

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Hearings and Engagement Committee will be held on:

Date: Tuesday 25 August 2020
Time: 9.30am
Meeting Room: Audio-Visual Link
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Hearings and Engagement Committee

Komiti Whiriwhiri Kaupapa

OPEN AGENDA

Membership

Chairperson Cr M Gallagher
Heamana

Deputy Chairperson Cr E Wilson
Heamana Tuarua

Members	Mayor P Southgate	Cr S Thomson
	Deputy Mayor G Taylor	Cr M van Oosten
	Cr M Bunting	Cr A O'Leary
	Cr M Forsyth	Maangai Bella Takiari-Brame
	Cr R Hamilton	Maangai Norm Hill
	Cr D Macpherson	Maangai James Whetu
	Cr K Naidoo-Rauf	Maangai Olly Te Ua
	Cr R Pascoe	Maangai Te Pora Thompson-Evans

Meeting frequency As required

Quorum Three members (for matters relating to those functions in paragraph 3 and 4 of the TOR or a majority of members (including vacancies) for all other functions).

Becca Brooke
Governance Manager
Menetia Mana Whakahaere

18 August 2020

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Purpose

1. To conduct fair and effective hearings and make determinations on a range of the Council's quasi-judicial functions under legislation and other matters as referred to the Committee.
2. To convene and coordinate advisory groups on matters referred by other Committees.

The Committee is delegated the following Terms of Reference and powers:
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Terms of Reference:

1. Hear and determine any statutory or regulatory hearings under relevant legislation unless otherwise delegated by Council, including (but without limitation):
 - objections under the Dog Control Act 1996;
 - matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002;
 - proposals for temporary closure of any road.
2. Consider and determine changes to the registers and restrictions in the Traffic Bylaw and Speed Limit Bylaw, including hearing any submissions relating to those proposed changes.
3. Hear and determine matters arising under current bylaws and policies, including applications for dispensation from compliance with the requirements of bylaws or policies, unless such matters are otherwise delegated by Council.
4. Hear and determine other matters that require hearings or submissions, as referred by Council or other Committees.

The Committee is delegated the following powers to act:

- Approval of matters determined by the Committee within its Terms of Reference.
- Approval of the establishment of hearings panels and their terms of reference.

The Committee is delegated the following recommendatory powers:

- The Committee may make recommendations to the Council.
- The Committee may make recommendations to Committees.

Special Notes:

- The Committee may request expert advice through the Chief Executive when necessary.
- The Committee may appoint additional members for hearings where the relevant terms of reference specify the requirement for expert or external representation.

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1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Committee to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

Council Report

Item 4

Committee: Hearings and Engagement Committee

Date: 25 August 2020

Author: Sandra Murray

Authoriser: Jen Baird

Position: Consultant

Position: General Manager City Growth

Report Name: Safety in Public Places Bylaw submissions report

Report Status	Open
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Purpose - *Take*

1. To inform the Hearings and Engagement Committee of the submissions received in response to public consultation on the review of the Safety in Public Places Bylaw 2014.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Hearings and Engagement Committee:
 - a) receives the report;
 - b) hears and considers the submissions for the Safety in Public Places Bylaw review; and
 - c) notes that a Deliberations Report for the Safety in Public Places Bylaw review will be considered at the 29 September 2020 Community Committee meeting.

Executive Summary - *Whakaraapopototanga matua*

3. The Council is required to review its Safety in Public Places Bylaw 2014 (the Bylaw) (**Attachment 1**) to meet its legislative requirements under the Local Government Act 2002 (s159, the LGA).
4. This requirement provides an opportunity for the Council to engage the community on how the current Bylaw is working and to consider feedback.
5. At a meeting on 19 May 2020, the Council resolved that the bylaw is the most appropriate way of addressing the perceived problems in relation to controlling nuisance behaviour in Hamilton and approved the proposed Bylaw for public consultation for one month from 1 June to 30 June 2020.
6. At this meeting, members of the Hearings and Engagement Committee will hear from those submitters who wish to speak to their written submission.
7. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Background - *Kooreo whaimaarama*

8. Hamilton City Council has an existing Safety in Public Places Bylaw 2014.

9. Staff consider that the existing Bylaw is fit for purpose and recommended minor amendments to provide clarification and better alignment with recent amendments to the Psychoactive Substances Act.
10. The purpose of the existing Bylaw is to set controls and assist staff to manage nuisance behaviour within Hamilton.
11. Nuisance behaviour is defined in the bylaw as:
 - Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or causes an unreasonable interference with the peace, comfort or convenience of any person.
 - Sleeping in a public place in such a way as to cause an obstruction.
 - Urinating or defecating in a public place other than a toilet.
 - Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place.
 - Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.
12. Staff note that no prosecutions have ever been taken under the Bylaw.
13. The Bylaw is a useful tool for staff to refer to when managing public behaviour, as it provides clear direction on what constitutes nuisance behaviour when in discussion with a person on the street.
14. Proposed amendments included:
 - The Bylaw includes “Riding a skateboard within the areas defined in the Skateboarding Prohibited Areas Register” as nuisance behaviour. Staff recommend all reference to skateboarding as a nuisance behaviour is removed as:
 - few problems have been encountered from skateboard use; and
 - attitudes towards skateboarding have changed, with active transport options (such as skateboarding and using scooters) now viewed as part of the range of transport options available to people.
 - Amendments to the definition of ‘psychoactive substances’ and the removal of ‘mind-altering substance’ to clarify these substances in light of previous changes to the Psychoactive Substances Act and future potential changes to cannabis legislation.
15. If the recommendations are not approved by the Council, skateboarding will continue to be considered nuisance behaviour in some situations; there may also be potential for confusion regarding the intent of the Bylaw, particularly with potential future changes to cannabis legislation.
16. Staff consider the matters in this report to have a low significance and that the recommendations comply with the Council’s legal requirements.

Discussion

17. Public consultation occurred for one month from 1 June to 30 June 2020, resulting in a total of 105 submissions. This number includes submissions from 10 organisations.
18. Stakeholders were notified of the opportunity to provide feedback on the proposed amendments through the Council’s website and newsletters, via the Hamilton Central Business Association and via direct email from the Council’s database of central city businesses.

19. The proposed bylaw and Statement of Proposal are attached to this report.
20. Ninety-three submitters (89%) supported the proposed Bylaw with minor amendments; 11 submitters (11%) supported the continuation of the current Bylaw (without amendments).
21. Seventy-nine submitters (75%) indicated they lived in Hamilton, and 27 submitters (38%) lived outside of Hamilton. Three submitters did not provide a response.

Key themes from the 89% of submitters who supported the continuation of the current Bylaw with minor amendments:

22. Themes:

Theme	Example Comment
Should not differentiate between skateboards and other active modes of transport	<i>"I support a blanket removal of skateboarding from the bylaw. A comment on the Facebook post leads me to add that I would be strongly opposed to any version of the bylaw that differentiated between skateboarding for transport and skateboarding for leisure more broadly. Both are valid and neither should be categorised as nuisance behaviour."</i>
Skateboarding – Is not a crime	<i>"Skateboarding is not a crime! I regularly use it as form of transport to get around NZ cities"</i>
Skateboarding – Healthy and active / a sport	<i>"Skate boarding is not a public nuisance. Not only is it a mode of transportation it is a sport, art and leisure and it is ones right to express and exercise this freedom."</i> <i>"Skating deserves as much respect as other sports. Rugby players have the field and we have skateparks and streets. The streets are our playground and all the skaters i know respect the public and understand if were being disruptive."</i>
Skateboarding – Good for the environment	<i>"Skateboarding is good for transport and eco friendly."</i> <i>"Skateboards, scooters and the like have become genuine, environmentally friendly alternatives modes of transport and it would be a shame to not recognise this in the Bylaw."</i>
Skateboarders are mostly responsible	<i>"Skateboarders are generally courteous and considerate and should not be discriminated against."</i>
Skateboarding – Good for teens	<i>"It's a great creative outlet for teenagers and is often a hobby that people continue with into their later years - not to mention a great source of transport."</i> <i>"Skateboarding is a break away gives kids the chance to express freedom and creativity, i believe it will help reduce mischief and also encourage kids to move away from computer games having more freedom to skate different places."</i>
Skateboarding – Good for mental health / well-being	<i>"Skateboarding is not a crime and never has been. It's a form of transport for some and an escape for others to enjoy and express themselves."</i> <i>"To support skateboarding is to invest in wellbeing and zero-carbon transport. I have worked with the Wellington city council in publishing their skate engagement report and they are in strong agreement that skateboarding promotes mental health, physical exercise and community."</i>
Council to be more in touch with young people	<i>"Skateboarding is a form of transport for our future ratepayers. Include them in the city. It's their city too."</i> <i>"Skateboarding, scooters and bikes are a green form of transport and a minor change to the bylaw reflects changing trends and attitudes."</i>

