
ORDINARY MEETING
OF
WELLINGTON CITY COUNCIL
MINUTES

Time: 9:30am
Date: Thursday, 25 August 2022
Venue: Ngake (16.09)
Level 16, Tahiwī
113 The Terrace
Wellington

PRESENT

Mayor Foster (Chair)
Deputy Mayor Free (Deputy Chair)
Councillor Calvert
Councillor Condie (via audiovisual link)
Councillor Day
Councillor Fitzsimons
Councillor Foon
Councillor Matthews
Councillor Pannett
Councillor Paul
Councillor Rush
Councillor Woolf (via audiovisual link)
Councillor Young

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1 Meeting Conduct

1.1 Karakia

The Chairperson opened the meeting at 9:31am with the following karakia.

Whakatata te hau ki te uru,	Cease oh winds of the west
Whakatata te hau ki te tonga.	and of the south
Kia mākinakina ki uta,	Let the bracing breezes flow,
Kia mātaratara ki tai.	over the land and the sea.
E hī ake ana te atākura.	Let the red-tipped dawn come
He tio, he huka, he hauhū.	with a sharpened edge, a touch of frost,
Tihei Mauri Ora!	a promise of a glorious day

1.2 Apologies

Moved Mayor Foster, seconded Councillor Day, the following motion

Resolved

That the Te Kaunihera o Pōneke | Council:

1. Accept the apologies received from Councillor O'Neill for absence on Council business. Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

1.3 Announcements by the Mayor

“Councillors, it’s been an extraordinarily wet time in our city and we’ve seen an enormous number of slips around our city and I wanted to make an announcement to pass on our gratitude to our team.

Within Wellington City Council, I particularly think of Siobhan and Brad and their teams, who have been very very quick to respond to issues which have been raised with them, and obviously they are out working really really hard on that. And to Wellington Water and the work that they are doing, and also to the contractors – sometimes people say that we have to have everything and do everything ourselves, but our contractors have been out all times of the day and night in all sorts of conditions, so I want to pay a very big tribute to them as well, particularly the folks from Downers and Fulton Hogan. We are very grateful for the hard work that they do, have done and continue to do in our city.

The other 'thank you' I wanted to make at the moment is – earlier this week we had a major protest march which went through our city, and there was a huge amount of great mahi done by the police and our team working together. We did good – the intelligence was that it would go well, and it would be disciplined and orderly, and it was. But you need to have the back-up arrangements just in case anything had gone wrong, and gone beyond the acceptable. It didn't, which was great, but it was really really great to see the work which was being done between our Police and the Council team, making sure that we had plans in place and we were ready to respond in case of anything getting out of hand.

So councillors, just wanted to say thank you to the people who do the hard work around our city."

1. 4 Conflict of Interest Declarations

No conflicts of interest were declared.

1. 5 Confirmation of Minutes

Moved Mayor Foster, seconded Deputy Mayor Free, the following motion

Resolved

That the Te Kaunihera o Pōneke | Council:

1. Approves the minutes of the Ordinary Te Kaunihera o Pōneke | Council Meeting held on 6 July 2022, having been circulated, that they be taken as read and confirmed as an accurate record of that meeting.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

1. 6 Items not on the Agenda

There were no items not on the agenda.

1.7 Public Participation

1.7.1 Patricia Cederwall

Patricia Cederwall addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

1.7.2 Sarah Crawford

Sarah Crawford addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

1.7.3 Great Harbour Way/Te Aranui o Pōneke Trust

Representing Great Harbour Way/Te Aranui o Pōneke Trust, Allan Brown addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

1.7.4 Cycle Wellington

Representing Cycle Wellington, Andrew Bartlett and Patrick Morgan addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

1.7.2 Anna Champion

Anna Champion addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

1.7.3 Steph Edlin

Steph Edlin addressed the Council regarding item 2.2 Decision on Shelly Bay Road Upgrade Options following Community Engagement.

Attachments

- 1 Great Harbour Way

(Councillor Foon and Councillor Matthews left the meeting at 10:22am.)

2. General Business

2.1 Appointment to Wellington Water Committee

Moved Mayor Foster, seconded Deputy Mayor Free, the following motion

Resolved

That Te Kaunihera o Pōneke | Council:

- 1) Receive the information.
- 2) Appoint Councillor Rush as alternate member of the Wellington Water Committee.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Deputy Mayor Free, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor Foon, Councillor Matthews, Councillor O'Neill

Majority Vote: 11:0

Carried

The meeting adjourned at 10:24am and reconvened at 10:55am with the following members present: Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Mayor Foster, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf and Councillor Young.

2.2 Decision on Shelly Bay Road upgrade options following community engagement

Moved Deputy Mayor Free, seconded Mayor Foster, the following motion

That Te Kaunihera o Pōneke | Council:

- 1) **Receive** the information.
- 2) **Note** that the Developer has been granted a resource consent for the development which includes a requirement to upgrade Shelly Bay Road in accordance with a particular design (the “consented design”). This is the design that will be implemented unless Council determines to do further upgrade works.
- 3) **Note** that officers have investigated the upgrade of Shelly Bay Road, including undertaking key stakeholder engagement, in accordance with the resolution of Council at the meeting of 27 September 2017 (Resolution ‘X’).
- 4) **Note** that the public engagement shows strong community support for a Shelly Bay Road upgrade which provides a higher level of service for walkers and cyclists than is provided for under the consented design.
- 5) **Note** that upgrade options are impacted by the physical constraints of Shelly Bay Road, and that Council has contractual requirements under the Development Agreement (DA) which require any roading upgrade works to be completed in accordance with an agreed programme.
- 6) **Note** that any upgrade options which meet Waka Kotahi design guidance will require significant planning and lead in times. Due to WCC’s contractual obligations under the DA, options that meet this requirement will likely only be able to be physically implemented after the consented design has been completed.
- 7) **Note** the high level initial cost estimates for a design that meets both the Waka Kotahi guidelines and the aspirations of the Great Harbour Way range from \$13.6m up to \$30.4m.
- 8) **Agree** that **either**:
 - a. The Shelly Bay Road upgrade will be ~~limited to~~ **comprised of** the work undertaken by the Developer to deliver the consented design, ~~plus followed by~~ any localised upgrades **which will be delivered by WCC within the existing road corridor and the current \$2.4m LTP budget. The WCC work will prioritise active transport modes and aim to enhance the recreational value of Shelly Bay Road as part of Te Motu Kairangi. as described elsewhere in this report (if agreed by Council). No further work to explore the long-term opportunities to better align the road with Waka Kotahi guidance will be undertaken at this time. This is the recommended option; or**
 - b. Officers will further explore the long-term opportunities to upgrade Shelly Bay Road in such a way that will enable the road to meet Waka Kotahi design guidance (as a minimum) and the Great Harbour Way plan (as an aspiration), noting that:
 - (i) No opex costs have been set aside for this work;
 - (ii) Given lead in times, these opportunities will not be able to be implemented until after their consented design has been delivered; and
 - (iii) As no budget (other than the initial \$2.4m capex) is

