

22 August 2017

Memo to: Mayor and Councillors

Memo from: Administration Advisers

**Subject: COUNCIL – 23 AUGUST 2017 – LATE ITEM**

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**1. Late Item: Confirmation of Minutes - 22 June 2017 2 - 13**

Document R8280

Minutes of the Council meeting to hear submissions to the Draft City Amenity Bylaw, held on 21 June 2017 are to be considered as a major late item at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 9.12, a procedural resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because of administrative oversight.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because it is good practice to confirm the minutes of the meeting to hear submissions on a matter prior to deliberating on that matter.

Recommendation

***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.***

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## **Confirmation of Minutes - 21 June 2017**

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### **1. Purpose of Report**

- 1.1 To confirm the minutes of the Council meeting to hear submissions to the Draft City Amenity Bylaw held on 21 June 2017.

### **2. Recommendation**

***That the Council***

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

Linda Canton  
**Governance Adviser**

### **Attachments**

Attachment 1: [A1818278 - Minutes - 21 June 2017](#) ↓

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

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

**On Wednesday 21 June 2017, commencing at 9.00am**

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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: Group Manager Strategy and Environment (C Barton), Communications Adviser (C Crick), Team Leader Administration Advisers (Robyn Byrne) and Administration Adviser (E-J Ruthven).

**Opening Prayer**

Councillor Noonan gave the opening prayer.

**1. Apologies**

Resolved CL/2017/230

***That the Council***

***Receives and accepts the apologies from  
Councillors Rutledge and Skinner for lateness.***

Her Worship the Mayor/Walker

Carried

**2. Confirmation of Order of Business**

There was no change to the order of business.

**3. Interests**

There were no updates to the Interests Register.

Her Worship the Mayor addressed the issue in relation to conflicts of interest. She said she found the bylaw provisions in relation to protest challenging but noted she had come to the conclusion that she had the ability to sit with an open mind to go through the Special Consultative

Process and suspend her own personal views to make decisions after hearing from the community.

Point of Order: A point of order was raised that this statement was misleading. The point of order was declined.

**4. Late Submissions on the Draft City Amenity Bylaw**

Document number R7936, agenda pages 4 - 14 refer.

Resolved CL/2017/231

***That the Council***

***Receives the report Late Submissions on the Draft City Amenity Bylaw (R7936) and its attachment (A1771441); and***

***Accepts the five late submissions on the Draft City Amenity Bylaw.***

Noonan/Her Worship the Mayor

Carried

**5. Hearing of Submissions on the Draft City Amenity Bylaw**

5.1 Mr Graeme O'Brien (submission 13134) Democracy Now

Mr O'Brien spoke to his submission and tabled a document (A1802719). He answered questions regarding Part 13 of the Bylaw and said there should have been public engagement prior to the Council decision to establish a Bylaw.

**Attachments**

1 A1802719 - Graeme O'Brien Tabled document

5.2 Mr Dan McGuire (submission 12880)

Mr McGuire spoke to his submission. He suggested the Bylaw would be tested in court at the ratepayers' expense.

5.3 Mr Mike Cunliffe for Ms Sarah Martin (submission 13133) on behalf of Public Service Association

Mr Cunliffe spoke to the Public Service Association (PSA) submission and confirmed the PSA wished to have the Bylaw withdrawn. He answered questions and agreed that notification in Part 13 as opposed to a permit would be acceptable.

Attendance: Councillors Rutledge and Skinner joined the meeting at 9.45am

- 5.4 Ms Raewyn Scott (submission 13081)  
The submitter did not attend the hearing.
- 5.5 Mr Darryl Ware (submission 13106)  
Mr Ware spoke to his submission. He answered questions and agreed that notification for protests would be acceptable.
- 5.6 Mr Tom Taylor (submission 13253)  
Mr Taylor spoke to his submission and answered questions.
- 5.7 Ms Susan Hawthorne (submission 13115) Voice Nelson  
Ms Hawthorne spoke to her submission and noted Part 13 was the aspect that concerned her most. She answered questions and agreed that notification for protests would be acceptable.
- 5.8 Mr Lawrence Carter (submission 13113)  
Mr Carter spoke to his submission and tabled a document (A1802862). He answered questions and suggested that the proposed bylaw did not provide reasonable balance.

#### Attachments

- 1 A1802862 - Lawrence Carter Tabled document

- 5.9 Mr Peter Riley (submission 13120)  
The submitter did not attend the hearing.
- 5.10 Ms Evey McAuliffe (submission 13124)  
Ms McAuliffe spoke to her submission and answered questions. She noted that there had been no issue with protests in Nelson and felt the Bylaw was not necessary.

