
MINUTES

THURSDAY 27 MARCH 2008

9.19AM

**Council Chamber,
First Floor, Town Hall,
Wakefield Street
Wellington**

PRESENT:

Mayor Prendergast (Chair)
Councillor Ahipene-Mercer
Councillor Best
Councillor Cook (9.19 – 10.52am, 11.13 - 11.50am, 11.55am – 1.44pm)
Councillor Coughlan (9.19am – 12.12pm, 1.30 – 1.44pm)
Councillor Foster
Councillor Gill (9.30am – 1.44pm)
Councillor Goulden (11.11am – 12.25pm)
Councillor McKinnon (9.19 – 10.52am, 12.12 – 1.44pm)
Councillor Morrison
Councillor Pannett
Councillor Pepperell
Councillor Ritchie
Councillor Wade-Brown
Councillor Wain

APOLOGIES:

Councillor Gill (lateness)
Councillor Goulden (lateness)

062/08P **APOLOGIES**
(1215/52/IM)

RESOLVED:

THAT the Strategy and Policy Committee:

- 1. Receive apologies for lateness from Councillors Gill and Goulden.*

063/08P **CONFLICT OF INTEREST DECLARATIONS**
(1215/52/IM)

NOTED:

Councillor McKinnon declared a conflict of interest in respect of report two – Extension of Council Commitment to the New Zealand School of Music Proposal. He advised that he would withdraw from debate and voting on the matter.

064/08P **PUBLIC PARTICIPATION**
(1215/52/IM)

NOTED:

1. Chris Grey spoke about Report One, Liquor Control Bylaw Amendment. He highlighted the problems experienced by business owners from drunkenness in the Cuba Street precinct. He highlighted his support for the measures proposed in the report.
2. Bernie Harris addressed the Committee on Report Two, Extension of Council's Commitment to the New Zealand School of Music Proposal and his opposition to the lease of the Jack Illot green for building of the proposed School of Music.

(Councillor Gill joined the meeting at 9.30am.)

065/08P **PETITION**
(1215/52/IM)

There were no petitions.

066/08P **DEPUTATION**
(1215/52/IM)

NOTED:

Andrea McIlroy deputy Vice Chancellor of Massey University, and David McKay deputy Vice Chancellor of Victoria University representing the New Zealand School of Music spoke about Report Two, Extension of Council's Commitment to the New Zealand School of Music Proposal. They addressed the need for the updates to the original terms and conditions of the agreement as well as updating the Committee on progress to fund the project.

067/08P **LIQUOR CONTROL BYLAW AMENDMENT**

Report of Bev Driscoll – Senior Policy Advisor.

(1215/52/IM)

(REPORT 1)

Moved Councillor Best, seconded Councillor McKinnon the substantive motion.

Moved Councillor Foster the following amendments:

Part One:

“New recommendation 4:

Note that other initiatives to address liquor related offending will be considered in coming months (e.g. a review of the liquor licensing policy, the City Communities community interaction programmes) or have already been considered, with funding included in the Draft Annual Plan for consultation (e.g. upgrading of CCTV and Walkwise)”.

Part Two:

Amended Statement of Proposal as follows:

“That the Statement of Proposal includes the following option(s):

Option 6 - That the liquor control bylaw cover night time only (defined as 5pm - 8am), 7 days a week, across the same liquor control areas as the recommended option.

Option 7 - Include the entire city in the amended liquor control bylaw with bylaw hours of operation outside the existing liquor bylaw area being 5pm (or 8pm) to 8am, 7 days a week.

Agree that the options (6-7) are not recommended/preferred by Council.”

Commentary on Option 6:

This option recognises that the vast majority of public place drinking and alcohol related offending occurs during evening, and night time hours. It would provide a clear, consistent time across the chosen liquor bylaw control area, and would minimise displacement issues.

It would allow for consumption of alcohol in public places outside of the hours of bylaw operation (i.e. during the daytime) on the basis that there is limited evidence of alcohol related offending occurring at these times.

However it would not address concerns, particularly from retailers in the Cuba St area, about groups of people congregating during the day to drink, and alcohol related offending and intimidation of staff and members of the public.

This option is not recommended.

Commentary on Option 7:

This option proposes 24/7 control across the current Liquor Control area - the Wellington Central Area, Oriental Parade, Mt Victoria summit, and Aro Valley as proposed in Option 4.

In addition it proposes that the bylaw extend to night time, 7 days a week, control over the rest of the city.

This option recognises that there is a level of alcohol related offending derived from gatherings in public spaces throughout the city. There is anecdotal evidence of anti-social behaviour from such gatherings mostly in public parks and suburban centres scattered throughout the city. This includes noise, smashing bottles and property damage. Council is unaware of statistics as to the degree to which this represents a problem for residents and business people in these areas, but sees this review of the bylaw as an opportunity to obtain feedback on the degree to which this is a problem, before considering whether any form of control is warranted outside the proposed liquor control area.

This option is therefore at this stage not recommended.

The first part of the amendment, new recommendation 4 was ACCEPTED with LEAVE of the meeting.

The second part of the amendment, changes to the statement of proposal FAILED for want of a seconder.

The substantive motion, recommendations 1, 3 and 4 were PUT and declared CARRIED.

The substantive motion, recommendation 2f was PUT and declared CARRIED.

The remainder of the substantive motion was PUT and declared CARRIED.

