Fire Service availability to respond to emergency calls
  - the Fire Service can only legally extinguish the fire if it is threatening people or property, or looks like it is getting out of control.

15. In order to address these problems, officers propose amendments to the Fire Bylaw to:
- allow for more types of cooking and heating fires to be lit outdoors, on private land, without a permit
  - make it clear that all fires in public places require a permit
  - make it clear which fires on private land require a permit
  - limit the circumstances in which a fire can be used to burn rubbish (to circumstances where there are no suitable alternatives and/or special circumstances)
  - include information on how to safely manage a fire
  - include more information on the need for applications to include all the information requested by Council and for it to be on the prescribed application form and accompanied by any prescribed fee
  - provide the Council with powers to extinguish an outdoor fire that does not comply with the bylaw (which can then be delegated to the Fire Service if desired)
  - make general clarifications and remove a clause on fire danger that is now covered by the Fire Safety and Building Evacuation Regulations 2006.
16. The main proposals are discussed in this paper, these are; allowing fires in “outdoor fire devices” without a permit, limiting the burning of rubbish, and providing the Council with powers to extinguish a fire. The discussion in the statement of proposal addresses all the proposed amendments.
17. The proposed fire bylaw has been assessed against the New Zealand Bill of Rights Act 1990 (NZBORA). Council officers consider that the proposed bylaw is not inconsistent with NZBORA and does not give rise to any implications under the NZBORA.

***Proposal to allow fires in an “outdoor fire device” without a permit***

18. From 2012 to 2015, the Council issued 373 permits for fires in Wellington. Fires that require a permit are those that are not in a “properly constructed fire place”. The definition as drafted is not clear about which fires require a permit, and which fires do not.
19. Cooking fires and heating fires that are contained or enclosed in some way cause few Fire Service callouts and reports of nuisance smoke and ash. As these fires pose few risks officers recommend that the bylaw is amended to create a definition of an “outdoor fire device” that may be lit without a fire permit. The definition should provide for the lighting of cooking fires and heating braziers that are enclosed, including built barbecues, pizza ovens and chimeneas (a terracotta oven with an open fire mouth and a chimney).
20. The Council will still be able to issue fire permits for some other types of open cooking fire, including for hangi and umu, and fires for special events.
21. Complementary changes to the bylaw are proposed to include all the conditions for lighting fires and managing fires in the fire bylaw. Some of these conditions were previously in the fire bylaw, and some conditions were in fire permits (when issued). The inclusion of all conditions in the fire bylaw will make fire safety information more accessible to the public, and make the conditions enforceable under the bylaw.

**Table 1: Fire Permits Issued by Council 2012-2015**

Fire activity	Count
Open fire	134
Incinerator	84
Chimenea/brazier	49
Hangi/umu	41
Barbecues	21
Wood fired pizza oven	16
Fixed outdoor fireplace	11
Fire pit / dish / box	7
Open pottery fire pit	3
Other	2
Campfire	2
Fire for religious purpose	2
Forge	1
<b>Total</b>	<b>373</b>

**Table 2: Fire Service callouts 2012 to 2015 (Source: Fire Service)**

Fire activity	Count
Authorized controlled burn	56
Unauthorised controlled burn	20
Barbeque (gas)	11
Barbeque (wood or charcoal)	25
Bonfire	104
Campfire	14
Gas cooking fire	2
Outside rubbish fire	314
Hangi/umu/cultural cooking fire	31
Miscellaneous (unclassified)	35
<b>Total</b>	<b>612</b>

**Proposal to limit the burning of rubbish**

22. Under the current bylaw, the burning of rubbish and vegetation is allowed when a fire permit has been obtained. Officers are also aware outdoor burning of rubbish and vegetation can create significant tension among neighbours, and account for more than half of Fire Service callouts to address resident's concerns about smoke, ash and visible flames.
23. While there is a cost to the Fire Service, the impact on the Fire Service extend beyond the financial, mainly; removing volunteers from their places of employment, and increasing the Fire Service response times to more serious and potentially life-threatening emergencies.
24. The Fire Service has asked the Council to consider banning rubbish fires. Council officers consider there is not sufficient evidence to warrant a complete ban. Instead,

officers recommend amending the Fire Bylaw to limit the use of incinerators and outdoor rubbish fires to cases where there is no alternative to remove the rubbish, or special circumstances exist.

25. All rubbish fires already require a permit. In this case the effect of the proposed amendment will be to reduce the number of permits issued, and reduce the number of callouts to the Fire Service and associated risk of compromising their ability to attend more urgent fires. It will also reduce neighbourhood tensions (as rubbish fires are a reported source of conflict) and nuisance smoke, ash, and risks from the fires spreading to neighbouring properties.

***Proposal to provide the Fire Service with powers to extinguish a fire***

26. It has been long assumed that the Fire Service has the legal mandate or authority to extinguish unpermitted fires. This is not the case under the current bylaw unless there is a risk to life or property. The Fire Service has no actual powers, having to rely on negotiation skills and voluntary compliance to have fires that could become dangerous extinguished.
27. Officers recommend that the fire bylaw is amended to enable the Council to extinguish fires that are not allowed under the bylaw. If this power is in the Fire Bylaw it can be delegated to the Fire Service, if the Council wishes to.

***Conclusion***

28. The proposed amendments will address the problems identified with the fire bylaw and reduce the nuisance effects of outdoor fire activities on the community, and risks associated with potentially diverting the Fire Service from more threatening fires.
29. The fire bylaw will also be clearer for the public, in terms of what fires are allowed, and how to safely manage a fire. Overall compliance should improve, and fires should be more safely managed.
30. For the purposes of clarity, a revised fire bylaw is proposed (Appendix B – Statement of Proposal). However, the main content of the fire bylaw (Appendix C – Statement of Proposal) is unchanged; including the ability to impose a fire ban in times of fire risk, issue permits for outdoor fires, and fire safety requirements.
31. Council officers consider that there is a potential significant impact on the public due to the fact that the Fire Bylaw is a regulatory document that creates constraints on what people can do (for example; potential costs, requirements for permissions, and potential offences with fines up to \$20,000). Therefore it is appropriate to allow the public to be fully involved in the bylaw making process through using the special consultative procedure required under the LGA.

***Options***

32. If the Council does not complete a review of the fire bylaw by 17 December 2015 the fire bylaw will be void from that date, and any fire could be lit anywhere in the city without a permit. Not reviewing the fire bylaw is not a viable option.
33. The Council could choose to not progress any amendments. In this case the problems identified would not be resolved, and there would be ongoing uncertainty around which fires are allowed without a permit, ongoing nuisance arising from rubbish fires, and continuing lack of powers to extinguish a fire.