included for any of these options in the long term plan, all options would be subject to future Council decision making processes.

(iv) Request an initial report be undertaken in time for the 2023/4 Draft Annual Plan to request any necessary feasibility funding, noting that, until any funding is provided, there would be no resources to progress this part of the work.

c. Officers to start the process to investigate a 30km/hr speed limit on Shelly Bay Rd between the Miramar cutting and the Shelly Bay development, either through the Speed Management Review process or the standard speed review process, whichever is faster.

d. Officers to give advice on the implications for a trial for a one-way traffic arrangement north of Shelly Bay to Scorching Bay.

9) **Note** that, given the constraints identified and the levels of community interest in achieving a higher level of service, officers have also investigated how to improve the level of service for active mode users (beyond that provided by the consented design), without delivering a shared path that meets Waka Kotahi design guidance. This has included consideration of the process by which any such change could be delivered.

10) **Agree** that officers will progress localised upgrades to the consented design in accordance with the discussion contained below.

Secretarial note: The motion was moved with amendments, as marked in red.

Moved Councillor Pannett, seconded Councillor Rush, the following amendment

Resolved

8e. Direct officers to explore temporary improvements that could be made to improve the safety of the road as well as options to close it off at various times of the year through the Traffic Resolution process.

Lost

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Councillor Pannett

Against:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 1:12

Lost

Moved Deputy Mayor Free, seconded Mayor Foster, the following substantive motion

Resolved

That Te Kaunihera o Pōneke | Council:

- 1) **Receive** the information.
- 2) **Note** that the Developer has been granted a resource consent for the development which includes a requirement to upgrade Shelly Bay Road in accordance with a particular design (the “consented design”). This is the design that will be implemented unless Council determines to do further upgrade works.
- 3) **Note** that officers have investigated the upgrade of Shelly Bay Road, including undertaking key stakeholder engagement, in accordance with the resolution of Council at the meeting of 27 September 2017 (Resolution ‘X’).
- 4) **Note** that the public engagement shows strong community support for a Shelly Bay Road upgrade which provides a higher level of service for walkers and cyclists than is provided for under the consented design.
- 5) **Note** that upgrade options are impacted by the physical constraints of Shelly Bay Road, and that Council has contractual requirements under the Development Agreement (DA) which require any roading upgrade works to be completed in accordance with an agreed programme.
- 6) **Note** that any upgrade options which meet Waka Kotahi design guidance will require significant planning and lead in times. Due to WCC’s contractual obligations under the DA, options that meet this requirement will likely only be able to be physically implemented after the consented design has been completed.
- 7) **Note** the high level initial cost estimates for a design that meets both the Waka Kotahi guidelines and the aspirations of the Great Harbour Way range from \$13.6m up to \$30.4m.
- 8) **Agree** that:
 - a. The Shelly Bay Road upgrade will be comprised of the work undertaken by the Developer to deliver the consented design, followed by any localised upgrades which will be delivered by WCC within the existing road corridor and the current \$2.4m LTP budget. The WCC work will prioritise active transport modes and aim to enhance the recreational value of Shelly Bay Road as part of Te Motu Kairangi.
 - b. Officers will further explore the long-term opportunities to upgrade Shelly Bay Road in such a way that will enable the road to meet Waka Kotahi design guidance (as a minimum) and the Great Harbour Way plan (as an aspiration), noting that:
 - (i) No opex costs have been set aside for this work;
 - (ii) Given lead in times, these opportunities will not be able to be implemented until after their consented design has been delivered; and
 - (iii) As no budget (other than the initial \$2.4m capex) is included for any of these options in the long term plan, all options would be subject to future Council decision making processes.

- (iv) Request an initial report be undertaken in time for the 2023/4 Draft Annual Plan to request any necessary feasibility funding, noting that, until any funding is provided, there would be no resources to progress this part of the work.
 - c. Officers to start the process to investigate a 30km/hr speed limit on Shelly Bay Rd between the Miramar cutting and the Shelly Bay development, either through the Speed Management Review process or the standard speed review process, whichever is faster.
 - d. ~~Officers to give advice on the implications for a trial for a one-way traffic arrangement north of Shelly Bay to Scorching Bay.~~
- 9) **Note** that, given the constraints identified and the levels of community interest in achieving a higher level of service, officers have also investigated how to improve the level of service for active mode users (beyond that provided by the consented design), without delivering a shared path that meets Waka Kotahi design guidance. This has included consideration of the process by which any such change could be delivered.
- 10) **Agree** that officers will progress localised upgrades to the consented design in accordance with the discussion contained below.