Skateboards – Removal of stigma	<p><i>"I skateboard to school through town. I am scared my skateboard will be taken off me and I am worried that old people think I sell marijuana because I ride a skateboard."</i></p> <p><i>"Skateboarding is a mainstream form of transport for many in 2020, it has transcended it's stigma of troublesome youth, and provides a clean, green means to get around for people of all ages now. New Zealand leads the way in changing these policies and being a place that is accepting of all, now, in a world torn apart by division, it is evermore important to accept each other, to show kindness, and remove the bias that have long been held against people who ride skateboards. Do the right thing and move forward."</i></p>
Skateboarding - Praise for Council	<p><i>"I think it's about time, and I'm glad the council has considered this change."</i></p> <p><i>"It's been amazing to see Hamilton finally funding some upgrades to the current skateparks after the most popular place (the Melville skating rink) was made unusable for skateboarders for the last 5-10 years. It seems like this change to the current Bylaw is the final piece to push skateboarding in Hamilton and kill the false stigma that once surrounded it."</i></p>
Encourage a vibrant CBD	<i>"More people and activity in the CBD will provide more economic stability for local businesses, if there are designated areas which encourage skateboarding it will confine skateboarders to that area lessening damages to surrounding private property. An active CBD will encourage community engagement, social interaction and diversity."</i>
Better use of public spaces	<i>"Skateboarding is a good use of public space. More public spaces should allow skateboarding or ideally be designed / re-purposed to encourage skateboarding and similar activities."</i>

23. Seven submitters indicated "No" to the question "Should Hamilton continue its current Hamilton Safety in Public Places Bylaw with the proposed minor changes?", while making comments that clearly indicated support for removing the ban on skateboards.
24. Where it is clear the submitter supported the removal of the ban on skateboards, staff have counted the submitter as a 'Yes'. All examples of these cases are below:

Comments made by seven submitters who selected 'No' but made comments that indicated they meant 'Yes'
<i>"Well I see it that a person that has no idea that can ride a line scooter but then a person like myself has been riding a skate board for 20+ years is not allowed. Skateboarding is not a crime"</i>
<i>"At this point I don't see any reason to stop skateboarding. The majority of people are responsible. If everyone is happy enough with lime scooters throughout the city centre, it's a bit hypocritical to allow them and no skateboarding. Better yet you could provide a safe place for people to skate. Most of the parks with skating areas are always popular. Perhaps another option is to trial things with no ban and see how it goes? The only concern I would have is about pedestrians, but again, if lime scooters have been fine, I doubt it would be a problem."</i>
<i>"If we are willing to allow other forms of transportation, for example Lime scooters, why not skateboards. In the past I have had a skateboard impounded for a week due to skating in garden place and although this was a long time ago, I'd rather it not happen to others. Hamilton has a rich history with skateboarding even on an international scale which we all see but take the risk to participate with your \$20 impound fee but worse losing transport for a week. Although section 11 of the LTSA exists and we can skate on the road it's not a safe option for people considering tight roads in the cbd."</i>
<i>"I'm an avid skateboarder. I love to commute and explore the city and passing through the CBD is awesome seeing all the changes taking place and buildings being revitalised. I have had my board confiscated for skating around the council building so most of the time we prefer to skate at night with less people around. Also I went to Wellington for a skate trip and their Town Hall had a shared walking/skateable space for where it was it was"</i>

<i>relatively busy with families, tourists, skateboarders and people. I have a couple of photos and videos of it I can upload to you as well to reference."</i>
<i>"Skateboarding is equally as safe as riding a bike, driving a car, riding a horse or walking a dog. Skateboarding is a great way to get around shops or to collect groceries from the butchers or vegetable stores. (Sorry can not comment on supermarkets since I refuse to use them) Some days I travel 15km to and from work and out to Melville from Frankton in order to get a little exercise. (I feel naked without a skateboard by my side, in much the same way as I feel lonely without our heritage herds in our forests)"</i>
<i>"Skateboarding and BMX needs to be legal to express there art form and not be under a criminal agrigore by the public and law."</i>
<i>"Lift the Skateboarding ban."</i>

25. All 10 organisations who submitted on the Bylaw supported the proposed changes.

Organisations submitting in support of the proposed changes to the Bylaw	
<ul style="list-style-type: none"> • Acid NZ ltd • Backdoor surf shop • Emergency Accommodation Trust (E.A.T) • Hamilton Central Business Association • Htown Skate Project (HSP) 	<ul style="list-style-type: none"> • Kingswood • NZ Freestyle BMX • Onboard Skate School • Skateboarders of Hamilton city • Slide hustle New Zealand • Wellington Longboard Association

Key themes from the 11% of submitters who supported the continuation of the current Bylaw (without amendments):

26. Themes:

Theme	Example Comment
Skateboards - Safety	<i>"Besides the elderly who would be anxious mothers coming into the City for School holiday treat have, besides worrying about young children crossing the roads will have to be alert - children move so quickly and would not be aware of imminent danger."</i>
Skateboards – Skateboarders lack care of others	<i>"I believe Skateboards should still be classified as a nuisance to the public. Majority of those i have witnessed in the CBD lack care of others personal space. Electric scooters in the CBD is generally okay being that it has a motorised engine people tend to use alot more caution using it around others where as a person on a skateboard would not."</i>
Skateboards - Noise	<i>"My concern is with the use of skateboards. I am in agreement that as a form of transport, they are on a par with the e scooters, etc, with 2 differences. A) a large percent of them are quite loud, exaggerated by the "cobblestones" in CBD B) There is a reasons skate parks are in open spaces such as parks. The acrobatics and moves made by them are extremely loud, constantly intrusive, and whilst I admire their athletic prowess, as a resident of Garden Place, it is almost mentally disturbing to have to listen to it And we do, as even now, there are groups of up to 8 skateboarders doing leaps and jumps off the stage in the evenings, and weekends. Nothing is done about this. It is so disturbing. So I BEG you, please do not allow skateboarding except as a through means of transport, with notation about the nuisance aspect. If this is about "rights" my rights need to be considered as well. Thank you."</i>
Skateboards – Resident concerns	<i>"I live in garden place, and skateboards, to put it mildly are a nuisance. Youths use them at high speeds, potentially knocking pedestrians over. It is my belief that skateboard use should be confined to designated skate parks or specifically designated spaces."</i>

	<i>"... those who use skateboards in Garden place, tend to use the available tables and seating outside as a makeshift skate ramp. The behaviour is both inappropriate, and dangerous as these manoeuvres can result in injury, either to a skateboard user, or a pedestrian."</i>
Skateboards - Not in CBD	<i>"I am completely against skateboards in the CBD area particularly in Garden Place."</i>
Skateboards - Only allowed in CBD	<i>"Skate boarding should only be allowed in certial places in the city like in the square"</i>
Wider concerns around active modes of transport)	<i>"It already not that safe from scooters reintroducing skate boards will make it worse"</i>

27. One submitter indicated "Yes" to the question *"Should Hamilton continue its current Hamilton Safety in Public Places Bylaw with the proposed minor changes?"*; while making a comment that clearly indicated they did not support removing the ban on skateboards.

28. This submitter was counted as a 'No' and their comment is as follows:

"I feel firm on this for the safety of our elderly and our younger citizens. After all if a person on a skateboard / scooter was to bang into my mother (intentional or not) with how frail her skin and her bones are (even though you can't tell that just looking at her) they would do serious damage. There are also other people in our communities like this.

My daughter who is autistic struggles enough with the noises and movement of pedestrians and vehicles as well as the noise, which makes taking her shopping anywhere hard - the noise that skate boards and scooters make along the footpaths are particularly bad triggers not just for my daughter but also for a friend of hers who is on the spectrum.

If you were to ammend the by law, please make it so the skate boards and scooters in the cbd need to be treated like vehicles and use the bike paths where available or the road. (As using the foot paths along with pedestrians would also make it easier for the opportunistic thief to snatch bags from people & we all know they go after our most vulnerable)

Please stick with the by laws and amendments. Thank you. I feel the risk is too high to remove the by law altogether"

29. Two submitters did not indicate support for either option. One did not comment and the other provided the following comment:

"Currently it is illegal to ride a pushbike on a footpath beside a road. It is however ok to rid on the river paths and some of the lake walkway. A bylaw is needed so it is SAFE for pedestrians and bikes (scooters etc) to co-exist. Bikes etc should all be expected to warn pedestrians they are approaching from behind and need to keep left as on a road. Have a look at the bylaws for cycling in Calgary, Alberta, Canada - They've got it sorted!!"

30. Submitters suggested the following amendments to the Bylaw:

- Require skateboards and scooters in the CBD to use bike paths where available or the road.
- Continue to treat loitering, damaging railings and curbs, 'doing tricks' or otherwise being disruptive as nuisance behaviour.

31. Submitters suggested the following general suggestions:

- Better education for active transport users and pedestrians on how to co-exist on roads and footpaths.

- Signage that relates to educating the public on the Bylaw to encourage appropriate behaviour. This should include visuals/images and wording that sends a positive message rather than all signage having the word No as a starting point. This would make the city communication friendlier and potentially achieve positive behavioural change.
 - Council should ensure public furniture is 'skateboard proof', as has occurred in Auckland.
32. Staff make no recommendations regarding these suggestions. However, if any amendments are to be made, further legal review is recommended, prior to change.
33. A full copy of the submissions is [available online](#).

Next steps

34. The next step in the process is that staff will prepare a deliberation report for the Council meeting on 17 Sept 2020.