Attendance: Councillor Lawrey left the meeting from 10.15am to 10.22am.

- 5.11 Mr Carl Horn (13179)  
Mr Horn spoke to his submission and proposed specific amendments to the Bylaw. He suggested that permits and fines were not necessary, and that experts should be called in to deal with people sleeping in the street. Mr Horn answered questions.
- 5.12 Ms Jan Marsh (13129) Nelson Religious Society of Friends (Quakers)  
Ms Marsh spoke to the submission from the Nelson Religious Society of Friends (Nelson Quakers) and advised that Nelson Quakers were concerned that their right of free speech or the ability to set up a stall

outside a shop, with the permission of the shop owner, would be impeded.

Attendance: The meeting adjourned for morning tea from 10.29 am to 10.45am.

5.13 Mr Brendan Santorini (submission 13343)

Mr Santorini spoke to his submission and answered questions. He suggested that the Wellington City Council Consolidated Bylaw of 2008 was a better option.

5.14 Mrs Jacquie Walters (12903) Walters PR

Mrs Walters spoke to her submission and answered questions. She noted her concerns with banning sleeping in the central city without an available and compassionate alternative, and suggested there was no issue with protests being problematic.

Attendance: Councillor Rutledge left the meeting from 10.55 am to 11.00am.

5.15 Mrs Ali Boswijk (13164)

Mrs Boswijk spoke to her submission and noted that there was a need to have an environment beneficial to business in the CBD however she felt the proposed Bylaw was going too far in too many directions

5.16 Ms Debs Martin (13149)

Ms Martin spoke to her submission. She noted that there was no history of complaints regarding protest marches and suggested Council should be concerned with people sleeping on the streets. She answered questions relating to public safety and suggested this was the responsibility of the Police, rather than Council.

5.17 Ms Julie Nevin (13121)

Ms Nevin spoke to her submission and answered questions on Council's decision to develop the proposed Bylaw.

5.18 Mr Murray Leaning (13160)

The submitter did not attend the hearing.

5.19 Mr Richard Sullivan (13163)

Mr Sullivan spoke to his submission via teleconference and noted he opposed the draft bylaw in its entirety.

Attendance: Councillor Noonan left the meeting from 11.32am to 11.36am.

5.20 Ms Ami Kennedy (13192) Friends of the Maitai

Ms Kennedy spoke her submission.

## 5.21 Mr Ian Day (13165)

Mr Day spoke to his submission and suggested the draft bylaw would increase bureaucracy and be a cost to rates. He answered questions and suggested that the perception of the draft bylaw was that rights were being taken away from the public.

## 5.22 Mr Bill Lewis (13335)

Mr Lewis spoke to his submission.

## 5.23 Penny Molnar (13256)

Penny Molnar and Rachel Boyack spoke to the submission from Community Action Network and answered questions. They asked Council to consider the wider implications of the draft bylaw.

Attendance: Councillors Rutledge and Noonan left the meeting from 11.55am to 11.59am, Councillor Skinner left the meeting from 11.58am to 12.01pm, and Councillor Matheson left the meeting from 12.03pm to 12.06pm.

## 5.24 Ms Alison Arron (13210)

Ms Arron advised that Mr Mike Cunliffe had asked her to present a petition, asking Council to adopt the Wellington City Council Bylaw provisions regarding protests. She noted it had been signed by over 500 people. Her Worship the Mayor received the petition (A1802949).

Ms Arron spoke to her submission and answered questions.

**Attachments**

- 1 A1802949 - Alison Arron Petition

Attendance: Councillor Dahlberg left the meeting from 12.17pm to 12.21pm.

## 5.25 Mr Stephen Ralph Lee (13360)

Mr Lee spoke to his submission and answered questions.

## 5.26 Mr Richard Osmaston (13188) NZ Money Free Party

Mr Osmaston spoke to his submission and answered questions. He noted he objected to the draft bylaw as it took away the opportunity for peoples' voice to be heard.

## 5.27 Summary

Her Worship the Mayor asked councillors what information they would like to see in the officer report to the deliberations meeting, and the following was requested:

- What input from public could have been included in the process of drawing up a bylaw;

- A copy of the Wellington City Council document referred to in the petition; and
- A list of similar draft bylaws from other Councils, noting that officers had referred to these previously.