Carried

Secretarial note: The motion was decided part by part, divisions for which were as follows:

Clause 1:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

Clause 2:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Against:

Councillor Pannett

Absent:

Councillor O'Neill

Majority Vote: 12:1

Carried

Clause 3:

For:

Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Paul, Councillor Woolf, Councillor

Young

Against:

Mayor Foster, Councillor Pannett, Councillor Rush

Absent:

Councillor O'Neill

Majority Vote: 10:3

Carried

Clauses 4-7:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Woolf, Councillor Young

Against:

Councillor Rush

Absent:

Councillor O'Neill

Majority Vote: 12:1

Carried

Clause 8a:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Paul, Councillor Woolf, Councillor Young

Against:

Councillor Pannett, Councillor Rush

Absent:

Councillor O'Neill

Majority Vote: 11:2

Carried

Clauses 8b and 8c:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Woolf, Councillor Young

Against:

Councillor Rush

Absent:

Councillor O'Neill

Majority Vote: 12:1

Carried

Clause 8d:

For:

Mayor Foster, Councillor Foon, Deputy Mayor Free, Councillor Pannett, Councillor Woolf

Against:

Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Matthews, Councillor Paul, Councillor Rush, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 5:8

Lost

Clauses 9 and 10:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Woolf, Councillor Young

Against:

Councillor Rush

Absent:

Councillor O'Neill

Majority Vote: 12:1

Carried

Attachments

1 Tabled item - Councillor Rush Email

2.3 Actions Tracking

Moved Mayor Foster, seconded Councillor Matthews, the following motion

Resolved

That Te Kaunihera o Pōneke | Council:

1. Receive the information.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

2.4 Forward Programme

Moved Mayor Foster, seconded Councillor Paul, the following motion

Resolved

That Te Kaunihera o Pōneke | Council:

1. Receive the information.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

3. Committee Reports

3.1 **Report of the Pūroro Hātepe | Regulatory Processes Committee Meeting** of 10 August 2022

Proposed Road Stopping - Land Adjoining 28 Hapua Street, Hataitai

Moved Councillor Woolf, seconded Councillor Matthews, the following motion

Resolved

That Te Kaunihera o Pōneke | Council:

- 1) Declare the approximately 25m² (subject to survey) of unformed legal road land in Hapua Street (the Land), adjoining 28 Hapua Street (being Lot 1 DP 449440, held on ROT 569671), is not required for a public work and is surplus to Council's operational requirements.
- 2) Agree to dispose of the Land.
- 3) Delegate to the Chief Executive Officer the power to conclude all matters in relation to the road stopping and disposal of the Land, including all legislative matter, issuing relevant public notices, declaring the road stopped, negotiating the terms of the sale of exchange, imposing any reasonable covenants, and anything else necessary.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

3.2 **Report of the Pūroro Waihangā | Infrastructure Committee Meeting of 24** August 2022

Public Places Bylaw 2022

Moved Councillor Rush, seconded Councillor Condie, the following motion

Resolved

That Te Kaunihera o Pōneke | Council:

- 1) Adopt the new Public Places Bylaw 2022 and, in doing so, revoke Part 5 (Public Places) and Part 10 (Structures in Public Places – Verandahs) of the Wellington City Consolidated Bylaw 2008.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Calvert, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Pannett, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Absent:

Councillor O'Neill

Majority Vote: 13:0

Carried

Attachments

1 Public Places Bylaw

4. Public Excluded

Moved Mayor Foster, seconded Councillor Young, the following motion

Resolved

That the Te Kaunihera o Pōneke | Council:

1. Pursuant to the provisions of the Local Government Official Information and Meetings Act 1987, exclude the public from the following part of the proceedings of this meeting namely:

General subject of the matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
4.1 Sludge Minimisation Facility Project Funding	7(2)(b)(ii) The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.	s48(1)(a) That the public conduct of this item would be likely to result in the disclosure of information for which good reason for withholding would exist under Section 7.

Carried

A division was required under Standing Order 27.6(d), voting on which was as follows:

For:

Mayor Foster, Councillor Condie, Councillor Day, Councillor Fitzsimons, Councillor Foon, Deputy Mayor Free, Councillor Matthews, Councillor Paul, Councillor Rush, Councillor Woolf, Councillor Young

Against:

Councillor Calvert, Councillor Pannett

Absent:

Councillor O'Neill

Majority Vote: 11:2

Carried

The meeting went into public-excluded session at 12:32pm.

The meeting returned from public-excluded session and concluded at 1:52pm with the reading of the following karakia:

Unuhia, unuhia, unuhia ki te uru tapu nui	Draw on, draw on
Kia wātea, kia māmā, te ngākau, te tinana, te wairua	Draw on the supreme sacredness To clear, to free the heart, the body
I te ara takatū	and the spirit of mankind

Koia rā e Rongo, whakairia ake ki runga
Kia wātea, kia wātea
Āe rā, kua wātea!

Oh Rongo, above (symbol of peace)
Let this all be done in unity

Authenticated: _____
Chair

ORDINARY MEETING
OF
WELLINGTON CITY COUNCIL
MINUTE ITEM ATTACHMENTS

Time: 9:30am
Date: Thursday, 25 August 2022
Venue: Ngake (16.09)
Level 16, Tahiwī
113 The Terrace
Wellington

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1. Public Places Bylaw	14

Allan Brown
On behalf of Graeme Hall
Chair Great Harbour Way Trust

Began in 2008
Seeking support for Citizens initiated high level planning document
Aspirational
Bringing together 3 Territorial Authorities and Waka Kotahi