**Next Actions**

34. The timeline for the fire bylaw review process is:

<b>Dates</b>	<b>Activity</b>
12 August 2015	Community, Sport and Recreation Committee considers this statement of proposal and decides whether to send this proposal out for external consultation.
28 August – 2 October	Consultation period.
14 October 2015	Community, Sport and Recreation Committee hears oral submissions.
25 November 2015	Community, Sport and Recreation Committee considers the report on all written and oral submissions and decides whether to adopt the proposed bylaw.
16 December 2015	Council considers whether to adopt the proposed bylaw.
17 December 2015	Bylaw (as amended) comes into force.

35. Officers will prepare an implementation plan to ensure that work is planned to; revise fire permit application forms, delegate powers to extinguish a fire to the Fire Service, consider Council operational policy on when a fire permit may be issued, and to develop public communications for when the bylaw comes into force.

**Attachments**

Attachment 1. Attachment 1 - Statement of Proposal

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Authors	Leila Martley, Senior Policy Analyst Paul Glennie, Team Leader Strategic Planning Geoff Lawson, Principal Programme Adv, Policy,
Authoriser	Greg Orchard, Chief Operating Officer

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## **SUPPORTING INFORMATION**

### **Consultation and Engagement**

The proposed amendments to the fire bylaw have been developed in consultation with the New Zealand Fire Service. The special consultative procedure statutorily required under the Local Government Act 2002 will be complied with in conducting the public consultation including oral hearings.

### **Treaty of Waitangi considerations**

N/A

### **Financial implications**

The proposed amended bylaw will operate within existing budgets.

### **Policy and legislative implications**

The proposed amended bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

### **Risks / legal**

The statement of proposal and draft amendments has been reviewed by DLA Piper.

### **Climate Change impact and considerations**

N/A

### **Communications Plan**

The amended fire bylaw will provide an opportunity to educate the public about what fires are allowed without a permit and how to conduct them safely. The Council will develop a joint communications plan with the Fire Service to promote awareness of the amended fire bylaw.

During the consultation stage, in addition to standard measures to promote the consultation period, the Council will write to current fire permit holders to ensure they are made aware of the consultation opportunity.

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**Statement of Proposal**

**Review and amendment to Part 3: Fire Prevention of the Wellington City  
Consolidated Bylaw 2008**

**Summary of information**

This statement of proposal relates to a review of *Part 3: Fire Prevention* of the Wellington City Consolidated Bylaw 2008 (referred to as the fire bylaw).

Bylaws must be reviewed every 10 years under the terms of the Local Government Act 2002 (LGA) and the fire bylaw must be reviewed by December 2015. The LGA sets out the process and consideration necessary for reviewing bylaws.

The purpose of the fire bylaw is to minimise the potential fire risk arising from uncontrolled fires and to address public safety concerns and nuisance concerns. The fire bylaw is empowered under LGA provisions for the purpose of maintaining public safety and preventing public nuisance.

The main components of the current fire bylaw are:

- outdoor fires that are not in a “properly constructed fireplace” require a fire permit from the Council
- the Council can impose a complete fire ban in times of fire risk
- general prohibitions in the interests of safety (for example, no lighting of fires within three metres of a building, or putting ashes in a flammable container).

Council officers have reviewed the fire bylaw and are of the view that a bylaw remains necessary to address fire safety and fire prevention on public and private land in the city and to protect the public from nuisance caused by fires. Without a fire bylaw, the Council has no powers to protect residents from nuisance (eg: smoke and ash), or ensure safety of people and property (eg: uncontrolled fires can cause fires on private property or get into the Town Belt and pose a grave threat to people and property).

As part of the review, Council officers, in consultation with the New Zealand Fire Service (the Fire Service), have identified several problem areas in the operation of the fire bylaw that could be improved. These are:

- there is uncertainty about which fires require a permit
- many cooking and heating fires in purpose built containers require permits, but cause very few nuisance complaints or safety risks
- burning rubbish is allowed with a fire permit – these fires can be dangerous, cause conflict between neighbours, and lead to many public calls about flames and smoke that the Fire Service must respond to – this can affect Fire Service availability to respond to emergency calls
- the Fire Service can only legally extinguish the fire if it is threatening people or property, or looks like it is getting out of control.

In order to address these problems, officers propose amendments to the fire bylaw to:

- allow for more types of cooking and heating fires to be lit outdoors, on private land, without a permit

**Item 3.6 Attachment 1**

- make it clear that all fires in public places require a permit
- make it clear which fires on private land require a permit
- limit the circumstances in which a fire can be used to burn rubbish (to circumstances where there are no suitable alternatives and/or special circumstances)
- include information on how to safely manage a fire
- include more information about application forms and fees
- provide the Council with powers to extinguish an outdoor fire that does not comply with the bylaw (which can then be delegated to the Fire Service if desired)
- make general clarifications and remove a clause on fire danger that is now covered by the Fire Safety and Building Evacuation Regulations 2006.

The review findings are summarised in this Statement of Proposal document and a proposed amended fire bylaw is attached (Appendix B – Proposed Amended Fire Bylaw). While most content is carried across from the current fire bylaw (Appendix C – Fire Bylaw 2003) it has been clearer to create a new version of the bylaw.

**Have your say**

The Council is keen to know what residents, ratepayers and stakeholders think about the proposed amended bylaw.

Please make a submission online at [wellington.govt.nz](http://wellington.govt.nz), email your submission to [policy.submission@wellington.govt.nz](mailto:policy.submission@wellington.govt.nz) or complete the attached submission form and send it to Fire Prevention Bylaw Review, Freepost, Wellington City Council, PO Box 2199, Wellington.

You can get more copies online at [wellington.govt.nz](http://wellington.govt.nz), the Service Centre at 101 Wakefield Street, libraries, by emailing [policy.submission@wellington.govt.nz](mailto:policy.submission@wellington.govt.nz) or phoning 04 499 4444.

If you wish to make an oral submission to Councillors, please indicate this on the submission form and make sure you have included your contact details. We will contact you to arrange a time for you to speak. Submissions will be heard by the Community, Sport and Recreation Committee on 14 October 2015.

Written submissions open on 28 August 2015 and close at 5pm on 2 October 2015.

## **1. Introduction and reasons for statement of proposal**

This statement of proposal relates to a review of *Part 3: Fire Prevention* of the Wellington City Consolidated Bylaw 2008 (referred to as the fire bylaw).

Bylaws must be reviewed every 10 years under the terms of the Local Government Act 2002 (LGA) and the fire bylaw must be reviewed by December 2015. The LGA sets out the process and consideration necessary for reviewing bylaws.

The purpose of the fire bylaw is to minimise the potential fire risk arising from uncontrolled fires and to address public safety concerns and nuisance concerns. The fire bylaw is empowered under LGA provisions for the purpose of maintaining public safety and preventing public nuisance.

