

## **Minutes of a meeting of the Nelson City Council**

**Held in the Council Chamber, Civic House, 110 Trafalgar Street,  
Nelson**

**On Wednesday 23 August 2017, commencing at 9.05am**

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**Present:** Her Worship the Mayor R Reese (Chairperson), Councillors L Acland, I Barker, M Courtney, B Dahlberg, K Fulton, M Lawrey, P Matheson, B McGurk, G Noonan, M Rutledge, T Skinner and S Walker

**In Attendance:** Acting Chief Executive (D Hammond), Group Manager Strategy and Environment (C Barton), Manager Communications (P Shattock), Manager Administration (P Langley), Communications Adviser (N Tuck), Governance Adviser (E-J Ruthven), External legal adviser (K Anderson), and External consultant (J Julian)

### **Opening Prayer**

Councillor Noonan gave the opening prayer.

#### **1. Apologies**

There were no apologies.

Councillor Lawrey noted that he would need to leave the meeting at 11.45am.

#### **2. Confirmation of Order of Business**

Her Worship the Mayor advised of one late item for the public part of the meeting, and that the following resolution needed to be passed for the item to be considered:

2.1 Confirmation of Minutes - 22 June 2017

Resolved CL/2017/329

***That the Council***

***Considers the item regarding Confirmation of Minutes – 21 June 2017 at this meeting as a major item not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable the confirmation of minutes in accordance with good practice.***

Her Worship the Mayor/Dahlberg

Carried

**Attachments**

1 A1831267 - Late Item - 23 August 2017

**3. Interests**

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

**4. Deliberations on the Proposed City Amenity Bylaw**

Document number R8115, agenda pages 4 - 92 refer.

An amended copy of the officer recommendation was tabled (A1825480).

Her Worship the Mayor, seconded by Councillor Rutledge, moved the recommendation in the tabled document:

*That the Council:*

*Receives the report Deliberations on the Proposed City Amenity Bylaw (R8281) and its attachments (A1815990, A1816387, A1815313, A1815615, A1816019, A1770725); and*

*Directs the Chief Executive to prepare an enforcement policy which will include: where a person is homeless and sleeping in the City Centres rather than sleeping as a form of protest, Council officers will work with social agencies to try and find solutions for those persons; and*

*Agrees that until the enforcement policy is adopted this resolution is Council's adopted approach to homeless people sleeping in the City Centres rather than sleeping as a form of protest; and*

*Confirms the amendments to the Bylaw shown in Attachment 1; and*

*Agrees the amendments are consistent with the New Zealand Bill of Rights Act 1990 and the amended Bylaw is the most appropriate form of Bylaw; and*

*Adopts the City Amenity Bylaw as amended and appended to this report as Attachment 1; and*

*Determines the date that the bylaw will commence as being 11 September 2017.*

Group Manager Strategy and Environment, Clare Barton, presented the report and explained the proposed alterations to the draft City Amenity Bylaw.

Ms Barton tabled two further items of correspondence received in relation to this matter (A1818948 and A1819100), and answered questions regarding the proposed changes to the officer recommendation.

In response to questions, Acting Chief Executive David Hammond, explained actions Council had taken to understand the extent of homelessness in Nelson, and proposed engagement and cooperation with social agencies to address this issue.

External consultant, Jane Julian, answered further questions regarding the proposed changes to the draft Bylaw as a result of submissions received by Council, and answered questions.

During discussion, several questions regarding legal advice were raised, and Her Worship the Mayor advised the meeting would move into public excluded session in order for these questions to be answered.