NOTED:

Councillor Pannett requested that her dissenting vote be recorded against recommendations 2a, b, c, d, e, and g

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Strategy and Policy Committee:

1. *Receive the information.*
2. *Recommend to Council that it agree:*
 - a) *a bylaw remains the most appropriate way of addressing the perceived problem*
 - b) *that the most appropriate form of the bylaw prohibits consumption and possession of liquor consistently across the control area at all times*
 - c) *that Aro Valley is included in the control area of the Liquor Control Bylaw as depicted in the map attached at Appendix 1 of the officer's report.*
 - d) *that the Liquor Control Bylaw does not place unreasonable limitation on any rights established in the Bill of Rights Act 1990*
 - e) *to the Statement of Proposal (attached as Appendix A to the officer's report) to amend the Liquor Control Bylaw*
 - f) *to resolve that the Bylaw proceed through the Special Consultative Procedure as required by section 156 of the Local Government Act 2002*
 - g) *agree to delegate to the Chief Executive the authority to make any minor drafting changes to the Statement of Proposal.*
3. *Agree that a comprehensive evaluation of the effectiveness of the Liquor Control Bylaw be undertaken by Council officers and reported back to the Strategy and Policy Committee in late 2009.*
4. *Note that other initiatives to address liquor related offending will be considered in coming months (e.g. a review of the liquor licensing policy, the City Communities community interaction programmes) or have already been considered, with funding included in the Draft Annual Plan for consultation (e.g. upgrading of CCTV and Walkwise).*

NOTED:

1. The resolution differs from the recommendations in the officer's report as follows:

The Committee added the text in **bold**.

(The meeting adjourned for morning tea at 10.52am and reconvened at 11.11am. When the meeting reconvened Mayor Prendergast and Councillors Ahipene-Mercer, Best, Coughlan, Foster, Gill, Goulden, Pannett, Pepperell, Morrison, Ritchie, Wade-Brown and Wain were present. Councillor McKinnon did not return to the table due to his conflict of interest in respect of the next item, declared under 063/08P.)

068/08P **EXTENSION OF COUNCIL COMMITMENT TO THE NEW ZEALAND SCHOOL OF MUSIC PROPOSAL**
 Report of Sarah Polaschek – Portfolio Manager, Council Controlled Organisations.
 (1215/52/IM) (REPORT 2)

(Councillor Cook returned to the meeting at 11.13am.)

Moved Councillor Morrison, seconded Councillor Wain the substantive motion.

Moved Councillor Wade-Brown, seconded Councillor Foster the following amendments:

Additional wording:

‘4 (d) Access to public space in the building that would be erected on the site and the universities explore with the architect the opportunities for a publicly accessible area to be provided to allow members of the public to take advantage of the harbour views from the building **including the possibility of a roof garden.**’

New:

(n) Note the value of the site is \$6.85 million.”

The amendments were put and declared CARRIED.

Moved Councillor Ritchie, seconded Councillor Pepperell the following amendment to recommendation 3:

3. Agree to recommend to Council that it extend its commitment to the proposal through to 31 March 2009, subject to ~~the conditions below~~ a **comprehensive report from the Chief Executive on the potential use of the Overseas Passenger Terminal (OPT) for a national school of music (should resource consent be declined for the apartment proposal for the OPT), addressing the probable benefits (over the Jack Ilott site) of:**

- **Cost advantage to Council**
- **Financial benefit to Council**
- **Financial benefit to education and Government**
- **Resource management Issues**
- **Timing advantage**
- **Proximity (given that Massey is based at Palmerston North and Albany)**
- **Superior Site (suprema a situ) and cultural priority.**

The amendment was NOT ACCEPTED by the Chair under Standing Order 155.

(Councillor Cook left the meeting at 11.50am.)

(Councillor Cook returned to the meeting at 11.55am.)

Recommendation one was put and declared CARRIED.

The remainder of the amended substantive motion was put and a DIVISION called:

Voting for: Mayor Prendergast, Councillors Ahipene-Mercer, Best, Coughlan, Foster, Gill, Goulden, Morrison, Pannett, Wade-Brown and Wain.

Voting against: Councillors Cook, Pepperell and Ritchie.

Majority vote: 11:3

The remainder of the amended substantive motion was declared CARRIED.

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Strategy and Policy Committee:

1. *Receive the information.*
2. *Note that on 23 September 2004 the Council agreed to the proposal to locate a national school of music on the Circa/Ilott site, and offered the site to the universities for 99 years at a peppercorn rent, subject to a number of specific conditions. The Council also delegated authority to the Chief Executive to negotiate an agreement with Massey and Victoria universities, and monitor compliance with and progress against this agreement.*
3. *Agree to recommend to Council that it extend its commitment to the proposal through to 31 March 2009, subject to the conditions below.*
4. *Agree to recommend to Council that the agreement with the universities be updated to contain terms and conditions relating to:*
 - a. *The specific use of the site for a national school of music*
 - b. *Expectations that the school will be recognised nationally and internationally as New Zealand's premier school of music*
 - c. *The ability for the Universities to assign the Lease to the Crown, or a Crown funded tertiary institution, subject to agreement by*

the City. That agreement would not be unreasonably withheld in the following circumstances:

- *Where the Crown would continue to use the site for a National School of Music*
- *Where the Crown funded tertiary institution would continue to use the site for a National School of Music*

This right would be personal to the Universities.

Assignment in any other circumstances would be expressly prohibited.

