

Fire and Smoke Nuisance Bylaw review 2025 - submissions summary and final bylaw decisions

Introduction

Background

The purpose of the Council's Fire and Smoke Nuisance Bylaw is to protect the public from the nuisance arising from fire and smoke, in regard to aspects other than fire safety.

The bylaw prohibits fires, smoke, or noxious fumes which create a nuisance, health risk, or safety risk to any person or property (excluding safety risks to which the Fire and Emergency New Zealand Act 2017 (FENZ Act), or regulations made under that Act, apply). The bylaw enables Council officers, if required, to take reasonable steps to abate (decrease, diminish, or lessen) the nuisance.

Bylaw review and findings

The Fire and Smoke Nuisance Bylaw was reviewed because prior to amendments in 2018, the last full statutory review was in 2015. The Local Government Act 2002 (LGA) requires that the bylaw is reviewed within ten years of the last review.

Our review found that the bylaw continues to be an effective tool for managing fire and smoke nuisance in Wellington. A draft Fire and Smoke Nuisance Bylaw 2025 was developed for public consultation, which included some proposed updates to the existing bylaw.

Consultation on the draft Fire and Smoke Nuisance Bylaw 2025

Public consultation on the bylaw review was undertaken from 13 June to 15 July 2025. 48 individuals and one organisation submitted on the bylaw. Two individuals made more than one submission. Where multiple submissions were made, they were grouped against the individual submitter for the purposes of analysis. This document summarises submissions received on the draft bylaw and sets out responses to feedback and decisions made for the final bylaw.

Final decisions and actions following consultation

The final Fire and Smoke Nuisance Bylaw 2025 was adopted by Wellington City Council on 11 September 2025. In addition to the proposed updates included in the draft bylaw for consultation, the final bylaw updates the definition of 'nuisance' to include reference (but not limit the definition) to nuisances defined in sections 29(m) and 29(n) of the Health Act 1956 (Health Act).

As an action resulting from the bylaw review, the Council's operational guidelines for responding to fire and smoke nuisance complaints will be updated and published on the Council's website. This will provide the community with more information about how fire and smoke nuisance is assessed.

Submission themes and responses

This section summarises submissions received during consultation on the draft Fire and Smoke Nuisance Bylaw 2025 and sets out responses and decisions for the final Fire and Smoke Nuisance Bylaw 2025.

This document does not reflect submissions in full. These are included as attachment 1 of the report to the Council's Social, Cultural, and Economic Committee on 4 September 2025. This can be accessed at meetings.wellington.govt.nz/your-council/reports.

Q1: Do you think the Council should retain a bylaw for regulating fire and smoke nuisance?

Feedback
Yes: 81.6% (40 submitters) No: 18.4% (9 submitters)

Q2: Please let us know a bit more about your answer to question 1.

Responses to this question are grouped into themes. The table below sets out the themes and responses, including any updates to the final Fire and Smoke Nuisance Bylaw 2025.

Theme	Response
Smoke nuisance is an issue in Wellington.	These points support the decision to retain the bylaw.
Smoke can cause health issues.	These points support the decision to retain the bylaw. Greater Wellington Regional Council (GWRC) has responsibilities relating to discharge of contaminants into air under the Resource Management Act (RMA). GWRC tracks air quality trends and checks that air quality meets national standards and guidelines.
Support for bylaw.	These points support the decision to retain the bylaw.
Inappropriate materials being burned.	The GWRC Natural Resources Plan prohibits burning certain materials. Wellington City Council officers include consideration of the type of fuel being burned as part of assessing fire and smoke nuisance complaints.
A bylaw for fire and smoke nuisance is not necessary (not Council's role, scale of issue not significant, unnecessary overreach etc.)	Over 80% of submitters supported retaining a bylaw to regulate fire and smoke nuisance, and officers considered the number of complaints received sufficient to support retaining a bylaw. While Fire and Emergency New Zealand (FENZ) has responsibility for fire safety under the FENZ Act, and GWRC has responsibilities relating to discharge of contaminants into air under the RMA, the LGA allows territorial authorities to make bylaws to protect the public from nuisance. The Health Act allows