#### **Attachments**

- 1 A1825480 - Amended officer recommendation
- 2 A1818948 - Additional Correspondence - Arthur Miller
- 3 A1819100 - Additional Correspondence - Hair in the City

## **5. Exclusion of the Public**

It was noted that external legal adviser, Kerry Anderson, and external consultant, Jane Julian, would be in attendance for the Public Excluded part of the meeting to answer questions and, accordingly, the following resolution was required to be passed:

Resolved CL/2017/330

***That the Committee***

**Confirms, in accordance with section 48(5) of the Local Government Official Information and Meetings Act 1987, that Kerry Anderson and Jane Julian remain after the public has been excluded, as they have knowledge that will assist the Council; and**

**Notes, in accordance with section 48(6) of the Local Government Official Information and Meetings Act 1987, the knowledge that Kerry Anderson and Jane Julian possess relates to legal advice in relation to the proposed City Amenity Bylaw.**

Barker/Rutledge

Carried

Resolved CL/2017/331

***That the Council***

**Excludes the public from the following parts of the proceedings of this meeting.**

***The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:***

Barker/Rutledge

Carried

<b>Item</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>1</b>	<b>Deliberations on the Proposed City Amenity Bylaw</b>	Section 48(1)(a)  The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	The withholding of the information is necessary: <ul style="list-style-type: none"> <li>• Section 7(2)(g) To maintain legal professional privilege</li> </ul>

The meeting went into public excluded session at 10.19am and resumed in public session at 11.08am.

Please note that, as no decisions were made in public excluded, the record of the public excluded part of the meeting has been included in the public minutes.

## **6. Deliberations on the Proposed City Amenity Bylaw (Public Excluded session)**

Attendance: The meeting adjourned from 10..20am to 10.25am, during which time Councillor Lawrey left the meeting.

External legal adviser, Kerry Anderson, answered questions regarding the proposed amendments to the draft City Amenity Bylaw, including its consistency with the New Zealand Bill of Rights Act and its interaction with other bylaws.

Attendance: Councillor Lawrey returned to the meeting at 10.31am.

There was a discussion regarding the wording of clause 13.1. Ms Anderson answered questions regarding proposed alternative wording.

Attendance: Councillor Lawrey left the meeting from 10.51am to 10.52am.

Ms Anderson answered further questions regarding the wording of proposed amendments to further clauses in the draft Bylaw.

## **7. Re-admittance of the Public**

Resolved CL/2017/332

***That the Council***

***Re-admits the public to the meeting.***

Her Worship the Mayor/Noonan

Carried

## **8. Deliberations on the Proposed City Amenity Bylaw (continued)**

Ms Barton summarised the amendments to the draft bylaw that councillors had requested be considered:

- The definition of 'sleeping' and its relationship with the wording of clause 13.1
- The wording of clause 10.2.2 with regards to the distance from the front of shop windows that items could be placed
- A timeline for notification to the applicant of permits applied for under clause 11.3
- The definitions of footpath and road and whether reference to street furniture was required

- Inclusion of a definition of 'hours of darkness'
- Inclusion of a definition of 'not for profit'
- The addition of explanatory notes regarding the enforcement policy being included in the officer recommendation
- Copies of extracts from the bylaws of Napier City, Porirua City and Hamilton City Councils with regards to sleeping in the city centre.

Attendance: The meeting adjourned from 11.15am to 12.03pm, during which time Councillor Lawrey left the meeting.

## 9. Confirmation of Minutes - 21 June 2017

Document number R8280, late items agenda pages 2 - 13 refer.

Resolved CL/2017/333

***That the Council***

***Confirms the minutes of the meeting of the Council, held on 21 June 2017, as a true and correct record.***

Noonan/Walker

Carried

## 10. Deliberations on the Proposed City Amenity Bylaw (continued)

Group Manager Strategy and Environment, Clare Barton, tabled a further recommendation incorporating a number of changes as a result of councillors' deliberations (A1819059), and explained the proposed changes. She also tabled extracts from the relevant bylaws of Napier City, Porirua City and Hamilton City Councils (A1829090).

With the agreement of the meeting, the mover and seconder of the original motion agreed that the wording of the updated recommendation should replace the wording of the original motion.

Councillors discussed the reasons for passing the bylaw and acknowledged the reasons as set out in the officer report.

