

REGULATORY AND PLANNING COMMITTEE AGENDA

OCTOBER 2006

1. SKATEBOARD BYLAW

(Memo from Chief Executive – 2.10.06)

Background

In early 2002 the Council gave consideration to whether a bylaw banning skateboards in the central business district of Gore should be introduced. The Council at that time opted to not introduce such a bylaw because there was no meaningful alternative for skateboarders in regard to a designated skateboarding facility. The opening of a new skateboard park in Gore at the end of last year has addressed this particular shortcoming giving rise for a review of whether the Council should now consider putting in place a bylaw banning the use of skateboards and roller skates in the central business district.

Legislative Considerations

Section 145 of the Local Government Act 2002 (the Act) provides for the adoption of bylaws to:

- (a) protect the public from nuisance;
- (b) protect, promote and maintain public health and safety; and
- (c) minimise the potential for offensive behaviour in public places.

In considering the adoption of a bylaw councils must follow the procedure set out Sections 155-157 of the Act. This entails:

- 1. Before commencing the process for making the bylaw, the council must determine whether the bylaw is the most appropriate way of addressing the perceived problem;
- 2. In drafting a bylaw the council must determine whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990; and
- 3. If the council decides to proceed with introducing a bylaw, the council must then use the special consultative procedure for public consultation.

In analysing the requirements of step 1, this report considers:

- 1. the perceived problem;
- 2. the significance of the problem;
- 3. the desired outcome; and

4. options available to address the problem.

The Problem

Skateboarders and roller skaters demonstrating their skills in the central business district pose a number of problems. These problems, in no set order of priority, are considered to be:

- (a) The safety of pedestrians, particularly the elderly and young children, as skateboarders and roller skaters can gain a fair amount of speed when travelling in a direct line without any fancy manoeuvres.
- (b) Property damage caused by skateboarders trying to jump on and off the likes of steps, seats, ramps etc which can lead to tipping and erosion of edges of these structures, many of which are in private ownership.
- (c) Public nuisance because many members of the public and visitors do not expect to have to dodge roller skaters and skateboarders whilst walking down the street or browsing in shop windows.

There may well be other problems that members of the public could identify such as noise arising from skateboarders yelling in exhilaration or the sound of a skateboard against concrete as it comes to a shuddering halt. However the three problems mentioned above are considered to be the main points which require addressing.

The Significance of the Problem

It would be fair to suggest that during the period of late autumn, winter and early spring skateboarders are not too much of a problem in the central business district of Gore. However with the onset of warmer weather, daylight saving hours and school holidays complaints regarding skateboarders and roller skaters can expect to rise. Even with the introduction of a new skate park there is still the temptation from some skateboarders to venture into the main central business district and “strut their stuff” in front of what is perceived as a bigger audience. Whether this audience is an admiring or frustrated one does not appear to have burdened the curiosity of the skateboarders concerned! Given that visitors to Gore increase during the summer months and locals are also likely to be out in greater numbers with the better weather and the festive season being celebrated during this time, the problem of skateboarders and roller skaters using the central business district as a de facto skatepark is considered to be significant.

Desired Outcome

The desired outcome is therefore to eliminate the practice of skateboarders and roller skaters displaying their craft in the central business district of Gore. It is not to stop a skateboarder or roller skater to walk through the central business district with skateboard or roller skate in hand. Rather it is to prevent the use of such devices as a means of travelling through the central business district.

Information received from other New Zealand councils suggests that the introduction of a skateboard ban will be a useful tool in achieving this aim.

Identification of Options

As part of its decision-making process, the Council is required by Section 77 of the Act to identify and assess all reasonable practical strategies that could provide the desired solution.

A number of potential strategies have been identified including:

- maintenance of status quo
- undertaking a major public education campaign
- advocating for more Police in Gore
- funding private security patrols.

The ability of the strategies to address the defined problem must be assessed in terms of the benefits and costs regarding the present and future social, economic, environmental and cultural wellbeing of the District.