- d. *Access to public space in the building that would be erected on the site and the universities explore with the architect the opportunities for a publicly accessible area to be provided to allow members of the public to take advantage of the harbour views from the building **including the possibility of a roof garden.***
- e. *Peer review of design quality*
- f. *The inclusion of a 350-400 seat auditorium in the facility*
- g. *Contribution by the school to the cultural life of the city*
- h. *Tangible recognition of Jack Ilott in an appropriate manner*
- i. *Compliance with the Circa Site Design Brief and Civic Square Management Plan*
- j. *Continuing consultation by the universities with affected neighbours (A CBD crèche, Wellington Museums Trust (Capital E and City Gallery) and Nikau café*
- k. *Demonstrable progress towards establishing the school, including specified delivery dates.*
- l. *Remedies satisfactory to the Council in the event that any of the terms and conditions are not met, in particular that as a minimum Council has control over the use of the site if conditions (a) and (b) are not met*
- m. *Without limiting (l) above:
If the requirements of (a) and (b) are not able to be achieved or the site's operation as such ceases to be viable in the reasonable opinion of the universities, the Council will on the request of the universities or a permitted assignee under (c) above not unreasonably withhold consent for the site's use as an alternate education facility provided the Council (acting reasonably and*

in good faith) is satisfied that the proposed use as an educational facility would invigorate the City, add or contribute to the continued vibrancy of the Civic Square and otherwise meet the requirements of (d),(g),(h),(i) and (j) (if applicable).

n. Note the value of the site is \$6.85 million.

NOTED:

The resolution differs from the recommendations in the officer's report as follows:

The Committee added the text in **bold**.

(Councillor Coughlan left the meeting at 12.12pm.)

(Councillor McKinnon returned to the meeting at 12.12pm.)

069/08P **ORDER OF BUSINESS**
(1215/52/IM)

NOTED:

The Chair advised that Report Four – Submission on Dog Control Policy Options and Report Five – Submission on the Policing Bill would be taken next. There were no objections.

070/08P **SUBMISSION ON DOG CONTROL POLICY OPTIONS**
Report of Mathew Powell – Senior Policy Advisor.
(1215/52/IM) (REPORT 4)

Moved Councillor Best, seconded Councillor Pannett the substantive motion, with the following amendment to the submission:

Including the following text:

“Furthermore, dog ownership offers many benefits to owners and other residents including companionship, social support and exercise opportunities.”

The substantive motion with the amendment to the submission was put and declared CARRIED.

RESOLVED:

THAT the Strategy and Policy Committee:

1. *Receive the information.*
2. *Agree to the submission on dog control policy options to the Department of Internal Affairs **as amended** attached as Appendix 1 to these minutes.*
3. *Authorise the Chief Executive and Social Portfolio Leader to make any minor editorial changes to the submission required as a result of SPC discussion.*

NOTED:

The resolution differs from the recommendations in the officer's report as follows:

The Committee added the text in **bold**.

(The meeting adjourned for lunch at 12.25pm and reconvened at 1.30pm. When the meeting reconvened Mayor Prendergast and Councillors Ahipene-Mercer, Best, Cook, Coughlan, Foster, Gill, Pannett, Pepperell, McKinnon, Morrison, Ritchie, Wade-Brown and Wain were present. Councillor Goulden was not present when the meeting reconvened.)

071/08P

SUBMISSION ON THE POLICING BILL

Report of Genevieve Drake – Policy Advisor.
(1215/52/IM)

(REPORT 5)

Moved Councillor Best, seconded Councillor Gill the substantive motion.

Moved Councillor Pannett the following amendment to the submission:

Additional text

Powers relating to the care and protection of intoxicated people

The Council supports provisions that enable the Police to take incapacitated people into custody as a protective measure **as a last resort if it is not practicable to take the person to their home or to a shelter.**

The amendment was ACCEPTED with LEAVE of the meeting.

The substantive motion, as amended was put and declared CARRIED.

RESOLVED:

THAT the Strategy and Policy Committee

1. *Receive the information.*
2. *Agree to the submission on the Policing Bill to be made to the Law and Order Select Committee **as amended**, attached as Appendix 2 to these minutes.*
3. *Authorise the Chief Executive and Social Portfolio Leader to make any minor editorial changes to the submission required as a result of Strategy and Policy Committee discussion.*

NOTED:

The resolution differs from the recommendations in the officer's report as follows:

The Committee added the text in **bold**.

072/08P

CARTER OBSERVATORY REDEVELOPMENT ADVISORY GROUP

Report of Allan Prangnell – Manager, Council Controlled Organisations.
(1215/52/IM) (REPORT 3)

Moved Councillor McKinnon, seconded Councillor Ritchie an amended substantive motion as follows:

Amended wording

Term of Membership

'The term of membership for each member shall be from appointment until ~~the opening of the Carter Observatory~~ **a review of the terms of reference of the group is undertaken.** Where a position becomes vacant part way through a term ...'

The substantive motion with amended terms of reference was put and declared CARRIED.

RESOLVED AND RECOMMENDED TO COUNCIL:

THAT the Strategy and Policy Committee:

1. *Receive the information.*
2. *Recommend to Council that it agree to establish an Advisory Group to help guide the redevelopment of the Carter Observatory, according to the terms of reference **as amended**.*

NOTED:

The resolution differs from the recommendations in the officer's report as follows:

The Committee added the text in **bold**.

The meeting concluded at 1.44 pm.

Confirmed: _____
Chair
/ /

APPENDIX ONE

Submission from the Wellington City Council on Dog Control Policing Options

1. Introduction

The Wellington City Council welcomes the opportunity to comment on the discussion document *Improving public safety under the Dog Control Act 1996: Policy Options*. Wellington is a vibrant city and a great place to live, work, and play and the Wellington City Council wants to maintain and enhance Wellington's reputation as an internationally competitive city.