Councillors discussed the motion, and a division was called:

<u>For</u>	<u>Against</u>	<u>Apology</u>
Her Worship the Mayor	Cr Fulton	Cr Lawrey
Cr Acland		
Cr Barker		
Cr Courtney		
Cr Dahlberg		
Cr Matheson		
Cr McGurk		
Cr Noonan		

Cr Rutledge  
Cr Skinner  
Cr Walker

The motion was carried 11 - 1.

Resolved CL/2017/334

***That the Council:***

***Receives the report Deliberations on the Proposed City Amenity Bylaw (R8115) and its attachments (A1815990, A1816387, A1815313, A1815615, A1816019, A1770725); and***

***Directs the Chief Executive to prepare an enforcement policy which will include: where a person is homeless and sleeping in the City Centres rather than sleeping as a form of protest, Council officers will work with social agencies to try and find solutions for those persons; and***

***Agrees that until the enforcement policy is adopted, this resolution is Council's adopted approach to homeless people sleeping in the City Centres rather than sleeping as a form of protest; and***

***Confirms the amendments to the Bylaw shown in Attachment 1, subject to the following changes:***

- ***delete clause 13.2; and***
- ***replace clause 10.2.2 with "place items on the footpath within 600mm of the frontage of retail or commercial premises in the city centres"; and***
- ***delete "sleep" definition; and***
- ***amend clause 13.1 to read "No person shall sleep or otherwise occupy a footpath or road in the city centres, unless permitted to do so by an authorised officer, during the hours of darkness (being a period of time between half an hour after sunset in one day and half an hour before sunrise in the next day) for a period of two or more continuous hours."; and***
- ***add to the definitions of "footpath" and "road" the following:***
  - ***"and includes any structure fixed to the footpath"; and***
  - ***"and includes any structure fixed to the road"; and***
- ***amend Part Four title to read "Events and sleeping; and***
- ***add an explanatory note to clause 13.1 - "Any***

***future enforcement policy will include a provision that, where a person is homeless and sleeping in the city centres rather than sleeping as a form of protest, Council officers will work with social agencies to try to find solutions for those persons as a first response."***

***Agrees the amendments are consistent with the New Zealand Bill of Rights Act 1990 and the amended Bylaw is the most appropriate form of Bylaw; and***

***Adopts the reasons set out in the deliberations report in paragraphs 7.4 to 7.8, subject to the amendments to Attachment 1 identified in these resolutions.***

***Adopts the City Amenity Bylaw as amended and appended to this report as Attachment 1, subject to the following changes:***

- ***delete clause 13.2; and***
- ***replace clause 10.2.2 with "place items on the footpath within 600mm of the frontage of retail or commercial premises in the city centres"; and***
- ***delete "sleep" definition; and***
- ***amend clause 13.1 to read "No person shall sleep or otherwise occupy a footpath or road in the city centres, unless permitted to do so by an authorised officer, during the hours of darkness (being a period of time between half an hour after sunset in one day and half an hour before sunrise in the next day) for a period of two or more continuous hours."; and***
- ***add to the definitions of "footpath" and "road" the following:***
  - ***"and includes any structure fixed to the footpath"; and***
  - ***"and includes any structure fixed to the road"; and***
- ***amend Part Four title to read "Events and sleeping"; and***
- ***add an explanatory note to clause 13.1 – "Any future enforcement policy will include a provision that, where a person is homeless and sleeping in the city centres rather than sleeping as a form of protest, Council officers will work with social agencies to try to find solutions for those persons as a first response."; and***

***Determines the date that the bylaw will commence as being 11 September 2017.***



**Attachments**

- 1 A1819059 - Amended recommendation following deliberations
- 2 A1829090 - Tabled document - extract from Napier City, Porirua City and Hamilton City Council bylaws

There being no further business the meeting ended at 12.45pm.

Confirmed as a correct record of proceedings:

\_\_\_\_\_ Chairperson \_\_\_\_\_ Date