

Freepost 172189
Strategy & Research
Hamilton City Council
Private Bag 3010
Hamilton 3240
New Zealand
info@hcc.govt.nz

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Dear Mayor and Councillors

re: Hamilton Safety in Public Places Bylaw 2014

The Architectural Centre has very recently become aware of your proposed Safety in Public Places Bylaw and understands this to be part of a broader range of initiatives encompassed by the Hamilton Central City Safety Plan, which was adopted by council in September 2014. The Architectural Centre is an incorporated society dating from 1946, which represents both professionals and non-professionals interested in the promotion of good design. While our prime focus is usually Wellington's built environment, we are conscious of national issues pertinent to the built environment, and see your bylaw as potentially having precedent effects, hence our submission.

We strongly support the city's assertion that "Every member of the public has the right to enjoy public places that are accessible, safe, free and inclusive" (Statement of Proposal p. 3). However, we do not consider that the bylaw, even when considered within the wider initiatives of the City Safety Plan, achieves the aim to ensure that "Public places are used and enjoyed by everyone in the community" (Statement of Proposal p. 3). The City Safety Plan's concerns include communication strategies (council information, signage and education), surveillance (CCTV network expansion, police and Māori warden patrols), anti-litter, anti-graffiti and anti-smoking enforcement and alcohol control (bylaws, policy, collection, removal, spatial control, rubbish bin design and installation). We do not consider that the broader policy adequately addresses the complex social issues that the mayor, on National Radio this morning, stated that it does.

The bylaw states that its purpose includes protecting the public from nuisance and minimising "the potential for offensive behaviour in public places" (p. 2). It defines "Offensive behaviour" as "Behaviour in a public place that is capable of arousing real anger, resentment, disgust or outrage in the mind of a reasonable person in the circumstances in which it occurs" (p. 3). We note that "public" is not defined in the bylaw, nor is "real anger" or "reasonable person." The bylaw includes begging, riding a skateboard, and sleeping as nuisance behaviours. We note that skateboard is defined as not including "a cycle, scooter, roller skates, roller blades, in-line skate or a mobility device such as wheelchair or pushchair."

We oppose this bylaw for the following reasons:

1. The bylaw prejudices against skateboarding as a form of exercise, while explicitly allowing other wheeled-vehicles powered by human-beings that are likely to cause similar degrees of public "nuisance." This suggests to us that the bylaw is prejudice against the likely users of skateboards, rather than any nuisance caused by riding human-powered wheeled-vehicles. This discrimination appears to us to be at odds with the intention of the Human Rights Act. This will also marginalise users of skateboards who are simply



the architectural centre inc.
PO Box 24178 Wellington

getting exercise outdoors - why criminalise this? Perhaps dedicated and well-designed skatepark facilities downtown, near other inner-city facilities, would be a productive way of concentrating skateboarding, and reducing possible skateboard pedestrian conflicts in other public spaces.

2. The proposed bylaw implicitly defines those who have significant welfare and social problems as no longer having the right to use public places in Hamilton. We acknowledge that there has been a significant increase in beggars and homeless people on Wellington's streets in very recent years, so can understand there might be increases in other New Zealand cities. This is likely to be caused by a reduced effectiveness of social policy and welfare measures at local and central government level. It is a societal and systemic issue that will not be resolved by the criminalisation of the people who these policies and regulations impact on.
3. Some of the behaviours identified (i.e. begging and sleeping rough) will not be resolved by any measures prescribed in the bylaw or articulated as actions in the Central City Safety Plan. Instead of this bylaw, there is a need to put in place measures to support homeless people and beggars. Councils need to lobby central government to provide better and more welfare and mental health services to support people, rather than implementing short-sighted measures such as criminalising homelessness and begging.
4. Related to the above is the shortage of social housing and homeless shelters. While we are not aware of the services provided in this regard by the Hamilton City Council, the fact that this bylaw is being promoted is a sign that local services are insufficient or inadequate in some way. We encourage the council to look to increasing the provision of social housing by local and central government in Hamilton, and to the provision of homeless shelters, including wet shelters, by the council. Provision of council infrastructure for homeless people can also be more innovative than this. We note that Enghave Mini Park in Vesterbro, Copenhagen (<http://cphnews.mediajungle.dk/archives/17>; http://www.world-architects.com/en/projects/40489_Enghave_Mini_Park) is a space specifically-designed for socially marginalised people, who were also involved in the park's design. This is a model not only for the physical provision of urban space, but also a model for a process of actively involving people, who might otherwise be marginalised or criminalised.
5. We also understand that the introduction of drug and alcohol courts have also been successful in addressing issues of crime, helping people to get the support that they want and need. We encourage the council to advocate for local drug and alcohol courts if they are not already available in the local court system.
6. We are concerned that the bylaw will infringe on basic democratic rights to protest. The bylaw would target, for example, members of the Occupy movement. Urban spaces have historically been places to promote different views (e.g. Speakers' Corner in Hyde Park). Remember historically people have offended others in order to give women and Māori the right to vote, ban slavery, and allow homosexuals to marry. We do not think that this is the intention of the bylaw, but broadly defining "Offensive behaviour" in the way that the bylaw does will confine the right to be offended, which is an essential part of any democratic place.

In closing we strongly support the stated philosophy of the council that urban and public space is for all of its citizens. We also support any initiatives to make the built environment a better place. We equally strongly urge the council to address

the causes of homelessness and begging rather than criminalise those who are negatively affected by those causes.

best regards



Christine McCarthy
President
Architectural Centre
arch@architecture.org.nz