The main components of the current fire bylaw are:

- outdoor fires that are not in a “properly constructed fireplace” require a fire permit from the Council
- the Council can impose a complete fire ban in times of fire risk
- general prohibitions in the interests of safety (for example, no lighting of fires within three metres of a building, or putting ashes in a flammable container).

Council officers have reviewed the fire bylaw and are of the view that a bylaw remains necessary to address fire safety and fire prevention on public and private land in the city and to protect the public from nuisance caused by fires. Without a fire bylaw, the Council has no powers to protect residents from nuisance (eg: smoke and ash), or ensure safety of people and property (eg: uncontrolled fires can cause fires on private property or get into the Town Belt and pose a grave threat to people and property).

As part of the review, Council officers, in consultation with the New Zealand Fire Service (the Fire Service), have identified several problem areas in the operation of the fire bylaw that could be improved. These are:

- there is uncertainty about which fires require a permit
- many cooking and heating fires in purpose built containers require permits, but cause very few nuisance complaints or safety risks
- burning rubbish is allowed with a fire permit – these fires can be dangerous, cause conflict between neighbours, and lead to many public calls about flames and smoke that the Fire Service must respond to – this can affect Fire Service availability to respond to emergency calls
- the Fire Service can only legally extinguish the fire if it is threatening people or property, or looks like it is getting out of control.

In order to address these problems, officers propose amendments to the fire bylaw to:

- allow for more types of cooking and heating fires to be lit outdoors, on private land, without a permit
- make it clear that all fires in public places require a permit
- make it clear which fires on private land require a permit

- limit the circumstances in which a fire can be used to burn rubbish (to circumstances where there are no suitable alternatives and/or special circumstances)
- include information on how to safely manage a fire
- include more information about application forms and fees
- provide the Council with powers to extinguish an outdoor fire that does not comply with the bylaw (which can then be delegated to the Fire Service if desired)
- make general clarifications and remove a clause on fire danger that is now covered by the Fire Safety and Building Evacuation Regulations 2006.

The review findings are summarised in this Statement of Proposal document and a proposed amended fire bylaw is attached (Appendix B – Proposed Amended Fire Bylaw). While most content is carried across from the current fire bylaw (Appendix C – Fire Bylaw 2003) it has been clearer to create a new version of the bylaw.

This document contains:

- background information
- bylaw making process
- process and proposed timeline
- the proposed draft bylaw.

## **2. Have your say**

The Council is keen to know what residents, ratepayers and stakeholders think about the proposed amended fire bylaw.

Please make a submission online at [wellington.govt.nz](http://wellington.govt.nz), email your submission to [policy.submission@wellington.govt.nz](mailto:policy.submission@wellington.govt.nz) or complete the attached submission form and send it to Fire Prevention Bylaw Review, Freepost, Wellington City Council, P O Box 2199, Wellington.

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Written submissions open on 28 August 2015 and close at 5pm on 2 October 2015.

## **3. Background (scope of the Fire Bylaw and the review requirement)**

This section describes the fire bylaw and review requirements under the LGA. A list of other legislation that applies to fires is also provided (Appendix A).

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***Fire Bylaw***

The fire bylaw provides the Council with powers to control outdoor fires in public places and on private land, and manage the risks associated with outdoor fires. The main components of the fire bylaw are:

- outdoor fires that are not in a “properly constructed fireplace” require a fire permit from the Council, this generally means any open fire that is not contained in a fireplace that has a building consent, requires a permit (except for gas or charcoal barbeques)
- the Council can impose a complete fire ban in times of fire risk
- precautions against fire danger (about safe storage of flammable material)
- prohibitions in the interests of safety (for example, no lighting of fires within three metres of a building, or putting ashes in a flammable container).

The fire bylaw dates back to 1880 when the Council introduced regulations governing the lighting of fires in the “open air”. The responsibility for the regulation of outdoor fires in the urban fire district remains with the Council. The current fire bylaw was adopted in 2003 and has not been amended since then.

The fire bylaw is part of the Wellington City Consolidated Bylaw 2008 (the consolidated bylaw) so the general provisions of the consolidated bylaw apply, for example, *Part 1: Introduction* includes general processes like applying to Council for permission (ie: written permits), provisions for the Council to waive fees in certain circumstances, powers for the Council to prescribe application forms and fees and the power to issue notices.

***Local Government Act 2002 (LGA) – empowering the fire bylaw***

The Council is authorised under the LGA to make bylaws for protecting the public from nuisance and protecting, promoting, and maintaining public health and safety (Section 145(a) and (b)).

The fire bylaw is empowered under Section 145 of the LGA, mainly, to protect the public from nuisance (for example, ash and smoke), and public safety (threat to life and property from fire). Section 146(c) of the LGA empowers the Council to make a bylaw to prevent the spread of vegetation fires.

Fires in the city’s rural setting are generally managed through provisions of the Forest and Rural Fires Act 1977 and by the Wellington Rural Fire Authority of which Wellington City Council is a stakeholder.

***LGA – review requirements***

The LGA sets out procedural requirements for making or amending a bylaw. Provisions were added to the LGA in 2006 to require bylaws to be reviewed every 10 years. The government’s intent in creating the new provisions was to ensure a regular cycle of review for bylaws.

Bylaws that are not reviewed within two years of a review becoming due are automatically revoked ([Sections 158–160A](#)). The fire bylaw became eligible for review on 18 December 2013 and the review must be completed by 17 December 2015.

The LGA procedural requirements for reviewing a bylaw are the same as those for creating a bylaw ([Section 155](#)). At review, the Council must consider whether a bylaw is the most appropriate way of addressing a perceived problem and whether the proposed form of the bylaw is the most appropriate for of bylaw. The Council must also consider whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

The Council must consult the community through the special consultative procedure when making, amending or reviewing a bylaw ([Section 156](#)) if the bylaw concerns a matter identified in the Council’s Significance and Engagement Policy (developed under [Section 76AA](#)) or if the Council considers there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes [http://www.legislation.govt.nz/act/public/2002/0084/latest/whole.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_local+government+act+2002\\_resel\\_25\\_a&p=1+-+DLM173401%20-%20DLM172327 - DLM173404](http://www.legislation.govt.nz/act/public/2002/0084/latest/whole.html?search=ts_act%40bill%40regulation%40deemedreg_local+government+act+2002_resel_25_a&p=1+-+DLM173401%20-%20DLM172327-DLM173404).

After deciding to adopt any amendments to the bylaw, the local authority must give public notice of when the bylaw or amendments come into operation.

**4. The process and timeframe for review**

The process for review that meets the consultation requirements of the LGA is as follows:

The review proposals and bylaw amendments have been developed by Council officers from the Policy and Research and Transport and Waste Operations teams in consultation with the Fire Service.