Theme	Response
	local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Building design should include risk reduction for fire and smoke.	While the Council issues building consents, it is not responsible for setting building design requirements. These are set out under the Building Code, specifically G4 for ventilation, as well as NZS2918:2001.
Suggests licence or permission system for backyard incinerators.	Under rule R1 of the GWRC Natural Resources Plan, the discharge of contaminants into air from outdoor burning is a permitted activity, provided certain conditions are met. FENZ may require fire permits for incinerators depending on the fire season. Where permits are not required, safety requirements must still be followed.
Financial hardship/cost of heating should be a consideration.	Noted. The bylaw would only enable an officer to request that a domestic fire was put out if nuisance was confirmed following an assessment. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Bylaw should not be enforced where wood burners are compliant with the Building Act or being used correctly.	The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Wood burning/ fireplaces are part of our way of life/efficient/eco-friendly.	The bylaw would only enable an officer to request that a domestic wood burning fire was put out if nuisance was confirmed following an assessment. Officers include consideration of the type of fuel being burned in their assessment of nuisance. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Support for education and personal responsibility, not enforcement.	The Council takes an educative approach when responding to callouts and provides good practice tips for nuisance-free fires on its website.

Theme	Response
The bylaw should apply/not apply to certain types of fires.	The bylaw applies to any type of fire, as it is focused on regulating fire and smoke nuisance. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.' For outdoor fires, under rule R1 of the GWRC Natural Resources Plan, the discharge of contaminants into air from outdoor burning is a permitted activity, provided certain conditions are met.
Suggests general prohibition on burning waste.	Under Rule R1 in the GWRC Natural Resources Plan, the discharge of contaminants into air from outdoor burning is a permitted activity provided certain conditions are met, including that there is no burning of 'specified materials.' Rule R6 prohibits the discharge of contaminants into air from the combustion of 'specified materials' in a domestic fire. The definition of 'specified materials' includes 'municipal, commercial, institutional, domestic, or industrial waste.'
Suggests restrictions on when burning is allowed.	Outdoor burning is a permitted activity under the GWRC Natural Resources Plan, providing certain conditions are met. Depending on the fire season, FENZ may require permits for outdoor fires. Where permits are not required (for example in an open fire season), safety requirements must still be followed.
Provide clearer definition of 'nuisance.'	The definition of 'nuisance' in the bylaw has been updated to include the relevant definitions of nuisance in the Health Act (noting that the bylaw is not limited to this definition). This will provide more specificity while not restricting officers to this definition in their assessment of fire and smoke nuisance. Additionally, the Council's operational guidelines for officers responding to fire and smoke nuisance complaints will be updated and published. This will provide more information to the community about how fire and smoke nuisance is assessed.
Strengthen/enforce standards for fireplaces or wood burners.	All new wood burners installed from 1 September 2005 on properties less than 2 hectares in size must meet requirements in the wood burner standards which are part of the National Environmental Standards for Air Quality (NES for Air Quality). The Ministry for the Environment (MfE) keeps a list of authorised wood burners. Installation requirements under the Building Act 2004 (Building Act) must be adhered to. Developments or updates to the New Zealand Building Standards are controlled by the Ministry of Business, Innovation

Theme	Response
	and Employment (MBIE). The Council enforces the most current standards to ensure wood burners comply under the Building Act.
No consequences for repeat offences.	The bylaw now includes clause 7.2: <i>The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this bylaw shall be deemed to be a continuing offence under this bylaw.</i> This clause already existed in the introduction of the Consolidated Bylaw. Penalties for offences are set out in the LGA and Health Act. Officers include consideration of the number of prior callouts in their assessment of fire and smoke nuisance.
Improve awareness of bylaw.	Noted. Opportunities to increase public awareness of the bylaw will be considered.
Does not support wait time after reporting.	On receipt of a fire and smoke nuisance complaint, it is standard procedure for the Council to advise callers to wait 20 minutes and call back if the issue has persisted. This is because, in most cases, fires are smokiest when first getting started. The wait period reduces the number of callouts where the issue has resolved by the time officers arrive.
Fire and smoke cause environmental issues.	Noted. These points support the decision to retain the bylaw. GWRC has responsibilities relating to the discharge of contaminants into air under the RMA.
Concerned about air quality in Karori airshed.	Noted. GWRC has responsibilities relating to the discharge of contaminants into air under the RMA. GWRC tracks air quality trends and checks that air quality meets national standards and guidelines.

