

Auckland City Centre Resident's Group

Feedback To Auckland Council
Submission From City Centre Residents Group (CCRG)
Subject Public Nuisance Safety and Nuisance Bylaw Review
Date May 2017

Overview

The CCRG understands that the primary concerns around this bylaw in the central city area relate to intensification of development. This has created issues around nuisance and conflict over the use of communal/public spaces. Our submission will focus on these two broad areas of nuisance and, for ease of reference, we will respond to the questions raised.

Is the problem that the bylaw sets out to address still a problem?

This bylaw is only three years old, so the need to review it now suggests that it was either poorly drafted in the first instance, or there has been a very sudden change of circumstances, or Council has been unable to devote the necessary resources to enforce it.

The purpose of the bylaw is difficult to fault -

The purpose of this bylaw is to: (a) protect the public from nuisance, promote and maintain public health and safety and minimise the potential for offensive behaviour in public places; (b) manage and protect from damage or misuse land, structures, property and assets owned, managed or under the control of the council; (c) regulate the display of street names and the identification and numbers of premises.

The definition of nuisance is also difficult to fault –

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

The description of a public place similarly is quite clear -

Public place— (a) means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and (b) includes any hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

In relation to the city centre, the review has identified a range of issues that impact on residents and visitors, namely –

Begging (nuisance, obstruction, disturbance) linked to rough sleeping/homelessness;
car window washers;
playing an instrument/using a PA system in public;
storing/packing goods in public places;
mind-altering substances (consume, inject, inhale);
erecting structures in public places;
depositing or removing matter/materials;
skate-boarding;
graffiti vandalism;

Feedback from our members would confirm the above nuisance activities, with the level and occurrence changing between sites, e.g. skateboarding in areas with suitable infrastructure for that activity; begging in areas of high pedestrian activity.

Feedback also suggests that the level of nuisance for all the above is increasing, so the response to the question posed (Is the problem that the bylaw sets out to address still a problem?), is YES.

How effective has the bylaw been in achieving the policy intent?

By its own definition, Council has confirmed that the bylaw has not been effective because the level of nuisance has increased. As this increases, the level of safety for residents and visitors decreases, thus perpetuating a downward spiral for everyone.

What other, regulatory or non-regulatory measure can council adopt to address or mitigate the problems identified?

We would suggest that each of the nuisance activities requires quite different solutions. Therefore, we will address them on that basis.

Begging (nuisance, obstruction, disturbance) linked to rough sleeping/homelessness; mind-altering substances (consume, inject, inhale);

There are two aspects of begging – the first is from those who are soliciting money to meet their own personal needs, and the second is ‘Chuggers’ who have been engaged to extract money from pedestrians for some organisational purposes. Feedback from our members suggests that there is little difference between the two in terms of nuisance, as both have varying quantities of obstruction and aggression.

However, the latter numbers are not sufficiently high enough to suggest it is not capable of being monitored and enforced. Chugger permits need to ensure that pedestrians don’t have to run an impenetrable gauntlet of them across several adjacent intersections, and have a fee capable of funding monitoring of their activity with fines (forfeiture), for those operating without a permit.

It is the firmly held view of the CCRG members that there is no excuse for homelessness in New Zealand and we are not prepared to accept any.

The majority of people begging often have little control over how they reached that situation, and are generally the most vulnerable people in our society who require a very high level of care. Many have suffered major emotional trauma and/or physical abuse and more often than not suffer ongoing mental health issues, addictions, alcoholism and similar issues, that may lead to anti-social behaviours.

As mentioned, the responsibility for providing mental health care and services to New Zealanders sits with government, and we expect them to meet those responsibilities. Focussing the conversation around homelessness belittles the plight of these people—mental health care needs to be properly provided for those who need it along with the residential facilities each of them requires, depending on their circumstances.

Car window washers;

Security guards at trouble spots is the best option for this activity, on the basis that prevention is a much better option than any legal process involving courts. Our second suggestion is to turn the tables and provide fines for any vehicle driver who supports the activity - achieved with the provision of quality CCTV cameras followed up by infringement notices. Having security personnel hand out information material to drivers on how they deal with the issue would also be worth investigating, as many drivers are not sure how they should respond to aggressive car window washers.