As a territorial authority the Wellington City Council (the Council) has a statutory duty to promote the environmental, economic, social and cultural well-being of the city and its people, and facilitate democratic local decision making. The Council recognises that the regulation of dogs is important to the safety and wellbeing of the whole community.

The Council believes that responsible dog control legislation and associated regulations, coupled with appropriately resourced enforcement and education is crucial for effective dog control. This submission reflects the Council's commitment to promoting the four well-beings (noted above) by advocating for a responsible dog control framework on behalf of the city's 180,000 residents.

2. The Dog Control Act 1996

The object of the Dog Control Act 1996 (the Act) is 'to make better provision for the care and control of dogs;

- By requiring the registration of dogs; and
- By making special provision in relation to dangerous and menacing dogs; and
- By imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person and do not injure, endanger, or cause distress to any person, stock poultry, domestic animal, or protected wildlife; and
- To make provision in relation to damage caused by dogs'.¹

The Act requires local authorities to have a Dog Control Policy (s10) and empowering Bylaw (s20) in place. The Council's current Dog Control Policy was adopted in September 2004. There are 8,500 registered dogs in Wellington.

3. Overview

The Council considers that the Dog Control Act 1996 (and subsequent amendments in 2003, 2004, and 2006) generally provides the necessary range

¹ Section 4, Dog Control Act 1996.

of tools to manage dogs in Wellington. The Council notes that the vast majority of dog owners in Wellington are responsible and abide by the Act and the Council's policy and bylaw. Furthermore, dog ownership offers many benefits to owners and other residents including companionship, social support and exercise opportunities. It is important therefore that a reasonable balance is struck between minimising harm and enabling responsible dog owners to 'get on' and enjoy their dogs.

The key issue with any legislative change is whether the intent of the proposal will have the desired effect, in essence, the improvement of safety around dogs and the minimisation of serious dog attacks. In this context, further legislative changes require careful examination of potential benefits against administrative difficulty and cost. As noted above the Council's view is that the legislative framework is generally sound and is effective when coupled with appropriately resourced enforcement. Further amendments to the legislation is unlikely to result in any significant gains in public safety.

The Council considers that improved safety outcomes can be achieved by focusing on consistent enforcement of the Act by Councils, improving data collection, and educating dog owners and the general public about how to stay safe around dogs.

4. Submission

The Wellington City Council submits the following matters:

The dog control legislation is adequate

1. The Dog Control Act 1996 and subsequent amendments provides the Council with a workable framework for the control of dogs in Wellington. The Council believes that additional legislation, apart from some minor amendments, will not result in improved safety around dogs (this is because the necessary controls already exist) but will instead impose further costs onto Councils and responsible dog owners.

Submission

The Council believes the Dog Control Act 1996 generally provides adequate controls to manage dogs.

A focus on education is required

2. The Council notes that more needs to be done to educate people about how to stay safe around dogs. While the Council focuses on grassroots education it lacks the resources to access mass media such as television. Central Government, therefore, has a vital role to play in raising general awareness about dogs in the community.

Submission

The Council recommends that the Department of Internal Affairs explore ways to raise awareness about dog behaviour and how to stay safe around dogs.

Improved information gathering

3. The Council shares the Department of Internal Affairs concern about the lack of robust data to support policy decisions. The Council notes information gathering requirements included in the 2003 Dog Control Amendment Bill were subsequently 'watered down' through the legislative process. The resulting legislation has left a gap in information needed to support robust policy interventions.

Submission

The Council recommends that the DIA consult with local government about information requirements to support policy decisions.

Option 1: Include Additional Breeds in Schedule 4 of the Dog Control Act*Q 1.1 What additional breeds of dog should be added to Schedule 4 of the Dog Control Act? Why?*

4. The Council considers that a cautious approach should be adopted with respect to including any additional breeds or types of dogs to Schedule 4 of the Act.
5. Dog breeds and types listed in Schedule 4 are classified as menacing and are subject to import bans and muzzling requirements. Section 10 enables territorial authorities to adopt a policy that requires schedule 4 dogs to be neutered as a precautionary measure to help reduce (not eliminate) the risk of attack. This has been the Council's policy since 2004.² Neutering stops aggressive dogs breeding, reducing the number of aggressive dogs in the community.
6. Although the Council lends its support to the notion of neutering of menacing dogs due to their breed or type (identified in Schedule 4), it is not an unqualified support. Any dog has the potential to demonstrate aggressive behaviours. Any additions to the schedule, therefore, must be supported by robust data about dog attacks and aggressive tendencies in specific breeds.
7. The Department of Internal Affairs recently acknowledged that inadequate data is a significant issue which undermines the Government's ability to understand the overall nature and extent of the problem.³ Any move to

² The Dog Control Amendment Bill (No 2) proposes mandatory neutering of all dogs included in Schedule 4.

³ Paper to the Cabinet Business Committee – October 2007

include specific breeds or types of dogs to the schedule in this context would be unfounded and somewhat arbitrary.

Q 1.2 What should be the basis for identifying which breeds should be included in Schedule 4?

8. The Act (s78C) sets out a number of matters the Minister must have regard to and seek advice when considering adding a dog to schedule 4 – the matters are:
- the tendency of the breed or type to exhibit aggressive behaviour; and
 - the tendency of the breed or type to attack; and
 - the risks to public safety if the breed or type is not listed in Schedule 4 (if any); and
 - the companion value of the breed or type (if any); and
 - the classification and experience of the breed or type in any other country; and
 - any other matters that the Minister considers relevant.
 - The Minister must consult with a range of stakeholders, including local government.

The Council considers that the requirements placed on the Minister are reasonable.