Q3: Are there any other comments you wish to make on any part of the draft Fire and Smoke Nuisance Bylaw?

Responses to this question are grouped into themes. The table below sets out the themes and responses, including any updates to the final Fire and Smoke Nuisance Bylaw 2025.

Theme	Response
Smoke nuisance is an issue in Wellington.	These points support the decision to retain the bylaw.
Smoke can cause health issues.	These points support the decision to retain the bylaw.

Theme	Response
	GWRC has responsibilities relating to discharge of contaminants into air under the RMA. GWRC tracks air quality trends and checks that air quality meets national standards and guidelines.
Wood burning should be banned/incentives provided to switch to other methods.	All new wood burners installed from 1 September 2005 on properties less than 2 hectares in size must meet requirements in the wood burner standards which are part of the NES for Air Quality. MfE keeps a list of authorised wood burners. Installation requirements under the Building Act must be adhered to.
Bylaw should not be enforced where wood burners are compliant with the Building Act or used correctly.	The bylaw does not distinguish between types of fires as it is focused on regulating fire and smoke nuisance. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Ban/enforce against inappropriate materials being burned.	The GWRC Natural Resources Plan prohibits burning certain materials. Wellington City Council officers include consideration of the type of fuel being burned as part of assessing fire and smoke nuisance complaints.
The bylaw could contravene human rights.	There are no rights in the Human Rights Act 1993 or the Bill of Rights Act 1990 in relation to the lighting of fires.
Encourage appropriate fuel use through timber storage/drying provision in building consent process.	While the Council issues building consents, it is not responsible for setting building design requirements. There is currently no requirement under the Building Act for the suggested provision to be included under the Building Consent, therefore the Council does not have the ability to enforce this.
Existing approach was sufficient.	Existing bylaws must be reviewed according to legislative timeframes. The adopted Fire and Smoke Nuisance Bylaw 2025 includes minimal changes compared to the previous bylaw.
Bylaw should not be used as a tool for serial complainers.	The assessment made by officers is intended to ensure genuine cases of unreasonable inconvenience or risk are occurring before any further action is taken.
Strengthen/enforce standards for fireplaces or wood burners.	All new wood burners installed from 1 September 2005 on properties less than 2 hectares in size must meet requirements in the wood burner standards which are part of the NES for Air Quality. MfE keeps a list of authorised wood burners. Installation requirements under the Building Act must be adhered to.

Theme	Response
	Developments or updates to the Building Standards are controlled by MBIE. The Council enforces the most current standards to ensure wood burners comply under the Building Act.
Consider/mitigate smoke impact on adjacent buildings in building consent process, revisit existing installations where issues, commission a study of impacts.	While the Council issues building consents, it is not responsible for setting building design requirements. Design requirements are set out under the Building Code, specifically G4 for ventilation, as well as NZS2918:2001. GWRC has responsibilities relating to the discharge of contaminants into air under the RMA. GWRC tracks air quality trends and checks that air quality meets national standards and guidelines.
Concerned with vaping in public places.	Noted. This matter is outside the scope of this bylaw.
Beach fires should be allowed.	The bylaw does not restrict fires on beaches and does not distinguish between types of fires. It is focused on regulating nuisance that occurs as a result of fire and smoke.
There should be no action on smoke from a fireplace/ wood burner.	The bylaw does not distinguish between types of fires as it is focused on regulating fire and smoke nuisance. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Council should support decentralised heating and fuel independence, not punish it.	The bylaw would only enable an officer to request that a domestic wood burning fire was put out if nuisance was confirmed following an assessment. The LGA allows territorial authorities to make bylaws to protect the public from nuisance, and the Health Act allows local authorities to make bylaws for 'improving, promoting, or protecting public health, and preventing or abating nuisances.'
Scale of issue does not warrant a bylaw.	Over 80% of submitters supported the Council having a bylaw to regulate fire and smoke nuisance, and officers considered the number of complaints received sufficient to support retaining the bylaw.
Bylaw name should first be in English.	As outlined in Te Tauihu, the Council's Te Reo Māori Policy, the Council's vision is for Wellington to be a te reo Māori city by 2040. The design of the final bylaw will take into account Te Tauihu as well as consistency with the Council's other bylaws.
Provide exception to the bylaw for fires	Officers include cultural and tikanga considerations in their assessment of nuisance. The Council's operational guidelines for