Financial Considerations - *Whaiwhakaaro Puutea*

35. This is a regular operating activity funded through the Long-Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

Staff confirm that this matter complies with the Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

36. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
37. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
38. Each of the 4 wellbeings will be thoroughly analysed as part of the Safety in Public Places Bylaw Review as part of a wellbeing case.
39. The recommendations set out in this report are consistent with that purpose.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui* **Significance**

40. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Attachments

Attachment 1 - Hamilton Safety in Public Places Bylaw 2019 Review - Tracked Changes

Attachment 2 - Statement of Proposal - Safety in Public Places Bylaw

Hamilton City Council BYLAWS

Approved By: Council	Date Adopted: 27 November 2014
Date in Force: 15 December 2014	Review Date: 27 November 1 March 2019 2030

HAMILTON SAFETY IN PUBLIC PLACES BYLAW 2014

This Bylaw is made by the Hamilton City Council under the powers given to it by the Local Government Act 2002.

1. PURPOSE

1.1. The purposes of this bylaw are:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety; and
- c) minimising the potential for offensive behaviour in public places

2. APPLICATION

2.1. This Bylaw applies to public places in Hamilton.

3. DEFINITIONS

3.1. The following definitions apply to this Bylaw, except where inconsistent with the context:

Authorised Officer ~~Any enforcement officers appointed and warranted by Council under the Local Government Act 2002~~

A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Local Government Act 2002 section 177.

Council Hamilton City Council

Mind-altering substance ~~Means a synthetic or naturally-occurring substance which may alter consciousness or intoxicate. It includes psychoactive substances and substances used for glue sniffing, but does not include:~~

- ~~a) Medically prescribed substances ingested by the person who was prescribed them;~~
- ~~b) Substances purchased from a pharmacy without a medical prescription;~~
- ~~c) Caffeine;~~
- ~~d) Nicotine;~~
- ~~e) Alcohol as defined in the Sale and Supply of Alcohol At 2012.~~

Nuisance ~~Nuisance includes but is not limited to:~~

- ~~a) The definition in section 29 of the Health Act 1956 so far as it relates to Council functions;~~
- ~~b) A Nuisance behaviour.~~

Nuisance behaviour Nuisance behaviour includes:

- a) Begging in a public place in a manner that is likely to cause harassment, alarm, or distress to any reasonable person, or

Hamilton City Council BYLAWS

Item 4

Attachment 1

causes an unreasonable interference with the peace, comfort or convenience of any person.

~~b) Riding a skateboard within the areas defines in the Skateboarding Prohibited Areas Register.~~

b) Sleeping in a public place in such a way as to cause an obstruction.

c) Urinating or defecating in a public place other than a toilet.

d) Consuming, injecting, inhaling or ingesting a mind-altering substance in a public place.

e) Any conduct in a public place that is likely to cause unreasonable interference with the peace, comfort or convenience of a reasonable person in the circumstances in which it occurs, whether or not that person is in a public place, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.

Offensive behaviour Behaviour in a public place that is capable of arousing real anger, resentment, disgust or outrage in the mind of a reasonable person, objectively assessed, to the extent that it disturbs public order and is more than those subjected to it should have to tolerate.

Psychoactive substance Means the definition in s 9 of the Psychoactive Substances Act 2013, except that it **does include** a controlled drug specified in Schedule 1, 2 or 3 of the Misuse of Drugs Act 1975. ~~Means the definition in section 9 of the Psychoactive Substances Act 2012.~~

Public Place Public place includes any place or space that is not private property, and which is open to the public.

Skateboard ~~Does not include a cycle, scooter, roller skates, roller blades, in-line skate or a mobility device such as a wheelchair or pushchair.~~

Note: This bylaw is required to comply with the New Zealand Bill of Rights Act 1990, which protects freedom of expression among other rights. The mere fact of participating in a public protest will not, on its own, constitute offensive or nuisance behaviour. Public order is sufficiently disturbed if the behaviour causes offence of such a kind or to such an extent that those affected are substantially inhibited in carrying out the purpose of their presence at that place.

4. BREACH OF BYLAW

4.1. The following conduct is an offence under this bylaw:

- a) Nuisance ~~behaviour~~;
- b) Behaviour in a public place that poses a threat to public safety;
- c) Offensive behaviour;
- d) Failing to comply with any lawful notice or direction given under this bylaw;
- e) Obstructing or hindering any authorised officer in performing any duty or power conferred by this bylaw.

Hamilton City Council BYLAWS

~~5. CONTROL OF SKATEBOARDING~~

~~5.1. The Council may, by resolution, amend the scope of clause 4.1(a) with respect to skateboarding by adding, modifying or deleting an area to the Skateboarding Prohibited Areas Register.~~

~~6.5. PENALTIES AND POWERS~~

~~6.1.5.1.~~ Under section 242 of the Local Government Act 2002, any person who breaches this bylaw, commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

~~6.2.5.2.~~ Under section 163 of the Local Government Act 2002 the Council or an authorised officer may remove or alter any work or thing that is or has been constructed in breach of this Bylaw and may recover the costs of doing so from the person who committed the breach. This does not affect that person's liability for the breach.

~~6.3.5.3.~~ Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for an injunction restraining a person from committing a breach of this Bylaw.

~~6.4.5.4.~~ The Council or an authorised officer may seize and impound property materially involved in committing an offence, under sections 164 and 165 of the Local Government Act 2002.

~~6.5.5.5.~~ The Council will return or may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

~~6.6.5.6.~~ Under section 176 of the Local Government Act 2002 any person who has been convicted of an offence under this bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

The COMMON SEAL of the HAMILTON CITY COUNCIL
was hereunto affixed in the presence of:

Councillor:

Councillor:

Chief Executive:

Hamilton City Council BYLAWS

Explanatory Note:

This note is for information purposes and does not form part of this Bylaw. For guidance on how all other nuisance behaviours are covered by other Council Bylaws and Policies please refer to the Nuisance Behaviour and Policy and Bylaws table.

Nuisance	<p>Section 29 of the Health Act 1956 provides:</p> <p>Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:</p> <p>(a) where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health:</p> <p>(b) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health:</p> <p>(c) where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin:</p> <p>(d) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health:</p> <p>(e) [Repealed]</p> <p>(f) where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air space, floor space, lighting, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act:</p> <p>(g) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience:</p> <p>(h) where any factory, workroom, shop, office, warehouse, or other place of trade or business is not provided with appliances so as to carry off in a harmless and inoffensive manner any fumes, gases, vapours, dust, or impurities generated therein:</p> <p>(i) where any factory, workroom, shop, office, warehouse, or other place of trade or business is so overcrowded while work is carried on therein, or is so badly lighted or ventilated, as to be likely to be injurious to the health of the persons employed therein:</p> <p>(j) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health:</p> <p>(k) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health:</p> <p>(ka) where any noise or vibration occurs in or is emitted from any building, premises, or land to a degree that is likely to be injurious to health:</p> <p>(l) where any trade, business, manufacture, or other undertaking is so carried on as to be unnecessarily offensive or likely to be injurious to health:</p> <p>(m) where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament:</p> <p>(n) where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health:</p> <p>(o) where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:</p> <p>(p) where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health:</p>
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Hamilton City Council BYLAWS

	<p>(q) where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease</p> <p>Under s 29 of the Health Act 1956 “nuisance” has its full natural and ordinary meaning: <i>Adam v Napier City Council</i> AP55/86 HC Napier, 29 September 1987 (HC).</p>
Offensive behaviour	The definition of offensive behaviour is taken from the decision of the Supreme Court in <i>Morse v Police</i> [2011] NZSC 45; (2011) 25 CRNZ 174.
Psychoactive substance	<p>Section 9 of the Psychoactive Substances Act 2013 provides:</p> <p>(1) In this Act, unless the context otherwise requires, psychoactive substance means a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect (by any means) in an individual who uses the psychoactive substance.</p> <p>(2) Psychoactive substance includes—</p> <p>(a) an approved product;</p> <p>(b) a substance, mixture, preparation, article, device, or thing that is, or that is of a kind that is, or belongs to a class that is, declared by the Governor-General by Order in Council made under section 99 to be a psychoactive substance for the purposes of this Act.</p> <p>(3) Despite subsections (1) and (2), psychoactive substance does not include—</p> <p>(a) a controlled drug specified or described in Schedule 1, 2, or 3 of the Misuse of Drugs Act 1975;</p> <p>(b) a precursor substance specified or described in Schedule 4 of the Misuse of Drugs Act 1975;</p> <p>(c) a medicine within the meaning of section 3 of the Medicines Act 1981 or a related product within the meaning of section 94 of that Act;</p> <p>(d) a herbal remedy (within the meaning of section 2(1) of the Medicines Act 1981);</p> <p>(e) a dietary supplement (within the meaning of regulation 2A of the Dietary Supplements Regulations 1985);</p> <p>(f) any food (within the meaning of section 2 of the Food Act 1981);</p> <p>(g) any alcohol, unless the alcohol contains a psychoactive substance as defined in subsection (1) or (2) that is not alcohol;</p> <p>(h) any tobacco product (within the meaning of section 2(1) of the Smoke-free Environments Act 1990), unless the tobacco product contains a psychoactive substance as defined in subsection (1) or (2) that is not tobacco;</p> <p>(i) a substance, mixture, preparation, article, device, or thing that is, or that is of a kind that is, or belongs to a class that is, declared by the Governor-General by Order in Council made under section 99 not to be a psychoactive substance for the purposes of this Act</p>



HAMILTON SAFETY IN PUBLIC PLACES BYLAW


STATEMENT OF PROPOSAL

JUNE 2020

FURTHER INFORMATION

Hamilton City Council
Garden Place, Private Bag 3010, Hamilton

 haveyoursay@hamilton.govt.nz

 07 838 6699

 hamilton.govt.nz/haveyoursay

 [/hamiltoncitycouncil/](https://www.facebook.com/hamiltoncitycouncil/)



Hamilton City Council (the Council) is seeking feedback on two issues, following the review of the *Hamilton Safety in Public Places Bylaw*.