The Council considers there is a potential significant impact on the public due to the fact that the fire bylaw is a regulatory document that creates constraints on what people can do (for example; potential costs, requirements for fire permits, and potential offences with fines up to \$20,000). Therefore, it is appropriate to allow the public to be fully involved in the bylaw making process through using the special consultative procedure required under the LGA.

The timeline for the consultation and development process is:

<b>- Dates</b>	<b>- Activity</b>
- 12 August 2015	- Community, Sport and Recreation Committee considers this statement of proposal and decides whether to send this proposal out for external consultation.
- 28 August to 2 October	- Consultation period.
-	- Community, Sport and Recreation Committee hears oral submissions.

- 25 November 2015	- Community, Sport and Recreation Committee considers the report on all written and oral submissions and decides whether to adopt the proposed bylaw.
- 16 December 2015	- Council considers whether to adopt the proposed bylaw.
- 17 December 2015	- Bylaw (as amended) comes into force.

## 5. Review discussion and proposals

### 5.1. *Is the fire prevention bylaw still appropriate under the LGA?*

#### The perceived problem the fire bylaw addresses

The LGA requires that a bylaw to be the most appropriate way to address a perceived problem. As the fire bylaw has existed for a long time and is only being reviewed, officers have posed the question:

#### What if there were no fire bylaw?

Although the lighting of fires in public places is partly covered by the Forest and Rural Fires Act 1977, there are no controls on the lighting of fires on private land in the city and on any land in the city that is not designated as part of the rural fire district.

Without the fire bylaw there would be a problem because the Council may not be able to:

- institute fire bans in times of extreme fire risk, potentially leading to fires getting into dry vegetation in the Town Belt and spreading rapidly, posing grave threat to people and property
- control fires on private land in residential areas to protect residents from fire risks and from nuisance .

The fire bylaw is a unique instrument and does not create overlap with any of the other laws that apply to fire safety (Appendix A).

Therefore, Council officers do not recommend repeal of the fire bylaw, which largely remains an appropriate bylaw under the LGA to address the problem of fire risks and nuisance to residents that could arise without the powers to control fires that exist in the fire bylaw. However, as addressed further below there are some problems with the current fire bylaw that should be addressed as part of this review (including clarity of its application, providing for powers to extinguish unauthorised fires, imposing stricter controls on burning of rubbish and allowing for more outdoor fires, if contained in appropriate devices).

#### Is the proposed bylaw the most appropriate form of the bylaw?

The LGA requires that a bylaw be the most appropriate form of the bylaw. The fire bylaw is part of the consolidated bylaw and there are no reported issues to warrant changing it to a stand-alone bylaw. Subject to the proposed amendments addressed below, the

Council considers that the form of the bylaw as proposed is the most appropriate form of bylaw.

*Does the fire bylaw require amendment (ie, are there additional problems that need addressing)?*

As part of the review, Council officers have identified several problem areas in the operation of the fire bylaw that could be improved. These are:

- there is uncertainty about which fires require a permit.
- many cooking and heating fires in purpose built containers require permits, but cause very few nuisance complaints or safety risks.
- burning rubbish is allowed with a fire permit – these fires can be dangerous, cause conflict between neighbours, and lead to many public calls about flames and smoke that the Fire Service must respond to – this can affect Fire Service availability to respond to emergency calls
- the Fire Service can only legally extinguish the fire if it is threatening people or property, or looks like it is getting out of control.

In order to address these problems, officers propose amendments to the fire bylaw to:

- allow for more types of cooking and heating fires to be lit outdoors, on private land, without a permit
- make it clear that all fires in public places require a permit
- make it clear which fires on private land require a permit
- limit the circumstances in which a fire can be used to burn rubbish limit the circumstances in which a fire can be used to burn rubbish (to circumstances where there are no suitable alternatives and/or special circumstances)
- include information on how to safely manage a fire
- include more information on the need for applications to include all the information requested by Council and for it to be on the prescribed application form and accompanied by any prescribed fee
- provide the Council with powers to extinguish an outdoor fire that does not comply with the bylaw (which can then be delegated to the Fire Service if desired)
- make general clarifications and remove a clause on fire danger that is now covered by the Fire Safety and Building Evacuation Regulations 2006.

The problems and proposed amendments are discussed below (Section 5.2). The amendments proposed will reduce the nuisance effect of outdoor fire activities on the community and reduce the number of Fire Service callouts responding to permitted and unpermitted outdoor fire activities. The fire bylaw will also be much clearer for the public and this may improve compliance.

## 5.2. Bylaw issues and proposed amendments

### ***5.2.1 Proposal to allow a greater range of cooking and heating fires without a permit and provide for the safe management of fires***

Under the current fire bylaw, Council permission (commonly referred to as a fire permit) is required before “lighting any fire that is not contained in a properly constructed fireplace, gas or charcoal barbeque or an area specifically designated by the Council”.

The fires that are allowed are bounded by the definitions of:

- “properly constructed fireplace” which states, built in accordance with the requirements of the Building Act 1991, or the relevant building standard applicable at the time of the fireplace construction, and maintained in proper repair, and
- “barbecue” defined as gas, charcoal or wood-fuelled barbecue (but excluding incinerators, hangi, umu, braziers and chimeneas<sup>1</sup>).

Neither of these definitions allow for cooking fires, braziers or chimenea even if they are well-designed outdoor fireplaces or fire pits. So, in effect, very few fires are allowed without a permit, whether on public or on private land.

There is little evidence of heating and cooking fires, in purpose built containers, causing any problems. In the past few years only 25 Fire Service callouts (Table 1) have been about wood fuelled cooking fires, of a total of 612 callouts. Most complaints are about controlled burns and rubbish fires (discussed below, 5.2.2).

**Table 1: Fire Service callouts 2012 to 2015<sup>2</sup>**

- Fire activity	- Count
- Authorized controlled burn	- 56
- Unauthorised controlled burn	- 20
- Barbeque (gas)	- 11
- Barbeque (wood or charcoal)	- 25
- Bonfire	- 104
- Campfire	- 14
- Gas cooking fire	- 2
- Outside rubbish fire	- 314
- Hangi/umu/cultural cooking fire	- 31
- Miscellaneous (unclassified)	- 35
- <b>Total</b>	- <b>612</b>

<sup>1</sup> Chimenea or chimenea (Spanish for chimney) are terracotta ovens with an open mouth/fire compartment and chimney. Traditionally, a chimenea was made of clay and designed in a wide-bottom vase form, with a narrow, vertical chimney through which to direct smoke and a wide mouth on its side for the fire pit. The chimenea’s design allows it to be used in the rain without the water extinguishing its flame.

<sup>2</sup> Data has been supplied by the Fire Service.

Of note, very few fire permits are applied for and issued (Table 2), only 373 from 2012 to 2015, indicating that it is probably not very well understood that most fires currently do require a permit.