Theme	Response
over Matariki weekend.	officers responding to fire and smoke nuisance complaints will be updated and published. This will provide more information to the community about how nuisance is assessed.
Definition of 'nuisance' too subjective.	The definition of 'nuisance' in the bylaw has been updated to include the relevant definitions of nuisance in the Health Act (noting that the bylaw is not limited to this definition). This will provide more specificity while not restricting officers to this definition in their assessment of fire and smoke nuisance.
Consider time of day, weather, time for fire to take hold in nuisance assessments.	The Council's operational guidelines for officers responding to fire and smoke nuisance complaints will be updated and published. This will provide more information to the community about how nuisance is assessed. On receipt of a fire and smoke nuisance complaint, it is standard procedure for the Council to advise callers to wait 20 minutes and call back if the issue has persisted. This is because in most cases fires are smokiest when first getting started.
Suggests near zero tolerance for urban/suburban backyard burn-offs.	Outdoor burning is a permitted activity under the GWRC Natural Resources Plan, however there are rules around what materials can be burned. Depending on the fire season, FENZ may require permits for outdoor fires. Where permits are not required (for example in an open fire season), safety requirements must still be followed.
Strengthen bylaw/ have effective enforcement and penalties.	The Council's operational guidelines for officers responding to fire and smoke nuisance complaints will be updated and published. This will provide more information to the community about how nuisance is assessed. Penalties for bylaw offences are set out in the LGA and Health Act.
Address recurring or repeated offences, with escalating scale of penalties	The bylaw now includes clause 7.2: <i>The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this bylaw shall be deemed to be a continuing offence under this bylaw.</i> This clause already existed in the introduction of the Consolidated Bylaw. Penalties for bylaw offences are set out in the LGA and Health Act. Officers include consideration of the number of prior callouts in their assessment of fire and smoke nuisance.
Improve awareness of bylaw.	Opportunities to increase public awareness of the bylaw will be considered.
Does not support 'reasonableness'	The definition of 'nuisance' in the bylaw has been updated to include the relevant definitions of nuisance in the Health Act (noting

Theme	Response
test' in nuisance assessments	that the bylaw is not limited to this definition). This will provide more specificity while not restricting officers to this definition in their assessment of fire and smoke nuisance. The Council's operational guidelines for officers responding to fire and smoke nuisance complaints will be updated and published. This will provide more information to the community about how nuisance is assessed.
No air quality measurement in Karori.	GWRC has responsibilities relating to the discharge of contaminants into air under the RMA. GWRC tracks air quality trends and checks that air quality meets national standards and guidelines.
Allow anonymous posts, redact personal information.	It is standard practice for the Council to require names to be provided on public consultations. However, as some submissions received contained potentially personal information, only the first name provided was included in the published version of submissions. As per the Privacy Statement for this consultation, all other personal information was redacted.

Additional amendments confirmed in final bylaw

In addition to an updated definition of 'nuisance,' some additional amendments are included in the final Fire and Smoke Nuisance Bylaw 2025. None of these change the bylaw intent or powers.

The updates are:

- reflecting the adoption date of the bylaw
- including a 'commencement' section setting out when the bylaw comes into force
- capitalising defined terms throughout the bylaw
- updating the title of section 4: 'bylaws revoked' to 'revocation and savings' and moving it to earlier in the bylaw, for consistency with the Council's other bylaws
- including new clause 4.1 to state that the new bylaw revokes the current bylaw
- other minor drafting improvements, including renumbering and inserting acronyms.