WHY ARE WE DOING THIS?

Hamilton City Council are proposing minor changes to the *Hamilton Safety in Public Places Bylaw* to better reflect the way we keep our community safe.

Hamilton Safety in Public Places Bylaw 2014

The Bylaw was first adopted in 2014 as per the Local Government Act 2002 requirements. The Council is required to review the existing bylaw after the first 5 years by law. This provides an opportunity for the Council to check in with our community on how the Bylaw is working and consider feedback.

The Council has determined that:

- the current *Hamilton Safety in Public Places Bylaw* is the most appropriate means of controlling the issue of nuisance behaviour in public places in Hamilton City; and
- the Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 because the limits it places on the rights and freedoms contained within that Act can be demonstratively justified in a free and democratic society.

The Council proposes to continue the current Bylaw with minor changes.

OPTIONS

In compliance with the LGA, the Council provides two options. The Council wants to consult on its intention to continue the current Bylaw with minor changes.

If you do not think the Bylaw should be continued with changes, then the Council would like to know why. Tell us your views either way in the feedback form attached.

CONTINUE WITH THE CURRENT BYLAW, WITH MINOR CHANGES (PREFERRED)

The Council believes the current Bylaw is fit for purpose but proposes making minor changes to make the Bylaw clearer.

The Council proposes to:

- Remove references to skateboarding as a nuisance behaviour from the Bylaw as few problems have been encountered from skateboard use; and attitudes towards skateboarding have changed with active transport options (such as skateboarding and using scooters) now viewed as part of the range of transport options people may choose.
- Update definitions to align with other Council documents or legislation including an amendment to definition of 'psychoactive substances' and the removal of the term 'mind-altering substance'. These changes are intended to clarify these terms in to account for potential future changes to legislation.

DO NOT CONTINUE WITH THE CURRENT BYLAW (NO BYLAW)

This will mean the Council does not continue with a Bylaw for nuisance behaviour after it considers feedback through the consultation process.

A copy of the amended Bylaw is attached to this Proposal.

TELL US YOUR THOUGHTS ON THE BYLAW

Before making any final decisions, we'd like to have your input.

You can give us feedback from 1 June to 30 June 2020 using the feedback form below.

HOW TO GIVE FEEDBACK:

- Fill out a feedback form online at hamilton.govt.nz/haveyoursay
- Fill out the feedback form included in this Statement of Proposal and send to: Hamilton City Council, Communication and Engagement team, Private Bag 3010, Hamilton, 3240.
- Fill out the feedback form and deliver to the Municipal Building Reception or any branch of Hamilton City Libraries.

Feedback forms and the proposed Bylaw changes are available from all Hamilton City Libraries, and from the Ground Floor reception of the Council's Municipal Building in Civic Square.

For any queries please ring 07 838 6699 or email haveyoursay@hcc.govt.nz

NEXT STEPS

Staff will collect and analyse all feedback at the close of the submission period.

The analysis of this feedback will be presented to the August 2020 meeting of the Hearings and Engagement Committee. At this meeting, submitters who want to speak to their written submission will be able to do so.

The Council will then consider all the views and make a decision on the Bylaw.

FEEDBACK FORM

HAMILTON SAFETY IN PUBLIC PLACES BYLAW – JUNE 2020

Hamilton City Council has reviewed the *Hamilton Safety in Public Places Bylaw*.

FEEDBACK FORMS CAN BE:

- Completed online at hamilton.govt.nz/haveyoursay
- Posted to: Freepost 172189, Hamilton City Council, Communication and Engagement team, Hamilton Safety in Public Places Bylaw, Private Bag 3010, Hamilton, 3240.
- Emailed to: haveyoursay@hcc.govt.nz

Name: _____

Organisation (if responding on behalf of an organisation) _____

Privacy statement:

The Local Government Act 2002 requires submissions to be made available to the public. Your name will be published with your submission and made available in a report to elected members and to the public. Other personal information supplied will be used for administration and reporting purposes only. Please refer to Council's Privacy Statement at hamilton.govt.nz for further information.

PLEASE TICK IF YOU DO NOT WANT YOUR NAME TO BE PUBLISHED WITH YOUR SUBMISSION ☐

WOULD YOU LIKE THE OPPORTUNITY TO TALK TO US ABOUT YOUR SUBMISSION IN PERSON?

☐ Yes ☐ No

Hearings are being held in August 2020. We will be in touch to arrange a date and time.

YOUR FEEDBACK:

1. SHOULD HAMILTON CONTINUE ITS CURRENT HAMILTON SAFETY IN PUBLIC PLACES BYLAW WITH THE PROPOSED MINOR CHANGES?

☐ Yes ☐ No

Reasons (Please print clearly):

Run out of room? Feel free to attach additional pages.

ABOUT YOU: (Please print your details clearly)

This section tells us a bit more about you. By capturing this information, we will be able to better understand who is, and isn't, providing feedback. This information will not be used in a way which may identify you.

WHERE DO YOU LIVE?

I am a Hamilton city resident, my suburb is: _____

I live outside Hamilton city:

☐ Waipa ☐ Waikato ☐ Elsewhere in New Zealand ☐ Overseas

CONTACT DETAILS

We will use this to get in touch with you if you would like the opportunity to talk to us about your submission in person.

Phone: (day) _____ (evening) _____

Email: _____

WHAT IS YOUR AGE GROUP? (at your last birthday)

☐ Under 16 ☐ 16-19 ☐ 20-24 ☐ 25-29 ☐ 30-34
☐ 35-39 ☐ 40-44 ☐ 45-49 ☐ 50-54 ☐ 55-59
☐ 60-64 ☐ 65-69 ☐ 70-74 ☐ 75-79 ☐ 80+

WHICH ETHNIC GROUP DO YOU IDENTIFY AS?

☐ NZ European ☐ Maaori ☐ Indian ☐ Chinese ☐ Samoan
☐ British ☐ Filipino ☐ Tongan ☐ South African ☐ Cook Island Maaori
☐ Other _____

WHICH OF THE FOLLOWING BEST DESCRIBES YOUR HOUSEHOLD SITUATION?

☐ Living alone ☐ Living with others that are not family
☐ Family or couple with dependants (children or other family) ☐ Family or couple with no dependants

Please get your feedback to us by 30 June 2020.

Council Report

Committee: Hearings and Engagement Committee
Date: 25 August 2020
Author: Joanna van Walraven
Authoriser: Lance Vervoort
Position: Policy and Strategy Advisor
Position: General Manager Community
Report Name: Hamilton Gardens Management Plan - Submissions

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the Hearings and Engagement Committee on submissions received for an alternative option that responded to submitter and public feedback to retain the Rhododendron Lawn as part of the Draft Hamilton Gardens Management Plan.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Hearings and Engagement Committee:
 - a) receives the report;
 - b) hears and considers public submissions with regard to the consultation process that was held from 11 July 2020 to 9 August 2020; and
 - c) notes that a Deliberations Report that includes feedback from the initial consultation (8 April 2019 to 9 June 2019) and feedback from the 11 July 2020 to 9 August 2020 consultation will be brought to the Community Committee on 29 September 2020.

Executive Summary- *Whakaraapopototanga matua*

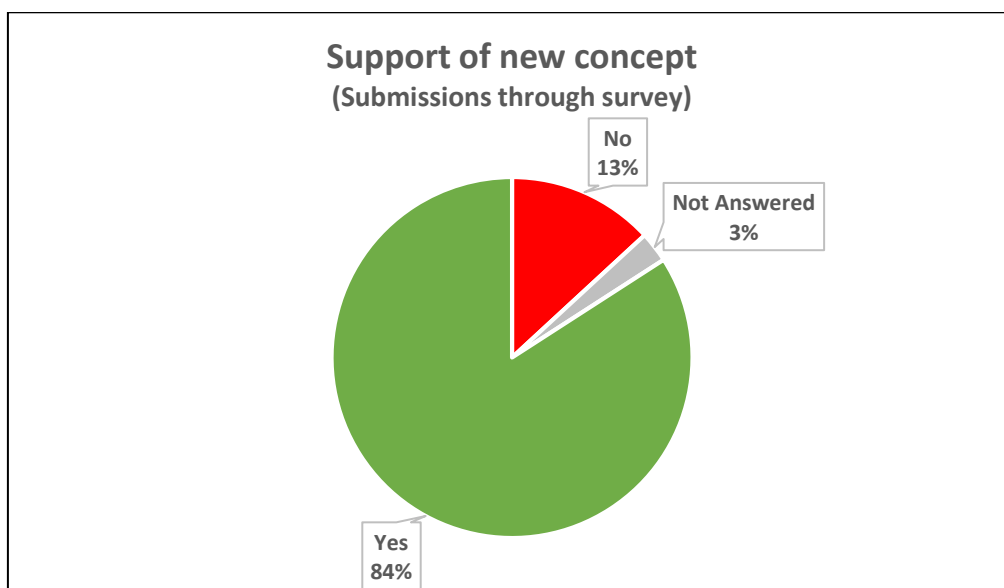
3. The draft Hamilton Gardens Management Plan (Draft Plan) was prepared in accordance with the requirements of the Reserves Act (1977).
4. Public consultation on the Draft Plan took place during the period 8 April 2019 to 9 June 2019.
5. Following significant public and submitter interest regarding the future of the Rhododendron Lawn under the Draft Plan arising during and following the hearings process, the previous Council resolved, at their meeting on 26 September 2019 to consider the Deliberations Report on the Draft Plan, to refer this matter to the incoming Council.
6. The deliberations process remains 'live' until the Council formally decides to approve or not approve a new management plan for the Hamilton Gardens.
7. Staff identified an alternative option that would relocate the proposed car parks and retain the Rhododendron Lawn as well as incorporate Elected Member's feedback that the design should better accommodate other transport modes, such as public transport, walking and cycling.
8. The Hamilton Gardens Project Governance Group (PGG) and independent legal advice recommended that the Council undertake further public consultation on the specific matter of

the future of the Rhododendron Lawn and present an 'upper site' option which responds to concerns about the potential loss of the Lawn.

9. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Discussion - *Matapaki*

10. Consultation documentation containing information about the new proposal to retain the Rhododendron Lawn was approved for public engagement by the Council on 28 May 2020.
11. During the period of public consultation between Saturday 11 July 2020 and Sunday 9 August 2020, the Council received 875 submissions; 758 online and 117 hard copies.
12. A summary and analysis of submissions, including details of the public engagement process, is outlined in Attachment 1.
13. The majority (84%) of submitters supported the new proposal, 13% did not support the proposal and 3% did not answer the question.



Main Themes

14. The key themes for comments from submitters who supported the new concept related to suggestions about carparks, modes of travel other than cars, relocation/restoration of the glasshouses, road access and the tree top walkway.
15. The key themes for comments from submitters who did not support the new concept included the walking distance from carparks, retaining open spaces, retaining/relocating the glasshouses, supporting the previous layout, modes of travel other than cars and concerns about the treetop walkway.
16. These themes are expanded upon in the submissions analysis report which is attachment 1 of this report.

Next Steps

17. Following the Hearing and Engagement Committee meeting which will consider all submissions relating to the 2020 consultation process and hear those making verbal presentations of their submissions, a deliberations report will be prepared by staff and brought back to the Community Committee meeting on 29 September 2020.

18. The adoptions report for The Draft Hamilton Gardens Management Plan is currently scheduled to be presented to the 22 October 2020 meeting of the Council.
19. If the recommendation to receive this Hearings Report is not approved, the matter will be referred back to the Council for reconsideration.

Financial Considerations - *Whaiwhakaaro Puutea*

20. The total cost to complete this work was approximately \$35,000 (including staff costs and external costs) which is included in the 2019/20 Annual Plan.

Legal and Policy Considerations – *Whaiwhakaaro-aa-ture*

21. The purpose of a reserve management plan is to define the strategies, objectives and policies for the development, operation, management and public use of a reserve. Management plans provide a link between government legislation, wider Council plans and policies, and influence other planning and management processes.
22. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements. The process also complies with the Reserves Management Act 1977.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

23. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
24. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
25. The recommendations set out in this report are consistent with that purpose.
26. The Hamilton Gardens provides recreational green space and a world-class visitor attraction for the enjoyment of and use by the local community and domestic and international visitors.
27. The further consultation process from 11 July to 9 August 2020 responded to submitter feedback from the 2019 consultation and engagement process and the significant public interest in the future of the Rhododendron Lawn.
28. The further consultation process enabled opportunity for the community to provide feedback about issues specifically relating to the preservation of the Rhododendron Lawn and share their views on an alternative option to the Draft Plan.

Economic

29. The Hamilton Gardens provides recreational green space and a world-class visitor attraction for the enjoyment of and use by the local community and domestic and international visitors.
30. As Hamilton's key visitor attraction, the Hamilton Gardens makes both a direct and indirect contribution to the economic wellbeing of the city and Waikato region and future intentions for the Gardens' development will have implications for the city and tourism economies.

Environmental

31. The Hamilton Gardens provides recreational green space and a world-class visitor attraction for the enjoyment of and use by the local community and domestic and international visitors.
32. The Draft Plan sets out a vision for future Gardens' development which will incorporate the Council's sustainability and bio-diversity principles, alternative transport modes to reduce

reliance on travel by private car and the current proactive work by Hamilton Gardens to achieve a Carbon-Zero status.

Cultural

33. The Hamilton Gardens provides recreational green space and a world-class visitor attraction for the enjoyment of and use by the local community and domestic and international visitors.
34. The Hamilton Gardens has been developed on a site of great significance for Iwi and their connections past, present and future need to be well recognised in any future development of the Gardens.
35. It is important that the Draft Plan recognises the importance of working in partnership with Iwi on the future development of the Hamilton Gardens to ensure their continuing relationship with, and aspirations for, the whenua, Waikato Awa, flora and fauna, and the expression of Maaori culture and traditions are appropriately recognised and achieved through the Plan.
36. Some engagement with Iwi/Mana Whenua partners on Draft Plan occurred in relation to the earlier consultation round (April – June 2019). Waikato Tainui submitted on the Draft Plan.
37. The General Manager Community and the Visitor Destinations Manager met with Waikato Tainui and THAWK representatives via Zoom on Thursday, 14 May 2020 to present the alternative option and seek their feedback/comments ahead proposed wider public consultation.

Risks - *Tuuraru*

38. There is a risk of public and stakeholder concern and dissatisfaction if the Council is not seen to respond to the significant public concern regarding the future of the Rhododendron Lawn.
39. There is a risk that further consultation on the specific matter of the Rhododendron Lawn will be perceived as a broader opportunity to comment on other aspects of the Draft Plan.
40. There are no known legal or policy risks associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

41. Matters within this report are covered by a statutory requirement to consult and therefore, staff have not assessed the significance of these matters against the key considerations under the Significance and Engagement Policy significance.

Engagement

42. Staff undertook both targeted and wider public engagement for this matter.
43. During the week 11-15 May 2020, the General Manager Community and the Visitor Destinations Manager met (via Zoom) with our Iwi and mana whenua partners, Friends of the Hamilton Gardens and representatives of the key stakeholder groups that had expressed concern regarding the potential loss of the Rhododendron lawn during the hearing and deliberations process as follows:
 - 12 May – Friends of the Hamilton Gardens
 - 13 May – Creative Waikato and HGAF
 - 14 May – Save the Rhododendron Lawn Petition
 - 14 May - Waikato Tainui and Te Haa o te Whenua o Kirikiriroa (THAWK)
44. The purpose of these meetings was to share the proposed alternative layout for the Hamilton Gardens site and the opportunity for feedback or comment ahead of the Council meeting on 28 May where the matter of further consultation would be considered.

45. The General Manager and Visitor Destinations Manager also explained that submissions from a further consultation or hearings process on the specific matter of the Rhododendron Lawn as well as the submissions received through the original 2019 consultation on the Draft Hamilton Gardens Management Plan would be presented to the Council as part of the deliberations for the Draft Plan.
46. Appreciation that the Council was responding to the concerns raised was noted by stakeholder groups. Initial feedback appeared generally supportive and a few comments were made regarding practical considerations for any future implementation (i.e. ensuring safe pedestrian access through shared zones etc). The General Manager and Visitor Destinations Manager encouraged stakeholders to include these comments in any submissions they might make once consultation was open.
47. At the meeting on 14 May with Waikato Tainui and Te Haa o te Whenua o Kirikiriroa (THAWK), Waikato Tainui noted their original submission on the Draft Plan. Attendees of the meeting also noted concerns that Council processes for engaging are not meaningful for Maaori and do not reflect genuine partnership. The General Manager and Visitor Destinations Manager acknowledged the particular significance of the Hamilton Gardens site to Iwi and Mana Whenua.

Attachments - Ngaa taapirihanga

Attachment 1 - Hamilton Gardens Management Plan Review Submissions Analysis Report

HAMILTON GARDENS MANAGEMENT
PLAN REVIEW:

FURTHER CONSULTATION [11 JULY TO 9
AUGUST 2020]
SUBMISSIONS ANALYSIS REPORT

REPORT PREPARED BY: PREETA CHITRE
AUGUST 2020

REVIEWED BY: JULIE CLAUSEN, TRACEY LOWNDES, LAURADANNA RADESIC
AUGUST 2020

Engagement

The Hamilton Gardens engagement campaign ran from Saturday 11 July until Sunday 9 August 2020.

The engagement presented the community with a revised layout concept (the new concept) for Hamilton Gardens in response to feedback to a layout (original concept) put to Hamiltonians in early 2019 as part of the review of the Hamilton Gardens Management Plan.

The revised layout was designed to address concerns raised by the community during consultation on the Management Plan about one aspect of the original concept: a proposal to relocate parking to the site of the Rhododendron Lawn. The revised layout retains the lawn.