All of these options would rely on the Police to use its existing powers to prevent skateboarders and roller skaters travelling through the central business district on skateboards and roller skates. However the Police can only advise/suggest to the young people concerned that they refrain from using the central business district as a de facto skateboard park and ask that they use the designated skateboard park facility provided for them. The Police cannot be patrolling the central business district continuously and also have no powers of seizure of the offender's preferred mode of transport to drive home the message. It is therefore unlikely that any of these alternatives would have a social, environmental or cultural benefit to the community.

All of the options (except the maintenance of the status quo) would involve additional expenditure on the part of the Council and/or the community. These costs would need to be

considered against the likely benefit that would accrue by implementing the individual strategy.

An analysis of the strategies indicates that no single approach, except for the development of a bylaw, would be effective in reducing and possibly eliminating the practice of skateboarders displaying their skills in the central business district of Gore.

The key reasons for pursuing the development of a bylaw to address skateboarding and roller skating in the central business district are:

- the Police being able to confiscate skateboards for a period of time as a means of punishment for breach of the bylaw;
- reduction of vandalism to property and an increase in the perception of safety as visitors and locals feel less intimidated and threatened by skateboarders and roller skaters travelling through the central business district at high speeds. This is considered to have positive impacts on both social and environmental wellbeing.

Long Term Council Community Plan

The Council must also consider community outcomes in its decision-making process and determine whether strategies identified make a positive contribution towards the attainment of these outcomes. It is considered that the creation of a skateboarding bylaw prohibiting the use of skateboards or roller skates in the central business district would have a positive effect on two of the seven primary outcomes contained in the Our Way Southland report. These outcomes are:

1. *Safe places in a caring society that is free from crime.* From this primary outcome flow two intermediate outcomes that have particular relevance to this matter:
 - *we have public places safe for children and families*
 - *we apprehend and hold lawbreakers appropriately accountable.*
2. *A treasured environment which we care for and which supports us now and into the future.* Intermediate outcomes under this primary outcome which have relevance to this issue are:
 - *we have a healthy, safe and accessible built environment*
 - *we have an environment protected from the negative effects of human activities.*

New Zealand Bill of Rights Act

When developing a bylaw the Council must consider any implication under the New Zealand Bill of Rights Act 1990. Bylaws must not destroy or unnecessarily interfere with the public right without producing a corresponding benefit.

The proposed bylaw is specifically targeted to problem areas with the intention of promoting a benefit in the form of the public being able to enjoy walking in the central business district without fear of colliding with a boisterous skateboarder or roller skater. As mentioned previously it is the act of skateboarding or roller skating in the central business district that it is proposed to be banned, not skateboarders and/or roller skaters as people. With a designated skate park located in close proximity to the central business district there are ample opportunities for skateboarders and roller skaters to practice their skills without interfering or disrupting the rights of others. Therefore it is contended that there are no impediments from a New Zealand Bill of Rights Act perspective in implementing a skateboarding bylaw which would prohibit usage of skateboards or roller skates in the central business district area.

Conclusion

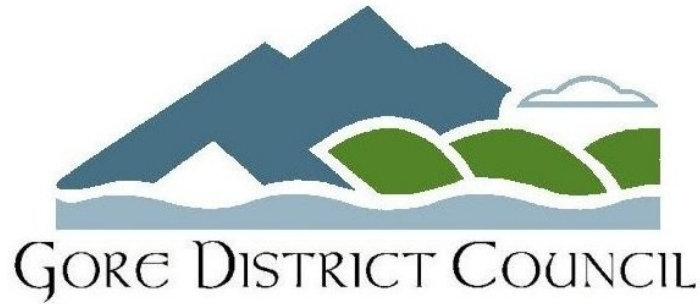
A bylaw is considered the most appropriate mechanism by which to prevent skateboarders and roller skaters using the central business district of Gore as a de facto skate park. A draft bylaw is attached for the committee's consideration. This bylaw has been developed having regard for similar bylaws that operate in other communities which have developed skateparks. A key component of the proposed bylaw is the ability of either local Police or Council officers to impound the skateboard should a person fail to heed an earlier request to refrain from using the device in a manner which breaches the bylaw. Like the recently enacted Gore Liquor Ban Bylaw, the power of seizure can have a very galvanising effect on altering attitude and behaviour.