**Table 2: Fire Permits Issued by Council 2012-2015**

- Fire activity	- Count
- Open fire	- 134
- Incinerator	- 84
- Chimenea/brazier	- 49
- Hangi/umu	- 41
- BBQ	- 21
- Woodfired pizza oven	- 16
- Fixed outdoor fireplace	- 11
- Fire pit / dish / box	- 7
- Open pottery fire pit	- 3
- Other	- 2
- Campfire	- 2
- Fire for religious purpose	- 2
- Forge	- 1
- <b>Grand Total</b>	- <b>373</b>

As there is little risk associated with cooking and heating fires, and few callouts raised, officers recommend that the fire bylaw is amended to create a new category of fire that may be lit, on private land, without a fire permit. This new category should provide for the lighting of cooking fires and heating braziers and include built barbecues, pizza ovens and chimeneas.

*Proposal to allow more types of fire without a permit and present the information more clearly*

The following amendments are proposed to give effect to the recommendations to allow more types of fire without a permit and to make it clear which fires do and do not require a permit:

- amend the interpretation section to provide for an “outdoor fire device” that applies to contained fires including purpose-built, enclosed, barbecues, braziers, pizza ovens, and chimenea (Appendix B, clause 1)
- add a new clause “Fires allowed without Council permission” to apply to fires in an “outdoor fire device” (Appendix B, clause 2).

*Proposal to improve clarity of the fire bylaw about which fires require permission*

At present all fires in public places require Council permission (referred to as a fire permit), but the fire bylaw does not explicitly state this. In addition, all open fires on

private land require Council permission, including hangi and umu fires. Officers recommend that the bylaw is restructured to make it clearer that open fires on private land require Council permission, and all fires on public land (except for gas barbecues) require Council permission.

The proposed amendments to achieve more clarity about which fires require a fire permit are:

- replace the current clause 4 “Activities that require Council permission” with a new clause “Fires that require Council permission” (Appendix B, clause 3)
- clarify in new clause 3; that all fires on public land require Council permission (except for gas barbecues), and open fires on private land (including those used for hangi and umu) and rubbish fires (enclosed or not) on private land require Council permission (Appendix B, clause 3.1 and 3.2).

While hangi and umu are cooking fires that raise few complaints (Table 1), it is still appropriate to issue fire permits as these require long-burning open fires (at least three hours is recommended for the safe cooking of food).

*Proposal to include conditions for lighting a fire in the fire bylaw*

At the moment Council fire permits include information about the safe conduct of a fire. If more fires are allowed without Council fire permits, that information needs to be publicly available and compliance should be compulsory. Officers propose amendments to add new content to the fire bylaw:

- provide “general conditions for lighting outdoor fires in all areas at all times” (Appendix B, clause 4)
- provide specifications for the location and size of fires in an “outdoor fire device” (Appendix B, clause 2.2)
- provide specifications on the location and size of fires with a permit (and not in an “outdoor fire device”) (Appendix B, clause 3.5).

**5.2.2 The burning of waste in incinerators and open fires**

Under the current fire bylaw, the burning of rubbish and vegetation is allowed when Council permission (ie: a fire permit) has been obtained, including in incinerators and open fires. The Council fire permit has general conditions intended to reduce nuisance impacts on neighbours and the risk of a fire spreading to any building or structure or vegetation.

From 2012 to 2015, 84 incinerator permits were issued (many would generally be for the burning of waste), and some 134 for open fires (most of which would be for burning rubbish). During the same time period, the Fire Service responded to 314 calls (or callouts) about the burning of outside rubbish. This reflects more than half of the total of 612 callouts about outdoor burning during that time period.

The Fire Service has provided the following information about these types of fires:

- reported fires can be hard to locate, as it can be hard to identify which address smoke is coming from, especially on hillside properties
- with hilly terrain smoke and flames can be spotted from far away, so multiple calls can be made to the Fire Service about the same fire
- when the Fire Service arrive to a fire there will often be a dispute in progress about nuisance smoke and ash
- fires are often left burning after dark causing more calls by worried residents
- fires can only be extinguished by the Fire Service if they are threatening life or property or getting out of control.

There is obviously a cost associated with these callouts, but the impacts extend beyond the financial and into public safety, as the attendance at rubbish fires can mean the Fire Service is slower to get to more threatening fires.

Rubbish burning can remove the need for some garden waste, tree trimmings and general refuse to be transported to a landfill or recycling facility, but for most people is not essential. The Fire Service has asked the Council to consider banning the burning of rubbish, as has been done in Lower Hutt.

Council officers agree that prohibiting the use of incinerators and outdoor rubbish and/or vegetation fires would reduce public nuisance (from smoke and ash), reduce neighbourhood disputes, and would assist in ensuring the Fire Service is available when they are needed most. However, the costs of burning rubbish to the community are not clear enough to warrant a complete ban of all burning of rubbish in all circumstances.

*Proposal to limit the burning of rubbish*

All rubbish fires already require a fire permit. Instead of a proposed ban, Council officers recommend that, in future, fire permits for burning rubbish only be granted by Council in circumstances where; residents have no reasonable alternative to removing the rubbish, or special circumstances exist. This will lead to a reduction in the number of permitted rubbish fires, and an associated reduction to the risks and nuisance associated with rubbish fires.

The following amendment is proposed to give effect to the recommendation:

- add a sub-clause to new clause 3 “Activities that require Council permission” that; permits for burning rubbish will only be issued when there are no suitable alternative ways to dispose of the rubbish or special circumstances exist (Appendix B, clause 3.3b(i) and 3.3b(ii)).

Alongside the bylaw amendment, the Council may amend the conditions of fire permits to require the permit holders to notify the Fire Service when a fire that has a permit will be lit. This will mean that if an authorised rubbish fire raises complaints, the Fire Service will be able to identify where it is more promptly.

### **5.2.3 Power to extinguish fires**

It is generally assumed the Fire Service has the legal mandate or authority to extinguish any fire. This is not the case. The Fire Service can only extinguish a fire that threatens people or property or looks like it is getting out of control. Sometimes the Fire Service will need to keep returning to a fire to monitor safety and compliance and prevent the fire from becoming dangerous. Fires that are likely to become dangerous, or that do not have an appropriate permit, cannot be extinguished.

Officers recommend that the fire bylaw provides the Council with the powers to extinguish a fire that is not allowed or permitted under the fire bylaw (Appendix B, clause 8). This will enhance the public safety protections of the fire bylaw. The Council can then choose to delegate this power to the Fire Service, if it wishes.

### **5.2.4 Other amendments and changes to the structure of the bylaw**

For the purposes of clarity, a complete revised proposed fire bylaw has been developed (Appendix B). The current fire bylaw is attached for comparison (Appendix C). Some further technical amendments, not discussed above, are noted in Table below.