The engagement focused on a single question: ***Did respondents support the new concept or not?***

We received 875 submissions (758 online and 117 hard copies) with 84% in favour of the new concept. On social media, we had a total of 57 relevant comments, including replies to comments, with 77% in favour.

The Council's Have Your Say online engagement portal was the primary tool used to capture responses. Hard copy brochures were also produced with information about the new and original layout concepts and a tear-off feedback form. Forms were able to be posted free or dropped off at libraries and the Municipal Building.

The brochures were available at the Municipal Building, the six library branches, cafes, garden centres, the Hamilton Gardens Information Centre and other Council facilities. The availability of hard copy forms was included in campaign publicity, acknowledging many older people prefer to return written responses. Anecdotally, people were coming in to collect handfuls of brochures for friends and neighbours.

A video was produced, fronted by Councillor Mark Bunting as Chair of the Community Committee. During the engagement period, it replaced the usual video on the Hamilton Gardens website home page. It was shown on a loop in the customer waiting area in the Municipal Building and was promoted on social media and the Council website.

The campaign was also promoted via:

- Advertising in the weekend edition of the Waikato Times (11 July, 18 July, 25 July, 1 August; readership 51,000)
- Advertising in the Hamilton Press (15 July, 29 July; readership 57,000)
- Radio advertising on The Breeze, Magic and More FM (13-31 July)
- Social media campaign run across Hamilton City Council and Hamilton Gardens channels on Facebook and Instagram. This drove 2898 unique users to the Have Your Say page.

- Regular social media posts across Facebook, LinkedIn, Instagram and Neighbourly. Content included Our Hamilton stories, video, images, event postings, reminders, all linking to the Have Your Say page.
- Pull-up banners and sandwich boards at Council facilities and Hamilton Gardens
- Hamilton Gardens billboard and wall poster at the Information Centre
- Citywide poster campaign, including malls and movie theatres
- Display panels at Western Community Centre, Celebrating Age, Mitre 10 Ruakura and The Meteor theatre
- Electronic road signage (VMS boards) at four locations over the four-week engagement
- Interview with Cr Bunting on The Breeze
- The Council's and Hamilton Gardens' social media channels (Facebook, Instagram, LinkedIn)
- Direct mail to garden clubs and Council stakeholders
- Promotion to community networks, including schools, youth networks and ethnic and disabled communities, via the Council's Community and Social Development Team
- Discussed at the local Disabled Persons Assembly meeting and linked on the Hamilton Online Disability News Facebook page
- Included in the Council's Weekly Information and Events Alert sent to ethnic groups
- Letter drop to neighbouring suburbs (77,00 households)
- Two public open days at Hamilton Gardens (Sunday 19 July and Sunday 2 August), attended by around 300 people. Also, a special presentation in the Information Centre to a group of high school students interested in the Gardens (15 July)
- Stand at Waikato Farmers' Market (2 August)
- Intercept surveys at key locations e.g. Hamilton Zoo, Garden Place
- Pre-engagement meetings with stakeholders including the Waikato Tainui, Te Haa o te whenua o Kirikiriroa (THaWK), the Hamilton Gardens Arts Festival trustees, Creative Waikato, Friends of Hamilton Gardens and the organiser of the 2019 Save the Rhododendron Lawn petition.
- Direct mail to Hamilton Gardens stakeholders including Gardens newsletter subscribers, volunteers, venue hirers, Friends of Hamilton Gardens, Waikato River Explorer, Gourmet in the Gardens, Hamilton Gardens Arts Festival trustees, Hamilton and Waikato Tourism
- The Waikato Times covered the engagement opportunity, both after the Community Committee decision to proceed with engagement in May and when the engagement was launched in July.
- Stories on the Council's Our Hamilton website and in the Our Hamilton newsletter also promoted the opportunity to engage (28 May, 9 July, 31 July, 4 August).

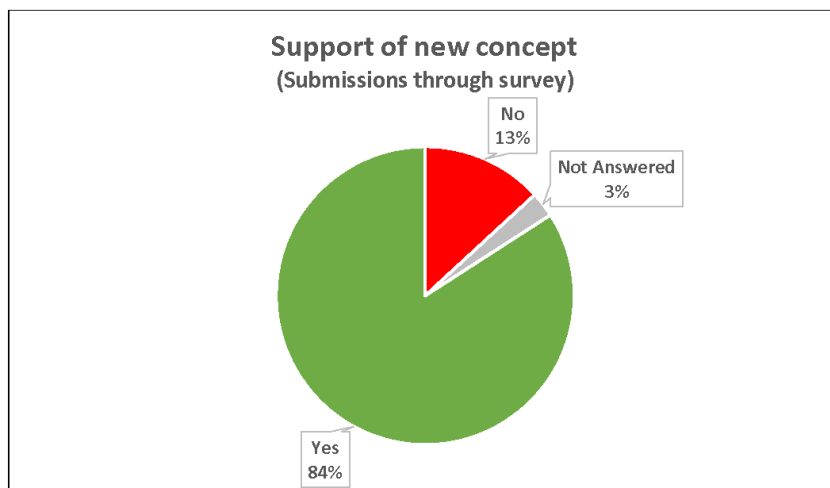
Campaign material largely directed people to the Have Your Say online portal, with the Hamilton Gardens' website also promoted as a source for further information. A new web page was set up for this engagement and was showcased on the Hamilton Gardens home page. The consultation page included maps showing the new and original concepts and listed the highlights and features of each concept. Frequently asked questions were also provided. This web page received 1,650 views.

Promotion of the engagement through social media by Hamilton Gardens reached 44,400 people with 635 engaging (i.e. commented, liked, shared or clicked). Promotion by Hamilton City Council reached 100,719 people with 3,548 engaging. The video was viewed 10,700 times on the Council website and 6,865 times on Gardens website.

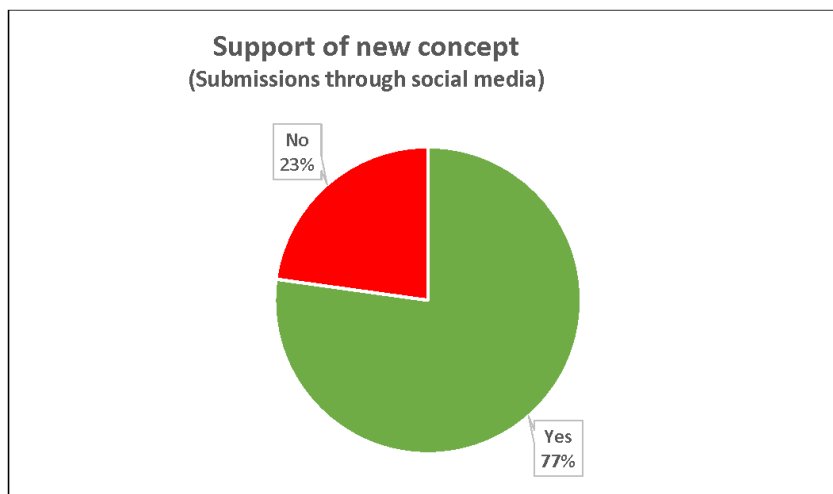
Introduction

The following analysis flows through sections showing those who supported the new concept and did not support the new concept. Each of this section has further details of:

- Submissions through survey: We received 875 submissions through the survey (758 online and 117 hard copies). 84% of respondents supported the new concept.



- Comments through social media: We had a total of 57 relevant comments, including replies to comments through the Hamilton Gardens and Hamilton City Council's Facebook and Instagram posts. 77% of respondents supported the new concept.



Support of new concept

Submissions through survey

736 (84%) of respondents supported the concept plan.

The key themes that came through people's comments are shown in the table and word cloud below. The total will not add to 100% as an individual's comments may fit into more than one theme.

High-level themes	No. of responses	% of responses
Support of concept	401	54%
No comment	135	18%
Supported concept but raised concerns	129	18%
Suggestions around carparks	102	14%
Feedback on gardens	68	9%
Other suggestions or questions	64	9%
Suggestions around alternative modes of travel rather than cars	52	7%
Suggestions around general travel	37	5%
Relocate/Restore glasshouses	32	4%
Suggestions around treetop walkway	27	4%



Support of concept

Comments from 401 (54%) of the respondents were in support of the concept plan. The sub-themes based on what they commented are:

1. 235 people were pleased to see that the Rhododendron Lawn was retained in this plan.
2. 207 liked the idea of a treetop walkway.
3. 92 supported creation of parking at the top of the site.
4. 54 supported extension of the carpark beside the rose garden.
5. 43 supported new shared paths for cyclists and pedestrians.
6. 36 supported removal of the main carpark for future gardens use.
7. 25 supported creation of a through road to create traffic flow through the gardens and relieve congestion.

Supported concept but raised concerns

Comments from 129 (18%) of the respondents who supported the concept plan but raised issues around management and implementation have been analysed and noted below according to the high-level theme they fit into (paragraphs A to E below).

Additional details under each high-level theme:

Sub-themes from the high-level themes are detailed below. The total will not add to 100% as an individual's comments may fit into more than one theme.

A) Suggestions around carparks

Comments from 102 (14%) of the respondents included feedback around carparks. The top four sub-themes were:

1. 37 suggested the need for more carparks within a reasonable walking distance, especially for older people or those with limited mobility.
2. 35 suggested there would be a need for more carparks which also include overflow parking for events and peak times.
3. 10 mentioned that carparks needed to be large enough to futureproof them. Some even suggested that we could have carpark buildings.
4. 10 asked to retain the lower carpark.