Items 1-7 Public Participation Attachment 1





Achievements



GREAT HARBOUR WAY
TE ARANUI O PŌNEKE

Shelly Bay - Stage 1 Developer proceeds with consented upgrade

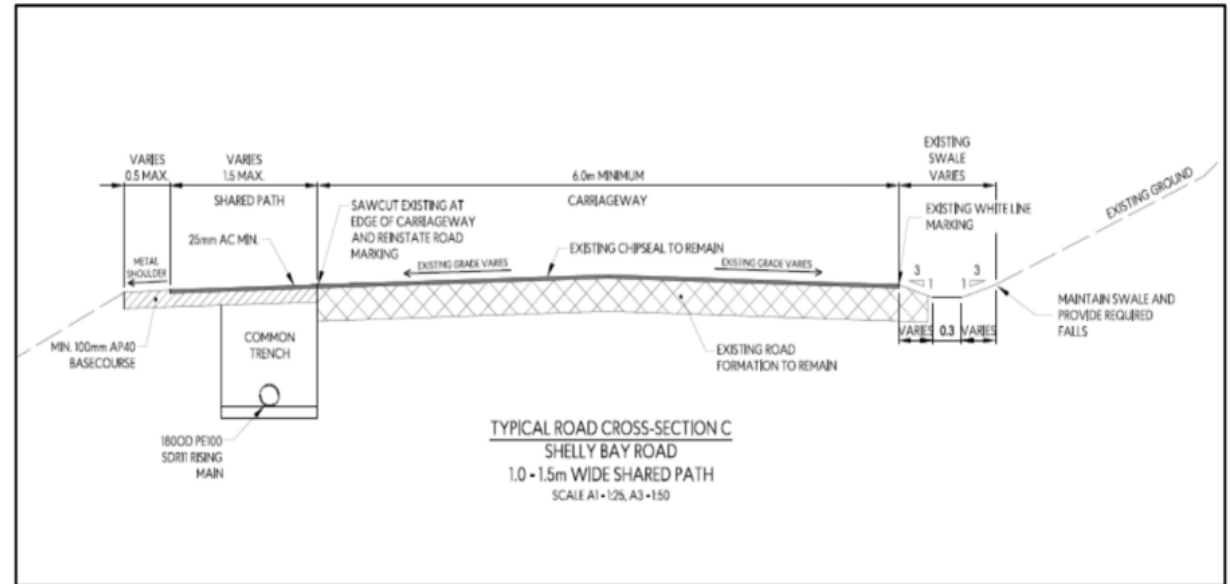
We understand why Council is
committed to this

But we have concerns

- **Safety**
- Not attractive for **Walkers or Recreational Cyclists**
- Chip seal surface poor for **Sports Cyclists**
- Construction traffic will damage surface – who maintains?



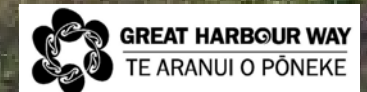
GREAT HARBOUR WAY
TE ARANUI O PŌNEKE



- **Shelly Bay Road**
- Special character
 - Narrow windy
 - Lower speed vehicles
 - Flat scenic destination
- Already widely used by sports cyclists
- Continue to use road
 - Quality surface – not chip seal
 - Speed limited



- Recreational cyclists and walkers are off road



Shelly Bay Road – stage 2

Undertake the physical improvements for recreation



Item 17 Public Participation Attachment 1



GREAT HARBOUR WAY
TE ARANUI O PŌNEKE

Shelly Bay Road stage2 activation

- Risk that people will feel shut out
- Keeping Wellingtonians engaged
- Reinstate Ciclovía



Shelly Bay Stage 3 – Longer term decisions



a. The Shelly Bay Road upgrade will be limited to the work undertaken by the Developer to deliver the consented design, plus any localised upgrades as described elsewhere in this report (if agreed by Council). No further work to explore the long-term opportunities to better align the road with Waka Kotahi guidance will be undertaken at this time. This is the recommended option; or



b. Officers will further explore the long-term opportunities to upgrade Shelly Bay Road in such a way that will enable the road to meet Waka Kotahi design guidance (as a minimum) and the Great Harbour Way plan (as an aspiration), noting that:

- (i) No opex costs have been set aside for this work;
- (ii) Given lead in times, these opportunities will not be able to be implemented until after their consented design has been delivered; and
- (iii) As no budget (other than the initial \$2.4m capex) is included for any of these options in the long term plan, all options would be subject to future Council decision making processes.



GREAT HARBOUR WAY
TE ARANUI O PŌNEKE

A high Level design and budget be completed to be considered in future Long Term and Annual Plans



GREAT HARBOUR WAY
TE ARANUI O PŌNEKE



We are not alone
There are plenty of good solutions

Summary of recommendations to Council

We support

- Developer proceeding with consented road works
- Council undertaking works in 'opportunity areas' as soon as possible
- Council ensuring road surface is well maintained during 10 year construction phase
- Council supporting an activation plan to ensure Shelly Bay is not shut off from Wellingtonians
- Council documenting a high level plan and budget for consideration in future Annual and Long Term Plans.



From: Mary Anderson <[REDACTED]>
Sent: Wednesday, 24 August 2022 5:38 pm
To: Mayor Andy Foster <mayor@wcc.govt.nz>; Deputy Mayor Sarah Free <Sarah.Free@wcc.govt.nz>; Councillor Iona Pannett <Iona.Pannett@wcc.govt.nz>; Councillor Rebecca Matthews <Rebecca.Matthews@wcc.govt.nz>; Councillor Teri O'Neill <Teri.ONeill@wcc.govt.nz>; Councillor Fleur Fitzsimons <Fleur.Fitzsimons@wcc.govt.nz>; Councillor Laurie Foon <Laurie.Foon@wcc.govt.nz>; Councillor Nicola Young <Nicola.Young@wcc.govt.nz>; Councillor Simon Woolf <Simon.Woolf@wcc.govt.nz>; Councillor Tamatha Paul <Tamatha.Paul@wcc.govt.nz>; Councillor Diane Calvert <Diane.Calvert@wcc.govt.nz>; Councillor Sean Rush <Sean.Rush@wcc.govt.nz>; Councillor Jill Day <Jill.Day@wcc.govt.nz>; Councillor Jenny Condie <Jenny.Condie@wcc.govt.nz>
Subject: Shelly Bay Road - Decision 25th August 2022

Attachments: [27-05-2022 Shelly Bay Road Submission.pdf](#)
[24-08-2022 Ltr Mayor, Councillors and CEO re Shelly Bay Road submission - 25-08-2022 Council decision 3a. Attachment 3 - Afdvt KELLY Tim.PDF](#)
[Affidavit of Patrick Morgan.pdf](#)
[Affidavit of Gary Gibson.pdf](#)
[Affidavit of Michael Mellor.pdf](#)
[Second affidavit of Gary Gibson in reply.pdf](#)
[signed Steve Satherley.pdf](#)

Dear Mayor and Councillors,

Unfortunately, Enterprise Miramar Peninsula Inc (EMPI) is unable to attend the Council meeting tomorrow Thursday, 25th August 2022.