Attendance: The meeting adjourned for lunch from 12.35pm to 1.35pm, during which time Councillors Acland, Lawrey and Skinner left the meeting.

In response to questions raised by submitters during the morning session, Her Worship the Mayor explained the reasons why Council was conducting this bylaw process rather than the Planning and Regulatory Committee.

Attendance: Councillor Lawrey returned to the meeting at 1.36pm.

5.28 Mr Gavin Arney (13245)

The submitter did not attend the hearing.

5.29 Mr John-Paul Pochin (13260)

Mr Pochin spoke to his submission. He noted his concerns regarding the draft bylaw, and in particular, how it would affect homeless people living in Nelson.

Attendance: Councillor Acland returned to the meeting at 1.39pm, Councillor Skinner returned to the meeting at 1.42pm, and Councillor Fulton left the meeting at 1.43pm.

5.30 Mr Frank Saxton on behalf of Mr Brent Higgins (13226)

Mr Saxton tabled a copy of Mr Higgins' submission (A1803328), which he read.

**Attachments**

- 1 A1803328 - Brent Higgins Tabled document

Attendance: Councillor Fulton returned to the meeting at 1.46pm.

5.31 Mr Peter Sutton (13232)

Mr Sutton tabled a document (A1803333) and spoke to his submission. He emphasised the importance of placing as few limits on rights as possible and suggested that legal action may follow if the draft bylaw was passed in its current form. Mr Sutton answered questions.

**Attachments**

- 1 A1803333 - Peter Sutton Tabled document

5.32 Mr Ren Kempthorne (13328)

The submitter did not attend the hearing.

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## 5.33 Youth Councillors (13261)

Jenna Stallard, Chekodi Fearnley-Fitzgerald, Cassie Hagan and Emily Rais spoke to the Youth Council submission. They explained that youth were divided on the issue, and explained the views of youth in support of clause 11, as well as those who were not in support of clause 11.

Attendance: Councillor Rutledge left the meeting at 2.05pm

Ms Stallard, Ms Fearnley-Fitzgerald, Ms Hagan and Ms Rais also emphasised the importance of education and ease of obtaining permits, should the bylaw go ahead as drafted, and answered questions.

Attendance: Councillor Fulton left the meeting from 2.15pm to 2.17pm.

## 5.34 Amme Hiser (Late) (13375)

The submitter did not attend the hearing.

## 5.35 Ms Leigh Ramsay (13311)

The submitter did not attend the hearing.

## 5.36 Mr Nik Rakels (13341)

Mr Rakels spoke to his submission and tabled a document (A1803342). He said that clause 11 of the draft bylaw would have no effect on Lewis Stanton, but would affect many other people. Mr Rakels answered questions.

**Attachments**

1 A1803342 - Nik Rakels Tabled document

## 5.37 Mr Peter Riley on behalf of Sir Geoffrey Palmer (13299)

Mr Riley spoke to his own submission, and to that from Sir Geoffrey Palmer. He expressed concerns that the draft bylaw breached rights included within the New Zealand Bill of Rights Act, and noted that any restrictions on citizens as a result of the bylaw should be the least possible intrusion on their right.

Mr Riley encouraged Council to reach a mediated outcome with Mr Stanton, and answered questions.

## 5.38 Mr Jim Cable (13353)

Mr Cable spoke to his submission. He noted the importance of the right to protest, and suggested the bylaw instead focus on preventing people from sleeping on the streets. Mr Cable answered questions.

5.39 Mr David Ayre (13259)

Mr Ayre spoke to his submission and outlined his concerns regarding the bylaw. He noted the community had responded strongly to the proposed bylaw and encouraged Council to listen to community views on the issue. Mr Ayre answered questions.

5.40 Ms Iona Jelf (13359)

Ms Jelf tabled a document, which she read (A1804559). She noted her concerns regarding the requirement to seek a permit to protest, as well as the clauses in the bylaw preventing sleeping on the streets.

**Attachments**

- 1 A1804559 - Iona Jelf Tabled document

Attendance: Councillors Matheson and Walker left the meeting at 3.00pm.

5.41 Mr Burke Hunter (13361)

Mr Hunter spoke about the importance of freedoms of assembly, expression, association and movement, and outlined his personal experiences of taking part in protests.

Attendance: Councillors Matheson and Walker returned to the meeting at 3.08pm.

Mr Hunter answered questions.

Attendance: The meeting adjourned for afternoon tea from 3.13pm to 3.29pm, and Councillor Acland left the meeting at 3.30pm.

