

HUTT CITY COUNCIL**PROPOSED APPEARANCE INDUSTRY BYLAW HEARINGS SUBCOMMITTEE**

Minutes of a Meeting held in the Council Chambers, 2nd Floor,
30 Laings Road, Lower Hutt on
Monday 3 August 2020 commencing at 9.00am

PRESENT: Cr D Hislop (Chair) Cr S Edwards
Cr A Mitchell

APOLOGIES: There were no apologies.

IN ATTENDANCE: Mr G Sewell, Principal Policy Advisor
Mr D Bentley, Team Leader Environmental Health
Ms S Van Mil, Environmental Health Officer
Ms H Clegg, Minute Taker

PUBLIC BUSINESS**1. APOLOGIES**

There were no apologies.

2. CONFLICT OF INTEREST DECLARATIONS

There were no conflict of interest declarations.

3. **PROPOSED APPEARANCE INDUSTRIES BYLAW** (20/259)

Report No. HSC2020/3/13 by the Principal Policy Advisor

Dr Annette Nesdale, Regional Public Health was present for the item (part meeting).

The Chair thanked officers for the extensive work undertaken on the preparation of the proposed bylaw. She explained that today's hearing replaced the 26 March 2020 postponed hearing, due to the Covid-19 lockdown, adding that that situation had heightened the awareness of a need for high standards of personal hygiene. She further added that she was surprised to discover that other than hairdressers, there had been no real regulations governing the appearance industry. She stressed that the purpose of the proposed bylaw was to ensure public hygiene was important and she thanked all submitters.

The Principal Policy Adviser provided an overview of the process of the proposed bylaw to date.

In response to a question from a member, Dr Nesdale explained that any operation which broke or pierced the skin or could lead to infection should be included in the proposed bylaw.

In response to a question from a member, the Environmental Health Officer explained that alternative names for the proposed bylaw had been considered, and that 'Appearance Industries bylaw' was appropriate.

In response to a question from a member regarding publicity of the proposed bylaw, the Principal Policy Adviser advised that over the next 12 months, a series of workshops would be held for all practitioners.

In response to a question from a member concerning patients giving an informed decision to proceed with a particular procedure, Dr Nesdale stated a practitioner should not continue with the procedure if the patient was impaired in any way, whether from drugs, alcohol or prescription medicines, or from a concussion. It was noted the proposed bylaw currently used the wording "*under the influence*" rather than "*was impaired*".

In response to a question from a member concerning age restrictions for different procedures, including piercing of intimate areas, the Environmental Health Officer explained the proposed bylaw used one age limit across all procedures, rather than a different limit for different procedures.

In response to concerns raised by a member that traditional Māori tattooing procedures were to be excluded from the proposed bylaw, Dr Nesdale stated the Regional Public Health's preferred requirement was for all procedures which break or pierce the skin or could lead to infection be included in the proposed bylaw. She added that with regards to Pasifika practices, she had been involved in investigations concerning the high level of injury and infections arising from those practices. She further added that in terms of partnership with Māori and the lack of evidence of harm caused by traditional Māori tattooing procedures, she could accept that marae based practices were exempt from the proposed bylaw. She requested that marae be included in the proposed 12 month

education process, to enable them to understand and appreciate the value of training around infection prevention and control.

Dr Nesdale advised that many appearance industry personnel were not wilfully operating unsafely, but they were ignorant of correct procedure. She stressed the value of education. Dr Nesdale thanked officers for their considerable work on the proposed bylaw, adding that the consultation process to date had been well received.

In response to a question from a member, the Team Leader Environmental Health explained the details of the proposed education programme were still to be finalised. He noted that it would include officers shadowing Masterton District Council officers on their inspections and development of an inspection form and of a new licence certificate. He added that in terms of publicising the proposed bylaw and the education programme, the use of Facebook, advertising in the Hutt News and direct contact with operators, including the marae, would occur. The Principal Policy Planner added that customer pressure to view a licence certificate would also aid in ensuring operators were licensed. He added that many operators in this industry were transient, and that a 12 month education programme was proposed to ensure as much information to as many operators as possible could occur.

The Environmental Health Officer added that officers regularly accessed Facebook and Community Social Media links to check on new food premises. She envisaged this technique would also be utilised for monitoring of the appearance industry.

In response to a question from a member, the Team Leader Environmental Health confirmed all licence certificates would have to be visible to all customers, and that there would be an annual registration and inspection process for all appearance industry premises. The Environmental Health Officer added that each certificate would be specific to the specific procedures and services each premises provided.

In response to a question from a member, the Principal Policy Advisor confirmed most submissions had been received from industry bodies and product suppliers. He noted that there was a broad acceptance amongst practitioners for a bylaw or regulation of some kind. He acknowledged there would be a compliance and regulatory cost to each business.