9. However, as already noted, better data is required to help inform any decisions made by the Minister in consultation with local government and other stakeholders. Data must be collected locally and collated nationally to determine trends in dog attacks, and breeds associated with attacks. The Council is supportive of further consultation about measures (and likely costs) to improve data collection.
10. A close watch needs to be kept on any studies that help to better understand particular dogs and breeds predisposition towards aggression.
11. The Council notes that 33 dogs (out of 8500 registered dogs in Wellington) are classified as menacing by virtue of belonging to a breed or type listed in Schedule 4. Should further breeds / or types of dogs be added to the schedule the costs and administrative complexity for the Council will increase. Such measures may also result in some dog owners purposely registering their dog as another breed, or failing to register altogether to avoid the impact of the schedule.

Submission on option 1

The Council submits that better information (robust data such as trends in dog attacks and breeds associated with attacks) is necessary before any further breeds are added to schedule 4.

The Council believes the matters the Minister must consider, including the requirement to consult with local government and other stakeholders, are appropriate for determining which breeds to add to Schedule 4. The Council submits that the Department of Internal Affairs must keep a 'watching brief' on scientific research relating to aggression in dogs.

Option 2: Destruction of Dogs Classified as Dangerous

Q 2.1 Do you think the current controls imposed on dangerous dogs are sufficient to control such dogs? Q 2.2 Are the behaviours that determine whether a dog is dangerous appropriate as a measure of the risk the dog poses to society? Does the list of behaviours need to be changed? If so, what would you propose?

12. The Council considers that the Act generally provides a robust set of controls to manage risks associated with dangerous dogs. The current controls (s 32) for dogs classified as dangerous are:
- Owner must ensure it is securely fenced
 - Dog must be muzzled in a public place
 - Dog must be controlled on a leash (except in a dog exercise area)
 - Dog must be neutered
 - Owner must not transfer the dog to another owner without written consent of the territorial authority
 - Owner must pay a fee at 150% of level that would apply if the dog was not classified as dangerous.
 - A dog classified as dangerous applies across the country
13. However, the Council considers that more could be done to identify dangerous and menacing dogs to the public, and recommends that two further controls be introduced:
- *Visual marker* – the Council recommends that a visual marker, such as a coloured collar, that helps to identify dangerous and menacing dogs be introduced.
 - *Signage – dangerous / menacing dog at address* - The Council recommends that owners of menacing and dangerous dogs be required to display a notice at the gate / main entrance to a property that a dangerous or menacing dog is kept at the address.
 - *Dog owner may be required to undertake dog obedience / behaviour training*- territorial authorities have discretionary powers to require a dog owner with a probationary status to undergo dog obedience training. The Council recommends this discretionary power be extended to cover owners of menacing and dangerous dogs.
14. Dogs are classified as dangerous as a precautionary measure, where the dog's observed behaviour (e.g. rushing), is considered to be threatening. The Council considers the behaviours that trigger a dangerous classification, set

out in section 31 below, provides appropriate criteria for the classification of dangerous dogs. Councils must classify as dangerous, any dog:

- in respect of which the owner has been convicted of an offence under section 57A(2) of the Act (i.e. rushing at persons, animals or vehicles)
- which the territorial authority has, on the basis of sworn evidence attesting to aggressive behaviour by the dog on one or more occasions, reasonable grounds to believe constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife
- that the owner admits in writing constitutes a threat to the safety of any person, stock, poultry, domestic animal, or protected wildlife.

15. It is the Council's experience that once a dog is classified as dangerous the dog owner generally takes responsibility to comply with the obligations of the dangerous classification. Further, there has been no evidence gathered that the Council is aware of that suggests that dogs classified as dangerous cause recurring problems. Further analysis is required in this area.

Q2.3 Do you support or oppose the mandatory destruction of all dogs classified as dangerous? Why or why not?

16. The Council considers that the prevailing legislation provides a robust process for the classification of dangerous dogs and places strict controls on the dog owner to manage a dangerous dog at home and in public places. The classification is a precautionary measure and should not be applied to lead to mandatory destruction.
17. If a dangerous classification with a mandatory destruction was adopted, it would be a very difficult policy for the Council to implement and enforce – as dogs would likely go 'underground'.
18. The Council notes that where any dog attacks and causes serious harm the Courts may make a destruction order for the dog.

Submission on option 2

The Council considers the criteria that determine whether a dog is dangerous are generally appropriate, but that more could be done to alert the public to dangerous and menacing dogs. The Council recommends that:

- Menacing and dangerous dogs be required to wear a visual marker such as a coloured collar
- owners of menacing and dangerous dogs be required to display a notice at the gate / main entrance to a property that a dangerous or menacing dog is kept at the address
- local authorities be granted discretionary powers to require a dog owner (with a menacing or dangerous dog) to undergo dog obedience training.

The Council does not support the mandatory destruction of dogs classified as dangerous.

Option 3: Increase the controls on dogs classified as menacing to the level of controls for dogs classified as dangerous

Q 3.1 Do you think the current obligations on owners of dogs classified as menacing are sufficient? Q 3.2 Do you support or oppose elevating the level of control on dogs classified as menacing to the level of control on dogs classified as dangerous?

19. The distinction between a dog classified as menacing or dangerous is based on an assessment of risk to public safety of a particular dog. For menacing dogs this is a consideration of its breed or type, or its observed behaviour. For dangerous dogs, the assessment is based on the observed behaviour of the dog (including a conviction for rushing at a person, animal or vehicle) or the dog owner advising in writing that the dog represents a threat to public safety.

