

Wanganui District Council (Prohibition of Gang Insignia) Bill

Local Bill

Explanatory note

General policy statement

Wanganui District Council (the **Council**) is a territorial authority constituted under the Local Government Act 2002 (the **LGA**) and is required to give effect to the purpose of local government including promotion of the social, economic, environmental and cultural well-being of communities in the present and for the future. The Council is also required to enable democratic local decision making and action by, and on behalf of, communities. The LGA provides local authorities with power to determine how it will fulfil its mandated roles and responsibility towards communities.

The Council has become aware of increasing problems created by violent confrontations between rival gangs in the District. The wearing or display of gang insignia in public places is the principal means of identifying the members or associates of different gangs and contributes to, and is likely to promote, further gang confrontations. Members of the public are intimidated by gang members congregating in public places and wearing gang insignia. There have been repeated instances of residents in the district being frightened by such displays.

There is an informal policy at a number of public buildings in Wanganui of prohibiting gang members from wearing or displaying gang insignia. Such a policy recognises that prohibiting the wearing and display of gang insignia reduces the likelihood of gang confrontation and intimidation of members of the public at such places.

The Council is supportive of the existing informal regime and the goals of minimising such confrontations and preventing intimidation of members of the public by gang members by extending the informal regime through this Bill.

Police statistics show that offences involving confrontation between gang members or other offences with a public safety element have increased from 11 offences in 2004 to 48 offences in 2006. This is a four-fold increase in three years. There have also been serious gang-related firearm offences over the past 12 to 18 months that have resulted in attacks upon police and the murder of a two-year-old child.

The Council has sought the views of the community about the proposed Bill by way of a referendum. Sixty-four percent of the respondents supported the prohibition of gang insignia in public places.

The local community wants to feel safe from gang confrontation and gang intimidation. At present the Council has no ability to control when gang insignia may be worn or displayed. The Bill provides a new tool to the Council to reduce the likelihood of confrontation between gang members by enabling Council to prohibit wearing or displaying of gang insignia in specified places in the district.

Before making a bylaw, the Council must be satisfied that a prohibition is reasonably necessary to prevent or reduce the likelihood of intimidation or harassment of the public or to avoid or reduce the potential for confrontation by or between gangs. It is also required to consult on any proposal in terms of the procedures in the Local Government Act 2002.

Clause by Clause Analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 sets out the purpose of the Act.

Clause 4 is an interpretation clause.

Clause 5 provides for a new bylaw making power to designate specified places for the purposes of the Act where gang insignia may not be worn or displayed. The Council is also empowered to make

bylaws identifying any organisation, association or group of persons as a gang for the purposes of the Act.

Clause 6 creates a new offence of wearing or displaying gang insignia in a specified place in the district.

Clause 7 provides police with powers of arrest and seizure of gang insignia being worn or displayed in a public place.

Chester Borrows

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Wanganui District Council (Prohibition of Gang Insignia) Act 2007.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Purpose**
The purpose of this Act is to prohibit the wearing or display of gang insignia in specified places in the District.
- 4 Interpretation** 10
In this Act, unless context otherwise requires—
Council means the Wanganui District Council
District means the district of the Wanganui District Council

gang means—

- (a) Black Power, Hells Angels, Magogs, Mothers, Mongrel Mob, Nomads, or Tribesmen; and
- (b) any other specified organisation, association, or group of persons identified in a bylaw made under section 5 on this Act 5

gang insignia means any sign, symbol, or representation showing membership of, an affiliation with, or support for a gang and includes any items of clothing to which signs, symbols, or representations are attached 10

public place has the meaning given to it in section 147(1) of the Local Government Act 2002

specified place means a public place identified in a bylaw made under section 5 of this Act.

5 Power to make bylaws designating specified places or new gangs 15

- (1) The Council may, from time to time, make bylaws—
 - (a) Designating any public place as a specified place for the purposes of this Act:
 - (b) Identifying an organisation, association, or group of persons as a gang for the purposes of this Act. 20
- (2) In making a bylaw under subsection (1), the Council must use the special consultative procedure set out in section 83 of the Local Government Act 2002.
- (3) The Council must not make a bylaw identifying a gang under subsection (1)(b) unless it is satisfied that the organisation, association, or group proposed to be regulated, has the following characteristics—
 - (a) A common name or common identifying signs, symbols, or representations; and 30
 - (b) Its members, associates, or supporters individually or collectively promote, encourage, or engage in a pattern of criminal activity.
- (4) The Council may make a bylaw under this section only if it is satisfied that the bylaw is reasonably necessary in order to prevent or reduce the likelihood of intimidation or harassment of members of the public in a specified place or to avoid or reduce the potential for confrontation by or between gangs. 35

6 Prohibition of gang insignia

- (1) No person may wear or display gang insignia at any time in a specified place in the District.
- (2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. 5
- (3) Without limitation, and to avoid doubt, a Judge may apply section 128 of the Evidence Act 2006 in deciding whether a sign, symbol, or representation is gang insignia for the purposes of this Act. 10

7 Powers of arrest and seizure in relation to persons wearing or displaying gang insignia

- (1) A member of the police may, without warrant—
- (a) arrest a person whom the member of the Police has good cause to suspect has committed an offence against section 6(2): 15
- (b) Seize and remove gang insignia (by the use of force if necessary) being worn or displayed in a specified place.
- (2) Gang insignia seized under subsection (1)(b) is forfeited to the Crown if the person from whom the gang insignia is taken is convicted of an offence under section 6(2). 20