5.42 Ms Dai Mitchell (13349)

Ms Mitchell spoke to her submission. She explained her concerns regarding the draft bylaw in relation to the New Zealand Bill of Rights Act, and added her concerns regarding the effect the draft bylaw would have on homeless people.

5.43 Ms Joanna Plows (13362)

Ms Plows spoke to her submission. She drew Council's attention to the possibility of spontaneous protests occurring, particularly given the ability to draw large groups of people together at short notice via social media.

Attendance: Councillor Acland returned to the meeting at 3.40pm.

Ms Plows noted the importance of the right to protest, encouraged empathy towards homeless people, and answered questions.

## 5.44 Ms Gwen Struik (13363)

Ms Struik spoke to her submission. She explained the importance of the right to protest and noted her concerns that civil liberties were being reduced in New Zealand.

Ms Struik answered questions and noted that, even with a requirement to notify, some protests would still take place without notification.

## 5.45 Ms Rona Spencer (13364)

Ms Spencer spoke to her submission and emphasized the importance of the right to protest. She said the draft bylaw would be difficult for Council to administer and suggested it be abandoned. Ms Spencer answered questions.

## 5.46 Ms Teresa O'Connor (13166) Voice Nelson

Ms O'Connor spoke to the submission from Voice Nelson. She said that a notification requirement for protests would be acceptable, although it was still important for spontaneous protests to be able to occur.

Ms O'Connor also noted her concerns regarding homelessness and suggested Council concentrate on this issue rather than on protest issues. She answered questions and said that requiring notification for protests could become a barrier to being heard.

Attendance: Councillor Noonan left the meeting from 4.13pm to 4.14pm.

## 5.47 Mr Leon Staikopoulos (13268)

Mr Staikopoulos spoke to his submission, and urged Council to ensure the draft bylaw was not too restrictive.

## 5.48 Mr Cameron Forbes (13145)

Mr Forbes spoke to his submission. He noted his concerns regarding the effect of the draft bylaw on vulnerable people in the city, and spoke about the difficulties that homeless people faced.

Mr Forbes answered questions, and said that a requirement to notify Council of planned protests may disenfranchise some people.

## 5.49 Mr Bill Evans (13370)

Mr Evans spoke to his submission and tabled a document (A1804564). He emphasised the importance of the right to protest.

Group Manager Strategy and Environment, Clare Barton, explained that the photographs accompanying Mr Evans' submission had been distributed to councillors but not to the public, due to Council's obligations regarding privacy concerns.

#### Attachments

- 1 A1804564 - Bill Evans Tabled document

#### 5.50 Graeme O'Brien

In response to questions, Mr O'Brien suggested that providing notification of planned protests to Council and the Police was a courtesy, and should not limit the inherent right to protest.

Attendance: Councillor Lawrey left the meeting at 4.34pm.

#### 5.51 Summary

Her Worship the Mayor asked councillors what information they would like to see in the deliberations report, and the following advice was requested

- Questions regarding the legal advice provided to Council, including:
  - Is there a sufficient evidential premise for the bylaw?
  - Is requiring a permit an unreasonable limit on freedom of expression?
  - Are there other laws that can deal with the same amenity values regarding protests, sleeping and rubbish without a bylaw?
  - Can negotiations be delegated to another group?
  - Are all factors of the bylaw lawful? For example, is a bylaw needed for lighting?
  - Is there a legal risk in the development of the draft bylaw being linked to the issues regarding Lewis Stanton?

Attendance: Councillor Acland left the meeting at 4.39pm.

- Advice regarding Wellington City Council's draft bylaw, especially in respect of the requirement to notify Council of planned protests, including what advice regarding the Wellington City Council bylaw had been provided to Council prior to approval of the draft bylaw for consultation;;
- Advice regarding whether a ban on sleeping in the street would be in contravention of the New Zealand Bill of Rights Act;
- Advice regarding whether the proposed penalties were proportionate to the matters the draft bylaw sought to control;

- Advice regarding whether criminal offences or other police powers could be applied to address the matters the draft bylaw sought to control;
- Whether the police had been consulted in development of the draft bylaw;
- Advice regarding how long information would be kept by Council for;
- Advice regarding which other local authorities had similar bylaw provisions, and details regarding these, including whether any other local authority included a bylaw provision requiring a permit to protest; and
- The potential costs of defending any legal actions brought against Council as a result of the draft bylaw, should it be passed in its current form.

There being no further business the meeting ended at 4.48pm.

Confirmed as a correct record of proceedings:

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

Nelson City Council Minutes - 21 June 2017

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