20. The current obligations on owners of dogs classified as dangerous and menacing are set out in the table below. The degree of risk to public safety is intended to be reflected in the level of controls placed the dog owner for each classification.

Controls for dangerous dogs (section 32)	Controls for menacing dogs (Section 33E)
Owner must ensure it is securely fenced	
Dog must be muzzled in a public place	Dog must be muzzled in a public place
Dog must be controlled on a leash (except in a dog exercise area)	
Dog must be neutered	Discretionary (Dog may be required to be neutered by virtue of its breed or type identified in schedule 4 – depending on local authority policy or because of demonstrating aggressive behaviour (33A))
Owner must not transfer the dog to another owner without written consent of the territorial authority	
Owner must pay a fee at 150% of level that would apply if the dog was not classified as dangerous.	

21. The Council considers that the containment controls for menacing dogs should match those of dangerous dogs, i.e. that the owner must ensure that a menacing dog is securely fenced to provide added certainty for the community that menacing dogs are adequately contained on private property.

Submission on option 3

The Council recommends that the containment standard for menacing dogs match that of dangerous dogs in order to provide certainty for the community that menacing dogs are adequately contained on private land.

Option 4: Mandatory Neutering of Dogs Classified as Menacing under Section 33A

Q 4.1 Should dogs classified as menacing under section 33A of the Dog Control Act also be required to be neutered? Why or why not?

22. The Council's policy, since 2004, has been to require the mandatory neutering of dogs classified as menacing due to breed (s33C), while retaining discretion for neutering due to 'deed' (behaviour – s33A). Of course, neutering of a dog is not an instant cure all for behavioural issues, and other factors such as owner education and the environment the dog is raised in are important. However, neutering of dogs is deemed to have benefits in terms of health, behaviour and population control. Neutered dogs are generally less likely to roam, demonstrate territorial behaviours such as marking, and other less desirable behaviours such as aggression.
23. The Council considers that mandatory neutering for dogs classified as menacing by virtue of demonstrating aggressive behaviour is, in the majority of circumstances,⁴ an appropriate precautionary measure to help prevent harm. However, the Council considers it useful to retain discretion to neuter, as every case is judged on its own merits. In some cases a dog may be too old, or in poor health, or the situation is such that neutering is not considered beneficial.

Submission on option 4

The Council supports the retention of discretionary neutering of dogs classified under section 33A, as each case is judged on its own merits.

Option 5: Owner Licensing

Q 5.1 Do you support owner licensing? Q5.2 Should all owners be licensed? Q.5.2B Should licensing be targeted in some way?

24. All dogs owners are required to register their dogs annually. The vast majority of dog owners comply with this requirement. However, in any regulatory environment there will be those who attempt to avoid and/or subvert the system and dog control is no exception.
25. In this context the proposal to introduce a licensing regime for dog owners is essentially targeted at a very small population of dog owners who fail to take their responsibilities towards dog ownership seriously. Such dog owners attempt to avoid registering their dog(s) and seek to operate outside the framework of the Act. A licensing system would not prevent this behaviour from occurring or improve public safety; instead the Council considers the proposed requirement for all dog owners to be licensed will introduce administrative complexities and significant costs for little/no benefit.

⁴ Council acknowledges however that in some circumstances mandatory neutering may not be appropriate, for instance due to a dog's age or health etc.

26. Licensing owners effectively penalises responsible dog owners and any costs associated in operating a licensing system would likely fall to local government and would need to be passed on to dog owners.
27. The Council notes that the idea was previously considered in 2003 by an Ad Hoc Ministerial Group on Dog Control and discarded on the basis that it would make it 'more difficult to legally own a dog and could increase illegal dog ownership'.
28. The Council considers that the Act provides the necessary tools and penalties for dog owners who fail to register their dogs and notes that the Act provides other tools to target irresponsible dog owners, such as disqualification.

Q 5.3 Should dog breeders be licensed?

29. No. Most people do not get their dogs from a breeder, rather they purchase through the local paper, website, their neighbours etc. Established breeders are in effect already licensed through the New Zealand Kennel Club.

Q.5.4 Should the licence administration be carried out by individual councils or by a central authority? Q 5.5 How should owner licensing be funded?

30. The Council does not support a licensing system for the reasons outlined above. If a licensing system was introduced the Council considers that the dog owners should apply for their licence at the time of registering their dog, and therefore each Council should licence owners. However, the system of licensing should be maintained centrally and be funded by a levy on dog owners.

Submission on option 5

The Council does not support owner licensing and believes it will not improve public safety; rather it will introduce administrative, monitoring and compliance costs for Councils while unfairly penalising the majority of dog owners who abide by the Act.

The Council notes that the Act provides other tools to target irresponsible dog owners, such as disqualification. The Council submits that the Department of Internal Affairs investigate how to better capture this classification in the National Dog Database so that disqualified owners are more easily identified across territorial boundaries.

Option 6: Councils may require proof of breed

Q 6.1 Do you support this approach?

31. The Council does not support this approach. Dog owners note the dog's breed at the point of registration and supplying false information is an offence under the Act.
32. Where a dog is purchased through a local paper, website, or from friends, dog owners are unlikely to be able to produce official papers stating the breed. Determination of a breed in such cases relies on the expertise of animal control officers.

33. The current listing of 3 dog breeds and 1 type of dog in Schedule 4 makes the administration of breed specific legislation manageable.
34. The Council notes that DNA is used in some Australian jurisdictions to determine breed. This approach provides reliable information, but would require investigation into the feasibility and costs of using it in New Zealand.