We want to place on record how gravely disappointed, disillusioned and let down EMPI (and the Community that our members live and work in) are with the process with the Shelly Bay Road and the outcome that will be achieved for the Peninsula if you proceed as per the staff advice.

The promises about Shelly Bay Road are too numerous to list – but started in September 2017 after the Council heard from hundreds of submitters that the road will not be safe – and unanimously decided that something better was required.

Every single promise (committed to by Council, individual elected members and staff) has been broken.

In November 2020 we told you (supported by expert traffic evidence and other submitters from the cycling and walking groups) that a significant upgrade of the road is essential for the amenity of the Peninsula and safety of users. We told you the upgrade would cost millions.

We also told you that the timeframes in the proposed Development Agreement were unrealistic and were a sign that you had no intention of

meeting the prior commitment to achieve a far higher level of service than the sub-optimal and dangerous solution that the Developer proposed.

When a question about 'is there enough time' was put to staff (by Councillor Condie) the answer given was 'that it will be challenging but we are up to it'.

As a Council (10 out of 15 of you) you decided to allow the development without first resolving these concerns. –
You also knew (based on costing for similar coastal environs) that by allowing this development you were taking on a contingent liability of many many millions.

Safety and amenity

There are very significant safety concerns for cyclists, walkers, and runners. The Developer's solution (known as the consented option) is inadequate - and would not be accepted by the Council anywhere in the city.

We have asked for an independent safety review - this has been refused as has the request that all the issues raised by the cycling and walking communities (see attached affidavits) be addressed.

As Councillors you have a moral and legal obligation to ensure users of your road are not put at risk. If and (when) there is an injury or fatality on this road the question will be asked 'what assurances did the Council have that showed that the road would be safe'.

We (and others) have put you on notice that you cannot hide behind the resource consent - and that in the absence of receiving independent and contested advice (that shows that the concerns raised have been met and the road will be safe) then the Council is being wilfully blind to putting Wellingtonians at risk.

We ask on behalf of the businesses we represent and the community they live in, that you do not accept the consented option for this road – and do everything you can to mitigate the impacts on this community and preserve this iconic recreational experience.

If you have any queries about this, please contact Mary Anderson – BID Liaison Officer [REDACTED] or [REDACTED] or myself.

Regards



Steve Satherley
Board Member - Enterprise Miramar Peninsula Inc
[REDACTED]

PP Thomas Wutzler
Chair – Enterprise Miramar Peninsula
[REDACTED]

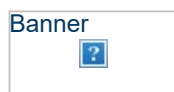
Regards,

Mary Anderson

BID Liaison Officer | miramarpeninsula.org.nz



M: [REDACTED]
E: [REDACTED]
A: **Enterprise Miramar Peninsula Incorporated**
[REDACTED] Miramar, 6022



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Wellington City Council Public Places Bylaw 2022

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Part A: Introduction

1. Preamble

- 1.1 The title of this Bylaw is the “Wellington City Council Public Places Bylaw 2022”. This Bylaw is consistent with the New Zealand Bill of Rights Act 1990 and does not affect iwi customary rights. The Council is committed to protecting fundamental rights and freedoms such as the right to freedom of expression and freedom of peaceful assembly.
- 1.2 This Bylaw is made under sections 145 and 146 of the Local Government Act 2002 and the following Acts:
- a) Clause 11 is made under section 12 of the Prostitution Reform Act 2003.
 - b) Clause 13 is made under section 11 of the Freedom Camping Act 2011.
 - c) Clauses 17, 18 and 23.3 (o) are made under section 22AB of the Land Transport Act 1998.
 - d) Clause 23.3 (q) is made under section 12 of the Litter Act 1979.
 - e) Clauses 23.3 (j, p, r, s, v, x) are made under sections 53 and 105B of the Reserves Act 1977.

2. Commencement

This Bylaw comes into force on [date].

3. Revocation and savings

- 3.1 This Bylaw consolidates, repeals and replaces Part 5 (Public Places) and Part 10 (Structures in Public Places – Verandahs) of the Wellington City Council Consolidated Bylaw 2008.
- 3.2 Any resolution made under the Wellington City Consolidated Bylaw 2008 continues in force until altered or revoked by further resolution.
- 3.3 All approvals issued under any revoked bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.
- 3.4 All fees and charges fixed by resolution of the Council in regard to any goods, services, inspections or approvals provided for in any revoked bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.

4. Purpose

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

5. Interpretation

In this Bylaw, unless the context otherwise requires –

Approval means a permission issued by the Council and includes:

- a) licence;
- b) lease;
- c) permit;
- d) landowner approval;
- e) concession; or
- f) booking.

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

Bulk bin means any receptacle used for the collection and/or eventual disposal of waste products. These may include (but are not limited to) metal skip bins, plastic wheel bins, flexi bins, and other similar objects.

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

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

Certified Self Contained means a vehicle that complies with New Zealand Standard 5465:2001 A2 self-containment of motor vehicles and caravans as in force from 30 May 2018.

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

Council means the Wellington City Council.

Enforcement officer means a person appointed under the Local Government Act 2002, the Land Transport Act 1992, the Reserves Act 1977, the Freedom Camping Act 2011, and the Litter Act 1979 to exercise the powers of an enforcement officer, including enforcement of this Bylaw.

Event means an organised temporary activity that takes place on one or more days including, without limitation to, an organised gathering, demonstration, competition, parade or procession, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon, or triathlon.

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

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

Freedom camping does not include the following activities:

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

Freedom camping provisions will not be used against the homeless.