B) Feedback on gardens

Comments from 68 (9%) of the respondents included feedback around gardens in general:

In scope feedback:¹

1. 11 submitters suggested keeping open spaces for all kinds of users to enjoy, e.g. families, kids playing frisbees, people with dogs. Some mentioned the existing open free space on the hill next to the current carpark.

Feedback related to the Draft Management Plan but out of scope of this consultation round:

1. 10 called for retention of the pedestrian bridge from 137 Peacockes Rd Reserve to Hamilton Gardens Riverside Terrace as provided for in the current Hamilton Gardens Management Plan, HCC River Plan, and HCC Peacockes Infrastructure Plan.
2. 8 mentioned the need for expansion on west side of river for parking and gardens expansion, thereby reducing strain on east side, particularly given westside residential growth plans.
3. Comments from 64 respondents (9%) included other suggestions or questions, mostly about the subject of charging entry.

C) Suggestions around alternative modes of travel rather than cars

Comments from 52 (7%) of the respondents included suggestions around alternative modes of travel. The top three sub-themes were:

1. 18 mentioned minimising carparking, optimising public transport, cycling and walking access.
2. 9 suggested having parking charges to discourage/reduce cars coming into the gardens.
3. 9 suggested having shuttle bus services or park and ride options.

D) Suggestions around general travel

¹ The scope of the consultation was limited to the new concept, however comments that were out of scope have reported on for transparency.

Comments from 37 (5%) of the respondents included suggestions around general travel. The top two sub-themes were:

1. 12 noted their concern around congestion on internal roads, particularly where shared pathways and roads converge.
2. 12 noted their concern around entry/exit and congestion on Cobham Dr.

E) Suggestions around treetop walkway

Comments from 27 (4%) of respondents included suggestions about the proposed treetop walkway. The main sub-themes were around making sure everyone can see through the fencing and to include shade-covered viewing rest-stops.

Examples of verbatim comments from our submitters:

“Supportive of this over the previously proposed plan. Would be good to indicate on the new plan where the Public Transport (Bus) Stops are planned to be located. I'm concerned that if there isn't a bus stop in the existing Gate 2 carpark, the public transport links won't be very accessibility friendly.”

“It's great, but please put a large digital sign up from north and south of the gardens, to show if the car parking is all full, that way some people may decide to park their cars elsewhere, and walk into the gardens, instead of jamming up the round-about. Thank-you”

“Why is so much car parking needed. Can we please fix cycling and walking connections to the gardens so a large portion of local trips are by active modes or PT? Can we please charge for parking, the new parking lots are going to be very costly and users should pay for the convenience?”

Social media responses

44 of the 57 (77%) comments or replies to comments supported the concept plan. Themes from these are analysed and shown below in the word cloud.



Examples of verbatim comments from those on Facebook:

“Gardens are great. Staff do a wonderful job. Don’t ruin it with a treetops pathway. Too few trees to hide the ugly and expensive overhead ‘designer’ structure. Hamilton is river city. Emphasise this feature. Make a riverbank walkway spanning length of gardens, including behind themed gardens. Add benches. Footbridge across river to expanding community on other side will make gardens more accessible and cut down garden space required for parking! It makes more sense.”

“While it is good that you are providing for mobility parking permits could you advise if you are also providing parking spaces marked for the elderly and for 'baby/pram' car parks? Also what ratio do you use to decide on the number of these three parking spaces to ensure opportunity to ensure accessibility? Please note that I add these groups as for various reasons, not all 'mobility impaired' people hold a mobility parking permit.”

Did not support the concept plan

Submissions through survey

115 (13%) of the respondents did not support the concept plan.

The key themes that came through people's comments are shown in the table and word cloud below. The total will not add to 100% as an individual's comments may fit into more than one theme.

High-level themes	No. of responses	% of responses
Suggestions around car parks	43	37%
Feedback on gardens	26	23%
Do not close glasshouses, or relocate glasshouses	25	22%
Other suggestions or questions	15	13%
Liked the previous concept	12	10%
Suggestions around alternative modes of travel rather than cars	11	10%
Do not support treetop walkway	10	9%
Suggestions around general travel	9	8%



Examples of verbatim comments from our submitters:

"My concern is the shared walk/cycle paths. There will be older persons and members of the public perhaps are frail, disabled in some way and their ability to move out of a cyclists way is negligible and downright impossible at times. Young children don't have the nous to jump out the way. Anyway, both shared is not a relaxed ramble, is it? One would be on guard at all times wondering if one would be knocked over by a bike. I oppose the dual walk way."

"I like some of the ideas, definitely need further carpark facilities etc as these fill up far too quickly. Don't agree with replacing existing pathways with extremely expensive "treetop" walk ways, this seems like a pointless cost. Update EXISTING concepts. Better seating, better road access, parking etc is all important. A walk with a view is not."

"Existing is fine"

"I like most of the plan. I just think that removing the main car park means that it is a long way for the elderly or disabled to get to the visitor centre and cafe. Will the cafe be used as much by those just wanting to go to the cafe?"

Additional details under each high-level theme:

Sub-themes from the top five high-level themes are detailed below. The total will not add to 100% as an individual's comments may fit into more than one theme.

A) Suggestions around carparks

Comments from 43 (37%) of the respondents included feedback around carparks. People mainly suggested the need for more carparks within a reasonable walking distance, especially for older people or those with limited mobility, and asked to retain the lower carpark.

B) Feedback on gardens

Comments from 26 (23%) of the respondents included feedback around the gardens in general. People mainly suggested keeping open spaces for all kinds of users to enjoy, e.g. families, kids playing frisbees, people with dogs.

C) Suggestions about glasshouses

Comments from 25 (22%) of the respondents were concerned with the glass houses closing; 16 (14%) said they didn't want them to close, and a further 7 (6%) suggested they could be relocated.

D) Suggestions around alternative modes of travel rather than cars

Comments from 11 (10%) of the respondents included suggestions around alternative modes of travel where people mentioned about minimising car parking, optimising public transport, cycling and walking access and suggested having shuttle bus services or park and ride options.

E) Suggestions around general travel

Comments from 9 (8%) of the respondents included suggestions around general travel. Here, people mainly noted their concern around congestion on internal roads particularly where shared pathways and roads converge and noted their concern around entry/exit and congestion on Cobham Dr.

Social media responses

13 of the 57 (23%) comments or replies to comments did not support the concept plan. Themes from these are analysed and shown below in the word cloud.

DO NOT CLOSE GLASSHOUSES
SPEND ON OTHER PROJECTS
DELAY ANY WORK ON GARDENS TILL AFTER BORDERS RE-OPEN

Examples of verbatim comments from those on Facebook:

“How about putting the money to better use stuff the gardens how much has been spent over the years.”

“Surely, now is the time to be fiscally prudent. Maintain what there is now. If, and only if, the city can afford it, then start to develop but NOW is NOT the time. The gardens are a great amenity, they are popular, but visitors will be more limited in terms of numbers and splashing huge amounts of cash about as if the City is awash with it is utter madness.”

Summary of organisational submissions

Name of organisation	Ticked yes or no on form	Name of respondent	Response ID	Key themes of what they have said
Blitz Home and Garden	Yes	Joseph Collins	ANON-XSVR-BZXE-C	1) Support current and previous plan 2) Extend the carpark behind the rose gardens and make a pathway in here. 3) Better to build a walkway like treetop walkway in the themed gardens. 4) Charge non-locals an entry fee.
Creative Waikato	Yes	Jeremy Mayall	ANON-XSVR-BZ7X-X	1) Support current and previous plan. 2) Acknowledge potential for various performance spaces e.g. amphitheatre in the new plan. 3) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road as they see potential here for further cultural and creative activity with HAKA Maaori Cultural Experience and Waikato River Festival.
Friends of Hamilton Gardens	Yes	Eileen Wilcox	ANON-XSVR-BZX6-W	Good compromise on previous plan.