Q 6.2 In what circumstances would it be appropriate for councils to require evidence of breed, or to determine the breed of a dog if no evidence is produced?

35. In cases where an animal control officer considers that a dog's breed has been incorrectly stated on the registration. The use of a centrally determined matrix is a useful tool for animal control officers when making a decision about a crossbreed dog.

Q 6.3 Would a broader threshold for breed and type classification of a Schedule 4 breed or type of dog, such as "significantly" or "noticeably", enable councils to improve public safety around dogs?

36. The Council considers that the current wording which states 'wholly or predominately of 1 or more breeds or types listed in schedule 4' provides the necessary threshold for determining a dogs breed or type. The Council also supports provisions in s33D for a dog owner to object to a classification made under s33C and notes that the onus is on the dog owner to provide evidence to support their objection.

Q 6.4 Can you suggest alternative ways of resolving difficulties in identifying a dog's breed?

37. The most conclusive method appears to be DNA noted above.

Submission on option 6

The Council considers that proof of breed is adequately managed on an exceptions basis by animal control officers.

The Council notes that DNA testing is used in other jurisdictions – the Department of Internal Affairs should consider investigating feasibility of DNA technology in the New Zealand dog control regime.

Option 7: Probationary owners to surrender dogs classified as dangerous or menacing

Q7.1 Should owners who have been placed on probation retain responsibility for dogs classified as dangerous or menacing?

38. Where a dog owner is convicted of a dog related offence (other than an infringement offence) that person may be disqualified for up to 5 years from owning a dog and be required to dispose of the dogs within his or her care within 2 weeks. Alternatively, under the current law, the dog owner may be given a probationary status which prevents the person from taking on new dogs for up to two years and

requires that unregistered dogs in the care of the owner be disposed of. Dogs already registered with the owner remain with the owner.

39. The Council considers the proposed requirement for probationary owners to surrender dogs classified as dangerous or menacing to be an appropriate measure to reduce potential harm. Such dogs need to be managed in a responsible manner.
40. As a general comment it has been the Council experience that the vast majority of dog owners are responsible and take their duty of care towards their dog(s) seriously.
41. However, it is important that the Act provides tools to remove dogs from irresponsible owners. The Council notes that in this regard the probationary status is seldom used (if ever) by Councils in the Wellington region. Rather the preference is to disqualify dog owners that are identified as being unfit for the care of dogs. This could suggest that the probationary status, intended as a 'softer' option to disqualification, is considered redundant in practice.

Submission on option 7

The Council supports the requirement for probationary owners to surrender dogs classified as dangerous or menacing.

The Council notes that the probationary status is seldom used. It seems that Councils are opting for the harder hitting effects of the disqualification status.

Option 8: Increase dog containment standard

Q 8.1 Should dog owners' responsibilities for ensuring the security of their dogs be made clearer and more explicit?

42. The Council considers the responsibility of owners to control dogs is clearly stated in the Act. The Act places an obligation on dog owners to keep their dogs under control at all times (s52). The act also requires dog owners to provide proper care and attention of their dogs, ensuring that their dog receives sufficient food, water, shelter and exercise.
43. When a dog is on an owner's property it is required to be under the direct control of a person or confined to the land or premises so that it cannot freely leave. If a person fails to comply with this requirement a dog control officer may seize and impound the dog. A dog owner may also be liable for fines for failing to control/contain a dog.
44. The dog containment standard provides flexibility for dog owners to contain dogs in such a way that fits the nature of the property. However, more certainty could be provided about acceptable methods for containing dogs. Note that the Council considers it an unreasonable requirement for all dog owners to fence their properties. Such a requirement would load unnecessary costs onto responsible dog owners and the Council in form of compliance and monitoring work.
45. Where containment of a dog is considered inadequate, for example, where dog control officers respond to complaints of a roaming dog, the Council works with the

dog owner to ensure measures are put in place to prevent the dog freely leaving the property.

Q 8.2 Should the standard for containment of dogs be increased?

46. As noted above the Council believes the dog containment standard is generally adequate, but that more guidance and educational material could be provided to dog owners about best practice for containing dogs.
47. As noted in option 3, the Council considers that the containment standard for dogs classified as menacing should be increased to the standard of dangerous.

Submission on option 8

The Council believes the Act makes it clear that dog owners must contain their dogs and provide proper care to the dog in doing so. However the Council recommends that the Department of Internal Affairs develop dog containment guidelines which set out best practice options for dog owners.

Option 9: Round up and faster destruction of unregistered dogs

Q 9.1 Should councils be required to round up unregistered dogs?

48. The Act places clear obligations on dog owners to register dogs and provides territorial authorities with the necessary tools to manage unregistered dogs. For example it is an offence under the Act (s42) to fail to register a dog, and territorial authorities have powers to issue infringement fines, and dog control officers may enter on to private land to seize and impound unregistered dogs. The Council considers it has a duty to follow up on unregistered dogs in the district as the Act is presently drafted.

Q 9.2 Should councils be able to destroy unclaimed, unregistered dogs in less than seven days? Q 9.3 If not, what should the minimum period be?

49. The holding period for an impounded dog has progressively reduced over time from 21 days, to 14 days, and presently stands at 7 days. The Council considers that 7 days is a reasonable period of time for the recovery of an impounded dog. Any further reduction in time may result in dogs being destroyed before their owners can retrieve them.
50. Further, the Council notes that important issue about impounding is that it results in roaming, unregistered dogs and dangerous dogs being taken out of the public domain. In this context the focus is on public safety, not on how quickly a Council can destroy a dog.

Submission on option 9

The Council considers that territorial authorities already have a duty to follow up on unregistered dogs and that this is a reasonable expectation implied in the current legislation.