Playing an instrument/using a PA system in public;

Amplified music is one of the fastest growing nuisance aspects in the city centre. While busking is an age old, and generally supported activity, buskers do not always require amplification – the whole point has always been to encourage immediate passers-by to stop and listen and if the performer was good enough they could earn some money. However, buskers on noisy streets have to contend with the noise of traffic, particularly buses, which are much too noisy but it is not difficult for permits to specify the appropriate levels.

It is long held premise in New Zealand that no person or entity has the right to interfere with another's use and enjoyment of public space. All amplification in a public space, including streets, should require a permit and with strict noise limits together with a fee capable of funding the activity. 24-hour monitoring with a warning for offenders followed by forfeiture of equipment for subsequent offences should help to minimise the level of nuisance.

Of equal concern is the increasing number of commercial premises that have installed speakers on the outside wall of their premises, blasting music out into the public space. We would request that this be a non-permitted activity, and all speakers are removed either voluntarily or by enforcement.

However, in the central city very loud amplified music/PA's have become the norm, with many of the activities supported by the Auckland Council family, authorising sound at levels that damage hearing. The CCRG will be corresponding within the next month on that issue, which is outside the parameters of this review.

Storing/packing goods in public places; erecting structures in public places; depositing or removing matter/materials.

Our members suggest that the levels associated with this activity are not so high that they cannot be monitored within the existing bylaw provisions and resources, taking into account the needs of those who temporarily live on the streets because they have nowhere else so live.

The exception to this is commercial refuse, which has now become a major issue around Lorne/High/Rutland Street. Residents do not accept that ANY refuse should be left on a street. It is perfectly manageable for regular pickups of refuse from commercial premises

during normal working hours and if a property requires a more regular pick up they can arrange it themselves.

The premise that small retail/commercial properties do not have enough space to store their refuse is not accepted – if property owners **choose** to utilise all of their space for commercial activity they cannot expect the public to subsidise that decision by permitting refuse associated with the business to be dumped on a public space.

Skate-boarding;

Along with amplified music/PA systems and noisy vehicles, skateboarding is seen by many as a huge nuisance in the central city. The nuisance involves noise, damage to public property, abusive and aggressive behaviour, and the deliberate personal use of a public space in a manner that prevents other use.

Why this is allowed – actually encouraged – by Auckland Council is a mystery to **many** central city residents. Skateboarding is a sport no different from tennis, football, hockey, rugby in that it is now to be included in the Olympics. Four tennis players taking over Aotea Square for a three-hour daily match and preventing others from using the space would not be tolerated and neither should it be.

However, none of the other activities causes the damage to public infrastructure that skateboarding does, and neither do they create the same level of noise nuisance. It is dismaying to note that outside the central library the yellow bubble strips installed to assist blind people from falling down the steps have been removed so that skateboarders can jump onto a piece of expensive public art – and nothing has been done to prevent/repair it.

It is the view of the CCRG that skateboarding should be prohibited in all public spaces other than designated facilities. Residents and visitors should not be subjected to the noise and nuisance of this activity as it also presents a major health hazard from run-away skate boards – more particularly for small children playing in an open public space.

As a first step, we would suggest having a regular security staff presence in the trouble spots for six months or so. We would also recommend that all public space be constructed in a manner that prevents use by skateboarders. This will involve some retrofitting but much of that can be achieved with simple hand rails spaced close together (library steps, Federal Square, Aotea Square, etc), edge nogs such as those on the Lorne Street seating, raised strips across hilly paths/streets to prevent speeding downhill, installing rough edge strips that are specifically designed for the purpose, etc.

Of all the nuisance activities, this is the easiest to enforce, based on the forfeiture principle.

Graffiti vandalism;

This is a problem that has been around for a very long time, with the best solution still being the fast removal of material. Better still is to have regular blitz's working from CCTV and where possible requiring the perpetrator/s to remove it or to repair the damage caused e.g. scratching windows and other glass surfaces.

What do future scenarios for the growth of public safety and nuisance issues mean for our ability to effectively enforce compliance?

It is difficult to imagine that this would, or should, be any different than in the past. Make good laws (bylaws) and enforce them using the abuser pays principle? We certainly trust that the initiative behind the review of this bylaw is not intended to be a lowering of behaviour standards in public spaces, as that is simply unacceptable to residents in the central city.

Without regular 24/7 determined efforts to enforce the bylaw the nuisance and safety issues will increase and over time this will result in a city that nobody wants to live in or visit.

We would appreciate the opportunity to engage further with council on the review of this bylaw.

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