Good repair, for the purposes of the verandah clauses, means it has been maintained to a reasonable standard, including the absence of visible rust; holed, rotted or otherwise damaged materials or elements; loose, visible or exposed electrical wires; and/or projections or other features that pose a danger to persons using a public place.

Iwi customary rights mean the use of land and/or buildings for traditional Māori activities and include making and/or creating customary goods, textiles and art, medicinal gathering, waka ama,

Kingitanga events (Poukai), management and activities that recognise and provide for the special relationship between tangata whenua and places of customary importance. They also include harvesting of indigenous vegetation by mana whenua in accordance with tikanga for traditional uses.

Micromobility device means transportation using small, lightweight vehicles such as bicycles, skateboards, or scooters.

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

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

Public place means any area of a public nature that is open to or used by the public, whether free or requiring payment, which is owned, managed, maintained or controlled by the Council or Council Controlled Organisation. To avoid doubt, it includes any road, street, footpath, court, alley, lane or accessway, park, recreation ground, sports field or facility, reserve, beach, Wellington Town Belt, Waterfront, pool, pedestrian mall, wharf, breakwater, boat ramp, pontoon, public open space, community facility, cycle track, bridleway, public garden, berm, grass verge, public square, cemetery, foreshore and dune, accessway, square, and carpark, and any part of the public place. Public place does not cover private roads, state highways or other roads under the control of the New Zealand Transport Agency, except where responsibility has been delegated to the Council.

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

Road has the same meaning as the Land Transport Act 1998.

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

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

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

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

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

Verandah means a roofed space extending from a building and includes any structure, assembly, machinery or equipment erected on, or attached to the side or underside of, a verandah. For clarification, a verandah does not include a balcony which is a platform enclosed by a wall or balustrade on the outside of a building, with access from an upper-floor window or door.

Part B: Functions of the Council

6. Council may set conditions

- 6.1 The Council may prescribe conditions for access to or use of any public place.
- 6.2 The Council may revoke any approval previously given at any time.
- 6.3 The Council may prescribe the form of, and process to be followed for, any application, certificate, approval or other document, which is required under this Bylaw. These forms and processes may be altered or amended at any time.

7. Restrictions affecting public access

- 7.1 The Council may restrict any activity being undertaken in a public place in order to prevent material damage to the place or a nuisance or harm to any person.
- 7.2 The Council may close any public place at any time for the purpose of maintaining or improving it, or for holding sports matches or any other performances, or for any other purpose that the Council considers necessary.
- 7.3 Any enforcement officer under this Bylaw may exclude or remove any person from a public place:
 - a) who has acted in a manner that is contrary to conditions of use set by the Council;
 - b) who is not bona fide using the place for its normal intended purposes;
 - c) who has contravened any of the provisions of this Bylaw; or
 - d) for any good and sufficient reason relating to the efficient, reasonable, and fair management of the place.

8. Fees and charges

- 8.1 The Council may set fees and charges, either temporarily or permanently, where payment is a condition for access to, or use or continued use of any public place.
- 8.2 The Council may refund, remit or waive any fee prescribed by this Bylaw or charge payable for a certificate or approval from, or inspection by, the Council, for any reason it thinks fit.

Part C: Application

9. Trading and event activities

- 9.1 Written approval must be obtained from the Council to undertake a trading or event activity on public land as set out in the Trading and Events in Public Places Policy 2022.
- 9.2 To enable the Council to protect these fundamental rights and to minimise disruption to pedestrians and other users, the organiser of any event, demonstration, competition, parade or procession that is likely to interfere with traffic or pedestrian thoroughfare in a public place shall notify the Council as soon as reasonably practicable prior to the event.

10. Signage

- 10.1 Written approval is required for all signage in public places. Approval may be subject to Council setting conditions including placement, fees and the duration a sign may be erected.
- 10.2 Any sign erected without approval must be removed within 1 hour of being instructed to do so, or as otherwise specified by the Council.
- 10.3 Posters or notices displayed on notice boards shall be covered or removed within 24 hours of the end of the event, or such other time as approved by the Council.
- 10.4 Responsibility for compliance with this Bylaw lies with the person who displayed the poster or notice, or the organiser, promoter or person in charge of the advertised good, service or event or, in the case of an election, the candidate or a delegate of that candidate.

11. Advertising for commercial sex premises and services

- 11.1 Written approval is required from the Council for signage that advertises any commercial sex premise or commercial sex service that will be visible from any road or public place.
- 11.2 The following criteria may be considered when assessing an application for approval:
- a) the extent to which the signage depicts or implies sexual activity;
 - b) the extent to and manner in which the sign depicts nudity (the depiction of nudity is not encouraged);
 - c) the size, number, other effects and cumulative effects of the signage; and
 - d) the extent to which words and/or images could be offensive. (The Council will decline applications for signage that are found to be offensive.)

12. Sports and games

- 12.1 The organiser of any game, sporting activity or group activity (excluding informal or casual play) proposed to take place in any part of a public place must notify the Council as soon as reasonably practicable prior to commencing the activity.
- 12.2 The Council may set conditions for use of the public place such as to manage the potential for any damage caused by the activity and minimise conflict between users.

13. Freedom Camping

Restricted and prohibited areas as outlined in Schedule One

- 13.1 A person must not camp in an area in which freedom camping is prohibited, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping (18.8MB PDF), unless they have prior written approval from the Council.
- 13.2 A person may camp in an area in which freedom camping is restricted, as identified in Schedule One: Restricted and Prohibited Areas for freedom camping, but must comply with the specific restrictions listed for that site unless they have prior written approval from the Council that waives these restrictions.
- 13.3 Freedom camping is permitted in any local authority area in Wellington City, unless it is restricted or prohibited in an area under this Bylaw or any other enactment.