Friends of Hamilton Gardens		Marleina Ruka	ANON-XSVR-BZWW-W	<p>1) Disappointed with having to re-submit on this topic.</p> <p>2) Previous plan allowed for better traffic flow and closer parking to the visitor centre.</p> <p>3) Partial support current plan so that Gardens development can continue without a delay but have some concerns listed below.</p> <p>4) Shared cycle and walkway through Rhododendron Lawn and car park two is dangerous and not future proofed.</p> <p>5) Concern around congestion on internal roads during summer months. Foresee a need for traffic wardens.</p> <p>6) Suggest having and golf carts for helping people from the carpark to gardens.</p> <p>7) Make the treetop walkway's fencing such that everyone can view through it.</p> <p>8) Keep them in the loop with future of glasshouses.</p>
HAKA Maaori Cultural Experience	Yes	Adam Whauwhau	ANON-XSVR-BZ75-U	<p>1) Pleased to see Rhododendron Lawn retained.</p> <p>2) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road.</p> <p>3) Support treetop walk if it enhances access into the gardens</p>

				and strengthens the overall attractiveness of the gardens.
Hamilton & Waikato Tourism	Yes	Jason Dawson	ANON-XSVR-BZRN-F	1) Like the treetop walkway. Suggest for it to be wheelchair accessible, wide enough, include viewing platforms, have changeable LED lighting. 2) Gate 2 carpark to have bus/coach parking spaces and drop off zone for coaches. 3) New carpark to have additional toilet facilities which could be co-funded via the Tourism Infrastructure Fund. 4) Need improved entrance signage and an advanced entryway. Also need carpark signage.
Hamilton Garden Guide	Yes	Colin	ANON-XSVR-BZSC-5	1) Support of overall concept. 2) Like the treetop walkway.
Hamilton Gardens Arts Festival	Yes	Geoff Turkington	ANON-XSVR-BZSD-6	1) Pleased to see Rhododendron Lawn retained. 2) Need sufficient power to stage events on the lawn.
Hamilton Gardens Development Trust	Yes	John Dobson	ANON-XSVR-BZNG-4	1) Follow a staged strategy considering closure/relocation of glasshouses. 2) Do not support pedestrian bridge across to the Glenview club/bank.
Hamilton resident & WRS member	Yes	Margaret Coffey	ANON-XSVR-BZVT-S	Support creation of carpark on the

				top.
Heritage New Zealand	Not answered	Carolyn McAlley	BHLF-XSVR-BZGS-9	Recommend an archaeological assessment to be done and archaeological authority to be obtained to be done before proposed works on treetop walkway.
James R Hill Funeral Directors	Yes	Mark Reinsfield	ANON-XSVR-BZ1T-M	1) Support of concept. 2) Query- How do you get a hearse to the venue if you have a funeral at the gardens?
New Zealand Transport Agency	Not answered	Emily Hung	BHLF-XSVR-BZG3-9	1) Support development of internal access road via existing nursery road. 2) Question the need for the raised platform crossings on SH1/Grey Street intersection. This will need to be applied for. 3) Indicate on the new plan where the Public Transport (Bus) Stops are planned to be located. 4) They would like to see an integrated transport assessment to be undertaken if current plan progresses.
Ngati Haua	No	Rangitonga Kaukau	ANON-XSVR-BZBN-Y	1) Pleased to see Rhododendron Lawn retained. 2) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road. 3) Support treetop walk if it enhances access into the gardens and strengthens the overall attractiveness of the gardens.

Peacockes Volunteer Society	Yes		ANON-XSVR-BZX8-Y	Extend a cycleway over the river to the Mangakotukutuku Valley. It is an opportunity for Tainui to take back the identity of the area.
Tainui Waka Tourism Inc	Yes	Lee Ann Muntz	ANON-XSVR-BZ5M-H	1) Pleased to see Rhododendron Lawn retained. 2) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road. 3) Like the consolidated formal carparking. 4) Like the improved walkway and cycleway access.
Te Awa River Ride Charitable Trust	Yes	Sarah Ulmer	ANON-XSVR-BZJW-G	Supportive of linking to the new Te Awa River Ride connection on Cobham Dr.
Tikidub Productions Ltd	Yes	Ninakaye Taane-Tinorau	ANON-XSVR-BZ71-Q	1) Pleased to see Rhododendron Lawn retained. 2) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road. 3) Support treetop walk if it enhances access into the gardens and strengthens the overall attractiveness of the gardens.
Tudor Dairy	Yes	Piyush Patel	ANON-XSVR-BZSH-A	Support of concept.
University of Waikato (Hillcrest - Hamilton, Waikato Region)	Yes	Te Rua Wallace	ANON-XSVR-BZ6J-F	1) Support of concept. 2) Need more carparks within reasonable walking distance- eg. Those with limited mobility or older people. Could have passenger trains/carts for those with limited

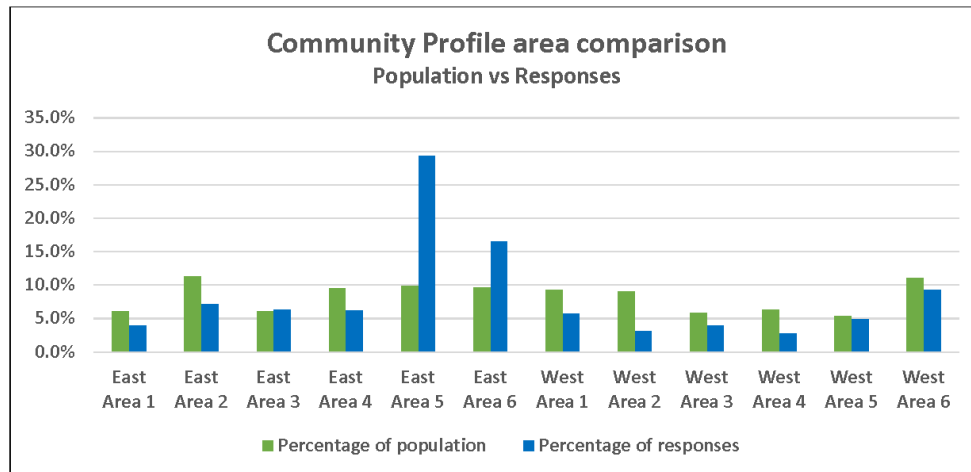
				mobility to move from gardens to the carpark.
Waikato-Tainui	Yes	Donna Flavell	ANON-XSVR-BZB6-7	<p>1) Pleased to see Rhododendron Lawn retained.</p> <p>2) Retention of proposed pedestrian bridge from HCC reserve at 137 Peacockes Road.</p> <p>3) Support treetop walk if it enhances access into the gardens and strengthens the overall attractiveness of the gardens.</p>
For the Garden History Research Foundation	Not answered	Marilyn Yeoman	BHLF-XSVR-B7S2-H	<p>1) Complete four gardens in stage one (enclosed gardens) as soon as possible.</p> <p>2) Keep cycleways at the top of the gardens only and away from the garden areas.</p> <p>3) Potentially need more spaces for car, bus parks in carpark 2.</p> <p>4) Need passenger trains/carts for those with limited mobility to move from gardens to the carpark.</p> <p>5) Consider upgrade of visitors centre.</p>

Demographics

Respondents vs Hamilton City Profile- Location

We had a high representation from the following areas: Claudelands, Hamilton East, Peachgrove, Hillcrest, Ruakura, Riverlea, and Silverdale.

We had a nearly equal representation from Chartwell, Chedworth, Harrowfield, Queenwood, Hamilton Central, Lake, Hospital and Whitiara.



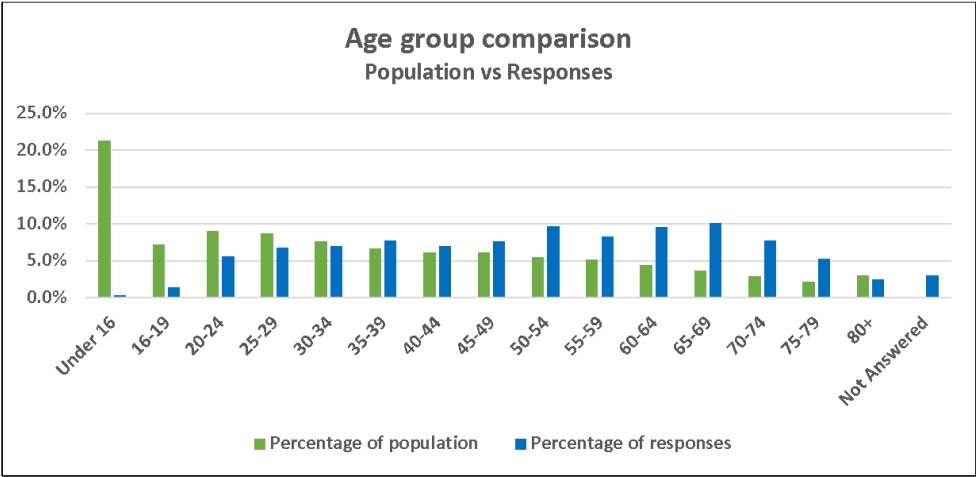
Community Profile Area	List of suburbs
East Area 1	Flagstaff
East Area 2	Callum Brae, Huntington, Rototuna, Rototuna North, St James
East Area 3	Chartwell, Chedworth, Harrowfield, Queenwood
East Area 4	Enderley, Fairfield, Fairview Downs
East Area 5	Claudelands, Hamilton East, Peachgrove
East Area 6	Hillcrest, Ruakura, Riverlea, Silverdale
West Area 1	Avalon, Beerescourt, Forest Lake, Northgate, Pukete, St Andrews, Te Rapa
West Area 2	Crawshaw, Grandview Heights, Nawton, Rotokauri, Western Heights, Burbush, Baverstock
West Area 3	Aberdeen, Dinsdale, Temple view
West Area 4	Frankton, Maeroa, Swarbrick
West Area 5	Hamilton Central, Hamilton Lake, Hospital, Whitiara
West Area 6	Bader, Deanwell, Fitzroy, Glenview, Melville, Peacocke

Respondents vs Hamilton City Profile - Age group

We had a low representation from under-16 year olds, which was expected. We also saw a low representation from 16-29 year old people.

We had a high representation from 35-79 year old people.

As the campaign progressed, ongoing analysis of demographics resulted in additional targeting of under-represented groups through social media.



Respondents vs Hamilton City Profile- Ethnic group

We had a low representation from all ethnic groups except NZ European and British. The engagement opportunity was communicated weekly through the Council's Weekly Alert newsletter targeted at ethnic community.