The Council recommends that the minimum period of 7 days be retained before an unclaimed dog can be legally destroyed.

5. Conclusion

The Wellington City Council is supportive of measures to improve dog control in the interests of community wellbeing. This submission outlines the Council's views on how the framework for Dog Control in New Zealand can be improved.

Thank you for the opportunity to comment on the consultation document.

Yours Sincerely

Kerry Prendergast
MAYOR

Appendix Two

Submission from the Wellington City Council on the Policing Bill

Introduction

The Wellington City Council welcomes the opportunity to comment on the Policing Bill. The Council agrees that there is a need to modernise policing legislation and to ensure a robust and strategic framework to underpin the work of the New Zealand Police.

The Council believes that the Bill provides an opportunity for local government to work more closely with the Police in their communities. This could impact on how priorities are determined, how services are delivered, and how accountability for public safety is achieved.

The Council's submission reflects its commitment to advocating for effective engagement between itself, the community and the Police to support an appropriate focus for policing in Wellington City.

The Council's continuing positive relationship with the Police is an important component of its commitment to keeping Wellington a city that is safe and attractive to live, work and play in.

The Council considers police administrative practice should be timely, efficient, effective and respectful of human rights and diversity.

This submission also identifies policing issues which are specific to Wellington as the nations' capital city, a regional centre of employment and entertainment and a growing tourist destination with the potential for further growth.

General View

The Wellington City Council generally supports the Policing Bill and wishes to make the following points.

The particular needs of Wellington City

With some exceptions for centralised police services and diplomatic protection services, the allocation of policing resources (police capacity) for Wellington is primarily based on a population ratio formula. However, Wellington holds a unique position as the capital city of New Zealand and as the premier regional hub. In addition to its large residential population base, it has policing needs which are generated by being:

- the seat of Government – as the nation's capital, Wellington policing must reflect the ambassadorial, ceremonial and security responsibilities it carries. State and head of government visits, for example, pose major challenges for the police in terms of security, logistics and resources and have significant impacts on the policing requirements for the city

- a regional focus for entertainment and services – a large number of people from neighbouring districts visit Wellington for its cultural, artistic and entertainment opportunities
- the employment location for a very large number of workers who commute daily from surrounding districts, and further away
- a major tourist centre for both domestic and international visitors to New Zealand – Wellington earns a high profile and is important to the nation's international reputation
- the base for many companies, drawing significant international investment to New Zealand.

Recommendation

The development of the legislation should include provisions that allow for:

- adequate provision of policing resources that recognise the special nature of Wellington City, both as national capital and regional centre.

Specific Comments

Engagement between the Police and the Council

The Council supports the view that policing is a shared responsibility and that local authorities can work with Police to support the social well-being of communities. The Council contributes to crime prevention with community safety initiatives, regulatory activities, environmental design and planning processes.

The Council agrees that effective policing relies on a wide measure of public support and confidence and includes collaborating with individual citizens, or agencies or bodies other than the Police.

The Council considers that public support and confidence will be enhanced through Police working closely with local government. The Council strongly supports the enhancement of liaison with the New Zealand Police to identify local priorities and develop strategies to develop safer communities.

The Council considers that a robust framework is required to clarify roles and responsibilities and to provide guidance for the development of the necessary relationships.

Recommendation

The development of the legislation should provide a framework that strengthens the relationship between councils and Police with a view to:

- improving community safety
- recognising community priorities identified in the Long-Term Council Community Plan (LTCCP) in terms of resource allocation
- facilitating the exchange of information.

Powers relating to the care and protection of intoxicated people

Alcohol related harm and substance abuse is an issue for the Wellington community and must be met with realistic and practical responses. The Council supports provisions that enable the Police to take incapacitated people into custody as a protective measure as a last resort if it is not practicable to take the person to their home or to a shelter. The Council considers that protective custody for intoxicated persons fits well with other city safety strategies being implemented in Wellington.

The Council supports initiatives to reduce the burden on the justice system. The Bill authorises the detention of intoxicated persons where they are incapable of protecting themselves from physical harm, likely to cause physical harm to another person or significant damage to any property. This is an appropriate intervention tool and is complemented by the Council's Liquor Control Bylaw (LCB). The Bylaw is used as an early intervention tool, in that people in breach of the Bylaw are warned and given an opportunity to comply with the Bylaw.

The Council also supports further consideration of the Police's ability to use infringement notices for lower level offences, in that an instant fine will serve as an appropriate penalty for minor anti-social liquor related behaviour.

Recommendation

The development of the legislation should include provisions that allow for:

- infringement notices to be used for minor liquor related offences.

Temporary closing of roads

The proposed temporary closing of roads is intended to provide protection for the public and to assist officers in investigation of serious offences. It is recognised that this provision is often for emergency situations and that forewarnings of closure are not always possible; however as a road controlling authority, the Council seeks an amendment so that the exercise of police powers to temporarily close roads requires Councils to be notified as soon as practicable. In this way, good communication will result in coordinated and efficient temporary road closures, with minimal disruption to other road users.

Recommendation

The development of the legislation should include provisions that allow for:

- councils to be notified of temporary road closures.

Conclusion

The Wellington City Council is supportive of the Policing Bill and welcomes the opportunity for local government to consider its relationships and involvement with Police. This submission outlines the Council's views on how the legislation can be enhanced.

Thank you for the opportunity to comment on the Policing Bill.

Oral Presentation

Please note that representatives for Wellington City Council wish to appear before the Committee should oral submissions be received.

Yours sincerely

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