Prior written-approval from the Council

- 13.4 Camping is prohibited on all land managed under the Reserves Act 1977 and Wellington Town Belt Act 2016 unless allowed in a reserve management plan or the Wellington Town Belt Management Plan 2018. Campers are advised to camp in the restricted areas identified in Schedule One of this Bylaw. For clarity, the Freedom Camping Act's non-site-specific offences do apply to Council reserves, and any site-specific restrictions or prohibitions on Council reserves to be administered under this Bylaw must be included in Schedule One of this Bylaw.
- 13.5 A written application is required two weeks in advance of the planned date for approval to camp in a prohibited area.
- 13.6 A written application is required two weeks in advance of the planned date for approval to camp in a restricted area.
- 13.7 Freedom camping in Wellington is restricted or prohibited as illustrated and described within the following aerial photographs: [Schedule One: Restricted and Prohibited Areas for Camping](#) (18.8MB PDF).

Approval process

13.8 Written applications will be considered for camping in public places for special purposes. Approval may be granted at the Council's sole discretion, with or without conditions. Applications to camp in accordance with clauses 13.1 and 13.2 above must be made in writing and a written application must provide the following information:

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

14. Life-saving equipment

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

15. Cemeteries

- 15.1 The purchaser of a plot or their representative must keep all fences, enclosures, tombstones, vaults, headstones and other monuments on any plot in proper order and repair.
- 15.2 The Council may from time to time set specifications for memorial hardware and structures that may be installed on plots.
- 15.3 The Council may remove, at any time, any memorial items, hardware or structures that do not comply with the Council's specifications that have fallen into a state of decay, become broken or pose a hazard.
- 15.4 Written approval must be obtained before installing a fence, tombstone, vault or other monument on any plot; prior to any interment or disinterment and carrying out any work in a cemetery.

16. Road and property identification

- 16.1 The Council may require the name of a road, private road, or public place to which a building has frontage, to be painted or affixed onto that building.
- 16.2 The owner of a property, building or group of buildings forming part of a complex must mark the property with the number allocated by the Council, regardless of any other identification a property or building may have. The marking shall be:
 - a) at least 50mm in height;
 - b) of a colour in contrast to its background;
 - c) easily visible from the road to which it has frontage; and
 - d) maintained by the owner in a way that easily identifies the property at all times.
- 16.3 Clauses 16.1 and 16.2 do not apply to property without buildings, and property not allocated a number by the Council.
- 16.4 When the Council advises the owner of a property that an address needs to be displayed or changed, the owner must arrange to do so within 15 working days, or as otherwise instructed.

17. Traffic

- 17.1 The Council may under the provisions of this Bylaw or under the Traffic and Parking Bylaw 2021 impose any controls relating to vehicles in a public place to allow the proper use and enjoyment of the place.
- 17.2 If instructed to do so by an enforcement officer, any person must move a vehicle in or from any public place where that vehicle may be impacting upon the safety, convenience and enjoyment of the public using that place.

- 17.3 Any vehicle, whether attended or not, in breach of this Bylaw may be removed by the Council in accordance with the Vehicle Removal provisions in the Traffic and Parking Bylaw 2021.

18. Vehicle access

- 18.1 Prior written approval must be obtained before any person may construct, repair, remove, widen or narrow any vehicle access way.
- 18.2 When considering an application for vehicle access, the Council will take into account what is reasonably necessary to ensure the safe and convenient use of the road by pedestrians and vehicles, and protect the grass berm from damage.
- 18.3 Conditions may be set by way of licence or written approval for the construction of a vehicle crossing, and may include:
- a) use of materials and dimensions;
 - b) timeframe for completion;
 - c) a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to Council's property;
 - d) a requirement that the applicant arranges the construction work to meet the approved conditions and pays all associated costs; and/or
 - e) a requirement that all construction work be carried out in compliance with the Wellington City Council Code of Practice for Working on the Road and/or with specific regard to any relevant NZTA guidelines in force within the Council's jurisdiction.
- 18.4 The Council may by notice require the property owner with the vehicle crossing access to repair, reconstruct, renew or remove such access to the satisfaction of the Council.
- 18.5 The Council may remove or alter any work located on the road constructed without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the property owner serviced by the vehicle access.

19. Encroachments

- 19.1 A property owner ('the encroacher') may be authorised by the Council to occupy a public place controlled by the Council ('an encroachment'). The Council may at its discretion authorise an encroachment by granting landowner consent, and if required, an encroachment licence to the applicant in accordance with any relevant Council policy.
- 19.2 The Council may consider whether the proposed encroachment will compromise the primary use of the road to facilitate free pedestrian and traffic movement, and/or unreasonably interfere with a property owner's right of access to any road across the frontage between the road and the private property.
- 19.3 An encroachment licence may authorise the occupation of the encroachment area for parking, boundary marking, airspace, subsoil or access structures, for the maintenance or beautification of the encroachment area, or any other purposes the Council considers appropriate.
- 19.4 An encroachment licence issued by the Council shall be subject to such conditions that the Council considers appropriate, at the sole discretion of the Council.
- 19.5 The encroacher must own the land adjoining or in the vicinity of the encroachment area that benefits from the encroachment and continue to own this land for the period of the encroachment.
- 19.6 Any subsequent encroacher must complete a new encroachment licence with the Council in order to continue the occupation of the encroachment area.

20. Building work and excavations

- 20.1 Prior written approval of the Council is required before any person carries out building work or excavations on a public place.
- 20.2 Council approval may be subject to conditions, including a requirement that the applicant pay a cash deposit or bond of up to 150% of the estimated cost of work as a guarantee the work is completed to the satisfaction of the Council and/or against any damage to the Council's property. The estimated cost of work shall be approved by the Council.
- 20.3 The Council may remove or alter any building or excavation work undertaken without prior written approval or contrary to the terms of written approval. Costs may be recovered from the person who undertook the work, or the person for whom the work was being done.
- 20.4 If any damage occurs to the place, the Council may require it to be reinstated.