In response to a member's questions concerning possible costs to each business, the Team Leader Environmental Health explained that there would be a set regulation fee, with the cost of inspections being time dependent. He added that the first inspection would probably be the most expensive, with subsequent annual inspection fees reducing as a business became more aware of compliance requirements. He confirmed that if a complaint was justified, the business would be charged the inspection fees.

In response to a question from a member regarding the status of eye lash tinting and glueing, the Environmental Health Officer advised she would seek clarification from Dr Nesdale as to whether such a procedure would fall under the proposed bylaw. The Principal Policy Advisor added that the wording of the bylaw was such that new procedures could be dealt with under the broad wording, including answering the question: "*What is the public health risk?*" He further added that the Code of Practice was a separate document from the proposed bylaw.

In response to a question from a member, the Team Leader Environmental Health outlined the procedure for dealing with complaints concerning a business, and that a record of the investigation would be held on Council records. The Principal Policy Advisor added that in researching for the proposed bylaw, officers had liaised with Accident Compensation Corporation to determine the incidences that had been claimed from appearance industries.

In response to concerns from members regarding the separation of the proposed bylaw and the Code of Conduct, the Principal Policy Advisor drew member's attention to paragraph 12 of the officer's report, and agreed to obtain a legal opinion such that the proposed bylaw contain the phrase "*If a breach of the Code of Conduct occurs, it is considered that a breach of the Bylaw has also occurred.*" He acknowledged concerns that the bylaw might not have any enforcement powers if the Code of Conduct sat outside of it. He advised this was also the situation in Auckland, where no concerns with enforcement had been raised. He added that in the future, government might introduce regulation or an Act to regulate the industry, but at present, local authority bylaws were the only way to regulate the industry. The Team Leader Environmental Health added that prosecutions under the Health Act could also occur, and that officer best practice was to assist, warn and then prosecute.

In response to a member's concerns regarding the exclusion of marae based operations, and questions concerning why that exclusion had been proposed, the Principal Policy Advisor reminded members of the legal test of identifying a perceived problem that a bylaw was designed to alleviate. He reiterated that in the consultation stages, no submissions had been received from marae based operations. He noted that often the operators could also be practicing their craft outside of marae in which case they would have to become licensed under the proposed bylaw. He further directed member's attention to paragraphs 35-38 of the officer's report, and highlighted that 122 individuals had been sent the letters mentioned, with no responses received.

The Environmental Health Officer advised that Tikanga Maori was practiced on marae, and acknowledged this did not specifically address infection risks. The Chair reminded member's of the comments of Dr Nesdale regarding the marae based operations exclusion from the proposed bylaw. She requested officers ensure all such operations be invited to the proposed workshops. The officers acknowledged they had no information concerning the extent of marae based tattooing operations.

In response to a question from a member, the Principal Policy Advisor advised Upper Hutt City Council (UHCC) was no longer part of the proposed bylaw. The Team Leader Environmental Health added that if the proposed bylaw was a joint Hutt Valley one, that officers would undertake the UHCC inspections under contract.

In response to a question from a member, the Environmental Health Officer confirmed the submitters had had their concerns addressed.

The meeting adjourned at 9.56am and resumed at 10.12am.

In discussion, the Principal Policy Advisor outlined the process going forward, noting a report would be presented to the Policy, Finance and Strategy Committee on 7 September 2020. He agreed to send a copy of the report, including the proposed final bylaw, to

members for review.

Members agreed to amend the words “under the influence” to read “was impaired” in the proposed bylaw. Members also agreed to individually email the Principal Policy Advisor with any further suggested changes to the proposed bylaw.

In response to a request from a member, the Principal Policy Advisor agreed to also present a final copy of the proposed Bylaw to the Policy, Finance and Strategy Committee, for ease of reading.

RESOLVED: (Cr Hislop/Cr Edwards)

Minute No. HSC 20501

That the Proposed Appearance Industries Bylaw Subcommittee:

- (i) notes the Summary and Statement of Proposal, attached as Appendices 1 and 2 to the report;*
- (ii) notes the draft proposed Bylaw and draft proposed Code of Practice that was part of the special consultative procedure attached as appendices 3 and 4 to the report;*
- (iii) agrees to accept and consider Emma Fraser’s late submission attached as appendix 14 to the report;*
- (iv) considers the submissions received (attached as appendices 5 – 13 and 18 to the report);*
- (v) considers the recommended changes to the Bylaw and Code of Practice attached as appendices 16 and 17 to the report;*
- (vi) notes the key issues outlined in the report; and*
- (vii) agrees that officers present a report to the Policy, Finance and Strategy Committee on 7 September 2020 outlining any changes made to the proposed Bylaw.”*

There being no further business the Chair declared the meeting closed at 10.22am.

Cr D Hislop
CHAIR

CONFIRMED as a true and correct record
Dated this 7th day of September 2020