At the time of writing formal comment from the Gore Police on the proposed bylaw was being sought. It is hoped to be able to include any comments the Police may wish to make before the October Council meeting at which ratification of the draft bylaw will be invited.

RECOMMENDATION

THAT the Council resolve that pursuant to Section 147 of the Local Government Act 2002, the adoption of a bylaw is the most appropriate way of addressing the problem of skateboarders and roller skaters practicing their skills in the central business district of Gore,

AND THAT the Council approve the release of the draft Skateboarding Bylaw for public consultation.



GORE SKATEBOARD BAN BYLAW 2007

The Local Government Act 2002 allows the Council to control a public nuisance by introducing a bylaw. This bylaw is made pursuant to Section 145 of the Local Government Act 2002, for the purpose of promoting public safety and the effective regulation of pedestrian and traffic movements on roads, footpaths and public places within the central business district of Gore.

1. Title, Purpose and Commencement

This bylaw shall be known as the Gore Skateboard Ban Bylaw 2007 and is made for the control of skateboarding in public places.

This bylaw shall come into force on 1 March 2007.

2. Interpretation

- 2.1 Council means the Gore District Council.
- 2.2 Footpath means as much of any road or public place that is laid out or constructed by authority of the Council for pedestrian use.
- 2.3 Officer means any Police Constable, authorised security or Council officer or any other person appointed especially or generally by the Council to enforce the provisions of this bylaw.
- 2.4 Ride or Skateboard means having either one or both feet or any other part of the body of any person, on the skateboard when it is moving.
- 2.5 Skateboard means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates or similar recreation devices. The

definition does not include any wheelchair, baby or invalid carriage.

3. Acts Prohibited

- 3.1 No person shall ride any skateboard on any road, pavement or in any public place within the areas described in the schedule to this bylaw.
- 3.2 This bylaw shall not restrict or prevent the use of any wheelchair, pushchair, pram, trolley, cart or other device constructed for and used for the purpose of assisting transportation of disabled persons, young children or personal effects.

4. Offence

Every person who breaches this bylaw commits an offence and is liable on summary conviction to the penalty set out below.

5. Penalty for Breach of Bylaw

Any person convicted of an offence against this bylaw is liable, on conviction, to a fine not exceeding \$20,000.

6. Enforcement

6. A police officer, council enforcement officer or other person authorised to enforce the provisions of this bylaw may impound at the Council's offices or a Police Station any skateboard used in breach of this bylaw by a person who has previously been personally requested to refrain from using the skateboard in breach of the bylaw, and has been advised of this power to impound the skateboard.
- 6.2 Any impounded skateboard will be returned to the identified owner after the expiry of five (5) working days upon payment of a fee of \$20.00.

GORE SKATEBOARD BAN BYLAW 2007

Schedule A – Prohibited Places

All public places within the area shown on the attached map entitled “Gore Skateboard Ban Area”.

The foregoing bylaw was duly adopted at a meeting of the Gore District Council held on the day of February 2007 and ordered to come into force on the 1st day of March 2007.

The Common Seal of the
Gore District Council was
hereunto affixed this
..... day of February 2007
in the presence of:

Mayor

Chief Executive

GORE SKATEBOARD BAN BYLAW 2007

Schedule 1

2. REGULATORY BULLETIN

(Memo from Chief Executive – 02.10.06)

Attached is a schedule of building consents issued for September 2006, together with comparisons with the previous two years.

Also attached are schedules of resource consents issued to 30 September 2006.

RECOMMENDATION

THAT the information be received.