**Table 2: Description of proposed revised fire bylaw including minor changes**

Proposed Bylaw Ref.	Proposed revised bylaw, clause names	Key differences between proposed revised bylaw and current Part 3: Fire Prevention.
-	Introduction	- Carried over from current bylaw with minor amendment.
-	Interpretation	<p style="text-align: center;">- Refer 5.2.1 above, the following terms are newly defined in the bylaw to make the overall intent and scope of the fire bylaw clearer:</p> <ul style="list-style-type: none"> <li>- combustible</li> <li>- Council permission incinerator</li> <li>- non-combustible material</li> <li>- nuisance</li> <li>- occupier</li> <li>- outdoor fire</li> <li>- outdoor fire device (as discussed at 5.2.1, fires defined as an “outdoor fire advice” are generally enclosed cooking and heating fires, and may be lit without a fire permit).</li> <li>- public place</li> </ul>

**Item 3.6 Attachment 1**

		<ul style="list-style-type: none"> <li>- rural fire district</li> <li>- urban area</li> <li>- urban fire district</li> <li>- total fire ban</li> <li>- vegetation</li> <li>- The definition of “barbeque” is retained and amended.</li> <li>-</li> <li>- The terms, “goods”, “properly constructed fireplace” and “chimney” have been deleted.</li> </ul>
-	- Fires allowed without Council permission	- Refer 5.2.1 above. More clearly sets out what fires are allowed without a permit and compliance requirements.
-	- Fires that require Council permission	- Refer 5.2.1 and 5.2.2 above. More clearly sets out which fires require a permit, and limits the circumstances in which a permit may be obtained for burning rubbish. Sets conditions for lighting permitted outdoor fires.
-	- General conditions for lighting outdoor fires in all areas at all times	- Refer 5.2.1 above. Fire permits under the current system have information about the safe management and ways to reduce the nuisance effects of a fire. As more fires will now be allowed without a fire permit the information needs to be publicly available in the bylaw. The inclusion of these details allows for activities that do result in nuisance type effects to be enforced though the LGA.
-	- -	- “Clause 5 – Precautions against fire danger” is deleted as it replicates requirements that are now in the Fire Safety and Building Evacuation Regulations 2006.
-	- Total fire ban during periods of extreme fire risk	- Copy and replacement of “Clause 3 – Fire Prohibition”. Core content of the fire bylaw, this clause has been expanded to include circumstances where the Council can approve an outdoor fire, and to make it clear gas barbecues and contained fires are allowed.
-	- Live ash or smouldering substances	- Copy and replacement of “Clause 6 - Prohibited Activities” of the current bylaw states that live ash shouldn’t be placed in certain types of container. The incorrect disposal or handling of hot ashes is a leading cause of fires in New Zealand. This clause is intended to allow the Council to take action to prevent high-risk practices where required and reduce the risk of fire spread to structures, Town Belt areas and neighbouring properties.
-	- Process for obtaining Council’s written permission	- This is a proposed new clause to include more information on the need for applications to include all the information requested by Council and for it to be on the prescribed application form and accompanied by any prescribed fee.

-	- Council powers to extinguish	- Refer 5.2.3 above. This is the proposed new clause to enable the Council to extinguish a fire that is in breach of the bylaw. The Council can delegate this power to the Fire Service.
-	- Enforcement, Offences and Penalties	- Direct copy of "Clause 7 – Offences" of the current bylaw.

#### **6. New Zealand Bill of Rights Act 1990 (NZBORA) implications**

Under section 155(3) of the LGA, the Council is obliged to consider whether the proposed bylaw creates any implications under the NZBORA. The LGA expressly requires that bylaws are consistent with the NZBORA.

The only right or freedom recognised under the NZBORA that the Council considers could potentially be impinged by the bylaw is the right to manifest religion or belief in worship, observance, practice or teaching if there are religious reasons for requiring a fire (on public or private land). However, considering the safety and nuisance issues involved, officers consider the requirement to seek Council permission for such a fire would be a reasonable restriction of this right.

The Council considers that the proposed bylaw is not inconsistent with NZBORA and does not give rise to any implications under the NZBORA.

The bylaw amendments do not go beyond what is required to achieve the objectives discussed in this paper and adheres to LGA requirements of amending a bylaw.

#### **7. Attachments**

Appendix A: Legislation that applies to fire prevention and fire safety

Appendix B: Proposed amended fire bylaw

Appendix C: Fire bylaw (2003)

**Appendix A – Legislation that applies to fire prevention and fire safety**

<b>- Legislation</b>	<b>- Purpose</b>
- Forest and Rural Fires Act 1977	- Provides measures to safeguard life and property through the prevention, detection, control, restriction, suppression and extinction of fire in forest and rural and other areas of vegetation. The Act specifically defines and covers the Rural Fire District and enables a fire ban to be imposed on the rural fire district during time of extreme fire risk.
- Local Government Act 2002	- Empowers councils to make a fire prevention bylaw (sections 146(b) and (c)) and to require occupiers or landowners to reduce, eradicate or remove any growth or matter on the land if it is likely to become a source of risk from fire (section 183) and a right of appeal (section 184). It also allows the Council to recover costs from the occupier or land owner for any growth management undertaken on the owner's behalf (section 186).
- New Zealand Fire Service Act 1975	- Establishes the New Zealand Fire Service statutory powers and responsibilities in undertaking fire safety, management and suppression activities.
- Fire Safety and Building Evacuation Regulations 2006	- Provides for fire safety and in the context of the fire bylaw the storage of flammable materials outside buildings, the control of open flames and the packing and unpacking of goods. As this is now covered in the regulations, clause 5 of the fire bylaw 2003 can be deleted.
- Reserves Act 1977	- Covers the acquisition, control, development and use of reserves and prohibits the lighting of fires in reserves without a permit.
- Resource Management Act 1991	- Promotes the sustainable management of natural and physical resources. The Regional Plan also controls discharges to air from burning activities.

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## **Appendix B – Proposed Revised Fire Bylaw**

### **Introduction**

This part of the bylaw controls activities that may become a fire hazard. The purpose of the bylaw is to minimise the potential fire risk arising from uncontrolled fires and to address public safety concerns and nuisance concerns. The bylaw does not address fire safety requirements for building construction, as these are covered by the Building Act 2004.

The bylaw is specifically limited to those areas that are not part of a rural fire district pursuant to the Forest and Rural Fires Act 1977. This bylaw therefore regulates activities in predominantly urban areas. A map showing the rural fire district is available from the Council. A permit for a fire in the rural fire district must be sought from the Wellington Rural Fire Authority ([www.wrfa.org.nz](http://www.wrfa.org.nz)).

This amended bylaw replaces the previous Wellington City Consolidated Bylaw 2008: Part 3 (Fire Prevention) and is introduced pursuant to section 145 of the Local Government Act 2002. It does not replace the statutory provisions relating to fire prevention, which should be read in conjunction with this bylaw. Further details on those statutory provisions are provided at the end of this part of the bylaw.