21. Fences, walls and stability of land

- 21.1 The Council may require the owner of any land which has no fence, wall or retaining wall adjacent to a public place to erect a fence, wall or retaining wall if the Council considers that this is necessary for safety or other reasons relating to the use or administration of the public place.
- 21.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which could cause injury to persons or damage to a public place, the Council may give notice requiring the owner to repair, remove or replace the fence, wall or retaining wall, or make the land safe.

22. Verandahs

- 22.1 The Wellington City District Plan requires buildings to have verandahs in designated zones.
- 22.2 Despite clause 22.1, no person, without prior written approval of the Council, may:
 - a) construct a new verandah over a public place;
 - b) demolish an existing verandah over a public place; or
 - c) enlarge, extend, or add to an existing verandah over a public place.
- 22.3 Any verandah constructed over a public place shall be maintained to a reasonable standard, including in a waterproof condition and in a state of good repair.
- 22.4 If the Council considers that a verandah constructed over a public place is not to a reasonable standard, the Council may serve a written notice on the owner of the building to which the verandah is attached, requiring the owner to repair-and maintain the verandah so that it complies with this Bylaw.
- 22.5 If the Council considers that the alteration of a verandah constructed over a public place is required for roading purposes, asset protection and/or public safety, the Council may serve a written notice on the owner of the building to which the verandah is attached, requiring the owner to alter the verandah, as stated in the notice. The Council must consult with the building owner before notice is served.
- 22.6 Any action required by a notice served on an owner under clause 22.4 or clause 22.5 must be carried out by the date stated in the notice.
- 22.7 If an owner fails to carry out any action required by a notice served under 22.4 or clause 22.5 by the date stated in the notice, the Council may authorise the alteration, repair and maintenance, or removal of the verandah and recover the costs from the owner.
- 22.8 No person shall use or otherwise occupy any verandah constructed over a public place, except for the purpose of inspection, cleaning, maintenance, repair, alteration, emergency egress, or carrying out work in accordance with this Bylaw.

Part D: Offences and penalties

23. Offences

- 23.1 Every person commits an offence against this Bylaw who damages, destroys or defaces (or has in their possession without authority from the Council) any property, article or thing belonging to the Council or under its control.
- 23.2 Every person commits an offence against this Bylaw who does not comply with any requirement or condition of their approval, or acts contrary to any prohibition or resolution made in this Bylaw.
- 23.3 Under this Bylaw no person may:
- a) in any public place wilfully obstruct, disturb, annoy or interfere with any person in their use or enjoyment of a public place;
 - b) use any public place in contravention of the conditions set by the Council regulating the use of that place;
 - c) use a public place after closing hours;
 - d) ride a micromobility device in a manner which causes a nuisance or damage to a public place, or use a device where not permitted or where signage prohibits it;
 - e) verbally advertise on behalf of, or distribute in any public place any handbills, writings or pictures of which the primary purpose, whether explicitly or implicitly, is to advertise, identify or inform the public of any commercial sex premise or commercial sex service;
 - f) place posters on any Council ornament, statue, structure, building or facility in a public place without the Council's prior approval;
 - g) smoke in close proximity to hazardous substances in any public place;
 - h) smoke in Cable Car Lane;
 - i) install a fence, tombstone, vault or other monument on any plot, or carry out any interments, disinterments or other work in a cemetery without the prior written approval from Council;
 - j) hunt game in a public place;
 - k) carry or discharge a firearm or any other weapon in a public place;
 - l) discharge a firework in a public place;
 - m) obstruct any member of a life-saving club carrying out life-saving activities;
 - n) use, move or damage any appliance or signal provided by the Council or by any volunteer life-saving club, at any beach, except for the purpose of saving life or with the approval of the Council or the club;
 - o) operate or drive a vehicle on a beach;
 - p) gather food or firewood in a public place without prior approval from the Council;
 - q) clean or prepare any fish in a public place;

- r) play a sport or game in a public place, if contrary to any notice, or if expressly forbidden to do so by an enforcement officer; or enter in or remain on any part of a public place marked out as a playing area for a sport or game while the sport or game is in progress;
- s) disturb, damage or remove from a public place any soil, sand, gravel, rock, plants, fish, animals (including eels), or any naturally occurring thing without having obtained prior written approval from the Council. This prohibition does not include the act of sea fishing (unless in a prohibited area or marine reserve);
- t) disturb or damage land in a manner which is injurious or causes a nuisance to any person or causes material damage to land or Council property without having obtained prior written approval from the Council;
- u) drive, stop, stand or park any vehicle in any public place other than on any roadway or in any car park provided for the purpose, and then only in accordance with any controls or restrictions imposed by the Council;
- v) drive, stop, stand, park or leave any vehicle, bulk bin, container or other object in a public place in such a manner as to obstruct the normal or safe entry to, or exit from, or movement of other vehicles or pedestrians within a public place;
- w) fail to maintain the verandah as required under clause 22.3; or
- x) put up, alter, or demolish any structure of any kind or undertake an excavation in a public place without prior written approval of the Council.

24. Penalties

- 24.1 A person in breach of clause 13 of this Bylaw commits an offence under the Freedom Camping Act 2011 and is liable to a fine not exceeding \$200.
- 24.2 A person in breach of clause 23.3 (q) of this Bylaw commits an offence under the Litter Act 1979 and is liable to a fine not exceeding \$400.
- 24.3 A person in breach of clauses 17, 18 and Clause 23.3 (o) of this Bylaw is liable to a fine under the Land Transport Act 1998 not exceeding \$1,000.
- 24.4 A person in breach of Clauses 23.3 (j, p, r, s, v, x) of this Bylaw is liable to a fine under the Reserves Act 1977 not exceeding \$1,600.
- 24.5 A person who is convicted of an offence under this Bylaw is liable to a fine not exceeding \$20,000 under the Local Government Act 2002.

25. Exemptions

- 25.1 The prohibitions and restrictions contained in this part of the Bylaw do not apply to any Council agent or officer when engaged in the performance of their regular duties.
- 25.2 An Iwi's customary rights are not affected by this Bylaw.