### **1. Interpretation**

In this part of the bylaw, unless inconsistent with the context, or where otherwise expressly provided:

**"Barbecue"** means any fixed or portable device (electric, gas, wood or charcoal fired burning equipment) designed and/or intended for the cooking of food outside.

**"Combustible material"** means a substance or material that is able to catch fire and burn. It may include overgrown vegetation, hay, timber and sawdust.

**"Council permission"** means written permission obtained from the Council as set out in clause 7, prior to undertaking the fire activity ".

**"Incinerator"** means any non-flammable container, receptacle or apparatus designed and/or intended for the disposal of combustible materials by burning.

**"Non-combustible material"** means any substance of a fire-resistant nature able to contain combustion or the burning of fuel.

“**Nuisance**” means, in relation to an “outdoor fire device”, smoke or ash that may be offensive or objectionable beyond the property boundary where the “outdoor fire device” is being operated.

“**Occupier**” means, in relation to any land, the owner and includes any tenant, agent, manager, foreperson or other person apparently acting in the general management or control of the land.

“**Outdoor fire**” is any fire lit within the urban fire district, other than in a dwelling or other enclosed building that has a building consent.

“**Outdoor fire device**” means any non-combustible receptacle, appliance or device designed or intended to be used in the outdoors for cooking, heating or amenity that contains combustion or the burning of fuel and may include barbecues, smokers, braziers, chimenias<sup>3</sup>, pizza ovens and other like devices but **excludes** “incinerators”.

“**Public place**” means any 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 an owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

“**Rural fire district**” means land constituted under the Forest and Rural Fires Act 1977 as a rural fire district.

“**Total fire ban**” means a fixed or indefinite period of time, fixed by the Council under clause 5 of this bylaw, when the lighting of outdoor fires is prohibited.

“**Urban area**” means any land, public or private, within the urban fire district.

“**Urban fire district**” means land constituted under the Fire Service Act 1975 as an urban fire district.

“**Vegetation**” means

- a) all plants and the produce thereof, live or dead, standing, fallen, windblown, cut, broken, pulverised, sawn or harvested, natural or disturbed in use or as waste, debris, stump, stubble or otherwise
- b) fossil fuel exposed at or lying within 20 metres of the surface of any land
- c) peat in any form

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<sup>3</sup> A terracotta oven with an open mouth fire compartment and chimney.

- d) but does not include wood forming part of a structure or otherwise in processed form.

Any explanatory note is for information purposes only and does not form part of this bylaw. They may be made, amended or removed without formal process. The Interpretation Act 1999 applies to this bylaw.

## **2. Fires allowed without Council permission**

- 2.1. Subject to any total fire ban in place under clause 5 of this bylaw, an outdoor fire may be lit on private land, provided the fire is contained in an outdoor fire device.
- 2.2. Any such fire in an outdoor fire device must at all times comply with the requirements in clause 4 of this bylaw, and
- a. be no closer than 1 metre to any boundary, fence, road or structure, and,
  - b. have flames no taller than 1.5 metres, and
  - c. be located or positioned on non-combustible material.

## **3. Fires that require Council permission**

- 3.1. Subject to clause 3.2 of this bylaw, the following fires will require Council's prior written permission:
- a. All outdoor fires in public places (excluding Council gas barbecues).
  - b. All outdoor fires on private land that are not in an outdoor fire device, including those used for cooking (such as hangi and umu) and fires for special events (for example, cultural and community events). Where the outdoor fire is for the purpose of burning rubbish and/or vegetation or disposing of combustible materials, it will only be given Council permission where:
    - i. there are special circumstances which make such permission necessary and/or
    - ii. there are no other suitable, reasonably practicable, alternative ways to dispose of the material.

3.2. In addition to any conditions imposed in a Council permission, any outdoor fire authorised by a Council permission must at all times comply with the requirements in clause 4, and

- a. be no closer than 1 metre to any boundary, fence, road or structure, and,
- b. have a diameter not exceeding three metres
- c. have no active burning after the hours of sunset or before the hours of sunrise.

**4. General conditions for lighting outdoor fires in all areas at all times**

4.1. A person must not light, or allow to remain alight, any outdoor fire in any of the following circumstances:

- a. Where the location, wind, or other conditions, cause, or are likely to cause the outdoor fire to become:
  - i. a danger to any person or property; or
  - ii. out of control or to spread beyond the limits of the property on which the fire is lit; or
  - iii. a smoke or ash nuisance to any person or property; or
  - iv. a hazard to road traffic.
- b. Within the proximity of any combustible materials such as a building, structure, fence or vegetation that may cause or be likely to cause a fire hazard, unless the fire is contained within an outdoor fire device that:
  - i. is fuelled by gas
  - ii. or contains all embers and sparks.
- c. Without adequate supervision being maintained at all times;
- d. Without an appropriate means of fire suppression being available.

4.2. Every person who lights an outdoor fire must ensure the outdoor fire is totally extinguished on completion of the activity.

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**5. Total fire ban during periods of extreme fire risk**

- 5.1. The Council or Chief Executive Officer may make, amend or revoke a total fire ban in any specified part or parts of Wellington to minimise the risk of the start or spread of fire, during periods of extreme fire risk. The ban may be in place for a fixed or indefinite period.
- 5.2. A person must not light, or allow to be lit, any outdoor fire when a total fire ban is in place, unless that fire is on private land and contained within an outdoor fire device that:
- a. is fuelled by gas; or
  - b. contains all embers and sparks.
- 5.3. A person may apply to the Council for a permit to light an outdoor fire during a total fire ban, if the outdoor fire (on private or public land) is required as part of a significant community or cultural event; or the most effective means to reduce a fire hazard; or the most effective means to reduce any other hazard to life, health, property or the environment, or special circumstances exist.
- 5.4. The Council shall notify any total fire ban by public notice in a newspaper circulated in the location to which the ban relates. The Council may also erect signage.

**6. Live ash or smouldering substances**

- 6.1. A person must not place or dispose of any live ash, cinders, embers or any other smouldering substance on any land except when:
- a. contained in a non-combustible receptacle so as to prevent the transmission of fire or heat to any combustible material; or
  - b. in a pit on private land, which will prevent the spread of fire or heat by the action of wind or otherwise.

**7. Process for obtaining Council's written permission**

- 7.1. The process for obtaining Council's prior written permission is set out in Part 1: Introduction of the Wellington City Consolidated Bylaw 2008.
- 7.2. Any application made to the Council must include all information required by Council, be on any form prescribed by the Council and be accompanied by any fee prescribed by the Council.

- 7.3. On receiving and reviewing an application the Council may grant or decline written permission at its sole discretion. If it grants written permission, it may do so subject to any conditions it sees fit (including, but not limited to, the duration of the written permission, the power to suspend or revoke a written permission and the power to review the written permission and its conditions).
- 7.4. Any written permission from the Council is personal to the holder and the property. It is not transferrable.

#### **8. Council powers to extinguish fire**

- 8.1. Where an outdoor fire has been lit or allowed to burn in breach of any part or parts of this bylaw, the Council may direct the occupier of the land where the outdoor fire is located and/or the person(s) who lit the outdoor fire, to immediately extinguish the fire.
- 8.2. Where a property owner or occupant has received an instruction under clause 8.1 of this bylaw and refuses to immediately follow that instruction, or there is no-one present in the vicinity of the fire, the Council may extinguish the fire.
- 8.3. Where an outdoor fire has been extinguished pursuant to clause 9.2, the Council may recover any costs it incurred in attending, containing and/or extinguishing the fire from the owner of the property on which the outdoor fire was located and/or from any person who lit, fuelled or allowed the fire to remain alight.

#### **9. Offences**

- 9.1. Everyone commits an offence who:
- a. carries out any activity before obtaining written permission as required by this part of the bylaw
  - b. carries out any activity in breach of any condition or requirement of the written permission issued under this part of the bylaw
  - c. fails to comply with any notice or instruction issued under this part of the bylaw.
  - d. carries out any activity that is prohibited by clause 6.1.

*In addition to statutory provisions relating to fire safety and prevention in the Forest and Rural Fires Act 1977, the Building Act 2004 and the Fire Service Act 1975, the following provisions of the Local Government Act 2002 should be read together with this bylaw:*

- 
- *section 183 enables the Council to give notice to require an owner or occupier to remove any growth or matter that could become the source of danger in a fire. 'Growth' and 'matter' are defined in this section*
  - *section 184 provides a right of District Court appeal of a section 183 notice*
  - *section 186 enables the Council to execute the work in default of the owner or occupier and to recover the costs.*

**Related links**

[Emergency Management - Hazards - Wildfire](#)

a. **Appendix C – Fire Bylaw 2003**

b. ~~————— This part of the bylaw controls activities that may become a fire hazard. The purpose of the bylaw is to minimise the potential fire risk arising from certain use of land and buildings and to address public safety concerns. The bylaw does not address fire safety requirements for building construction, as these are covered by the Building Act 1991.~~

c. ~~————— The bylaw is specifically limited to those areas that are not part of a rural fire district pursuant to the Forest and Rural Fires Act 1977. This bylaw therefore regulates activities in predominately urban areas. A map showing the rural fire district areas is available from the Council.~~

d. ~~————— This amended bylaw replaces the previous Wellington Consolidated Bylaw 1991 Part 10 (Fire Prevention) and is introduced pursuant to sections 145 and 146 of the Local Government Act 2002. It does not replace the existing statutory provisions relating to fire prevention, which should be read in conjunction with this bylaw. Further details on those statutory provisions are provided at the end of this part of the bylaw.~~

e. ~~————— Adopted 17 December 2003.~~

**1. Interpretation**

f. ~~————— **1.1 Barbeque** means a gas, charcoal or wood fuelled barbecue but excludes incinerators, hangi, umu, braziers and chiminerias.~~

g. ~~————— **Chimney** includes any flue, smoke vent or stove pipe.~~

h. ~~————— **Goods** means any article, material, or merchandise and includes any rubbish, debris, crates, pallets, containers or other packages, shavings, hay, straw, oily rags or waste, or other flammable or combustible materials or substances.~~

i. ~~Properly constructed fireplace~~ means built in accordance with the requirements of the Building Act 1991, or the relevant building standard applicable at the time of the fireplace construction, and maintained in proper repair. This excludes incinerators, hangi, umu, braziers and chiminerias.

## **2. Application of this bylaw**

j. ~~2.1~~ This part of the bylaw applies to those areas of Wellington City that are not constituted within a rural fire district under the Forest and Rural Fires Act 1977.

## **3. Fire prohibition**

k. ~~3.1~~ The Council or Chief Executive Officer may impose a fire prohibition within stated time periods. The Council or Chief Executive Officer shall consider expert advice on the level of fire risk before imposing a fire prohibition. The fire prohibition shall not cover gas or charcoal barbeques.

l. ~~3.2~~ The Council shall notify any fire prohibition by public notice in a newspaper circulated in the location to which the prohibition relates. The Council may also erect signage.

m. ~~3.3~~ Notwithstanding clause 3.1 the Council may issue a special permit to light a fire in special circumstances.

## **4. Activities that require Council permission**

n. ~~4.1~~ The Council's written permission is required before lighting any fire that is not contained in a properly constructed fireplace, gas or charcoal barbeque or an area specifically designated by Council.

o. ~~4.2~~ The process for obtaining the Council's permission is outlined in Part 1: Introduction of this bylaw.

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**5. Precautions against fire danger**

p. ~~5.1~~ It shall be the responsibility of every land or building owner and occupier to minimise the risk of fire danger by taking all reasonable precautions in the manufacture, storage or use of any goods or equipment.

q. ~~5.2~~ If the Council considers that all reasonable precautions have not been taken, it may give written notice to the owner and occupier outlining the steps to be taken to minimise the risk of fire danger.

**6. Prohibited activities**

r. ~~6.1~~ The following activities are prohibited:

- a. ~~lighting any fire within 3m of any building, fence, road, public place or adjoining premises~~
- b. ~~using a chimney for any industrial or commercial purpose when that chimney is not covered with a metal screen capable of preventing the escape of dangerous sparks~~
- c. ~~retaining any live cinders or hot ashes, except in a non-combustible container.~~
- d. ~~placing any hot ashes, explosives or any highly flammable material in any container intended for the Council's refuse collection.~~

**7. Offences**

s. ~~7.1~~ Everyone commits an offence who:

- 1. ~~carries out any activity before obtaining written permission as required by this part of the bylaw~~
- 2. ~~carries out any activity in breach of any condition or requirement of the written permission issued under this part of the bylaw~~
- 3. ~~fails to comply with any notice issued under this part of the bylaw.~~

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4. ~~carries out any activity that is prohibited by clause 6.1.~~

t. ~~\_\_\_\_\_~~ **Note:** In addition to statutory provisions relating to fire safety and prevention in the Forest and Rural Fires Act 1977, the Building Act 1991 and the Fire Service Act 1975, the following provisions of the Local Government Act 2002 should be read together with this bylaw:

- ~~section 183 enables the Council to give notice to require an owner or occupier to remove any growth or matter that could become the source of danger in a fire. 'Growth' and 'matter' are defined in this section~~
- ~~section 184 provides a right of District Court appeal of a section 183 notice~~
- ~~section 186 enables the Council to execute the work in default of the owner or occupier and to recover the costs.~~

#### **Related links**

- ~~[Emergency Management - Hazards - Wildfire](#)~~