

Adoption of Statement of Proposal for draft Consolidated General Bylaw 2020

Meeting: Kaipara District Council
Date of meeting: 29 April 2020
Reporting officer: Paula Hansen, Senior Policy Planner

Purpose/Ngā whāinga

To adopt the Statement of Proposal for the draft Consolidated General Bylaw 2020, the draft Consolidated General Bylaw 2020 and the Summary of Statement of the Proposal for public consultation.

To delegate at least three Elected Members to hear the views of our communities. This involves being present at any drop-in sessions or hearings; and to make recommendations on the draft Consolidated General Bylaw 2020 to Council.

Executive summary/Whakarāpopototanga

The Consolidated General Bylaw 2008 has been reviewed and it has been assessed in terms of section 155 (Attachment A) and section 77 (Attachment B) of the Local Government Act 2002. It has been concluded that, given the number and type of changes proposed that the Consolidated General Bylaw 2008 be revoked in its entirety and be replaced with a new bylaw, the draft Consolidated General Bylaw 2020. To support this conclusion, a Statement of Proposal, including a draft Consolidated General Bylaw 2020 has been prepared (Attachment C). To enable Council's decision to adopt the Statement of Proposal and draft Bylaw for consultation, a Summary of the Statement of Proposal has also been drafted (Attachment D). The draft Bylaw has undergone a comprehensive legal review, a plain English review and an internal staff review to ensure provisions are aligned to current practice and Council's legislative obligations.

Recommendation/Ngā tūtohunga

That the Kaipara District Council:

- a) Adopts the Statement of Proposal for the draft Consolidated General Bylaw 2020 including the draft Consolidated General Bylaw 2020 and Summary of the Statement of Proposal for consultation.
- b) Delegates [insert Elected Members' names] to form the General Bylaws Panel to hear views, to consider both written and verbal submissions and to make recommendations on the draft Consolidated General Bylaw 2020 to Council.

Context/Horopaki

The Consolidated General Bylaw 2008 has been reviewed in accordance with the statutory requirements of the Local Government Act 2002 (LGA). It has been assessed in terms of sections 155 and 77 of the LGA. A Statement of Proposal, a summary of the proposal and a copy of the draft Consolidated General Bylaw 2020 have been prepared for Council to adopt for public consultation.

Discussion/Ngā kōrerorero

The sections 155 and 77 LGA assessment concluded that:

- Five Parts of the bylaw are not considered the most appropriate way to address the perceived problems therefore they should be revoked completely and not replaced. These are:
 - Part 6 Amusement Galleries
 - Part 10 Public Libraries
 - Part 11 Recreational and cultural facilities
 - Part 13 Skateboards (some provisions transferred to Part 2 Public Places)
 - Part 14 Gin Traps.
- 11 Parts of the bylaw are considered the most appropriate way to address the perceived problems, and of which:
 - Nine Parts should be amended with some content changes. These are:
 - Part 1 Introductory
 - Part 2 Public Places
 - Part 3 Trading in Public Places and Trading as a Hawker, Mobile Shop or Itinerant Trader
 - Part 5 Signs
 - Part 8 Animals, Poultry, Stock and Bees
 - Part 12 Nuisances
 - Part 15 Traffic
 - Part 16 Water Supply
 - Part 17 Land Drainage; and
 - Two Parts should be substantially amended, these being:
 - Part 4 Solid Waste (scope and content)
 - Part 9 Cemeteries and Crematoria (content)

Please note, Part 7 Fires in the Open Air has already been revoked.

The wording of the draft Consolidated General Bylaw 2020 has been written to reflect plain English, ensure clarity of provisions, and to reduce regulatory duplication where current legislation suffices.

Overall, each proposed amended Part contains minor changes, however collectively, there are many proposed changes. As a result, the Statement of Proposal seeks to revoke the Consolidated General Bylaw 2008 in its entirety and to replace with a new bylaw, the draft Consolidated General Bylaw 2020.

The Statement of Proposal for the draft Consolidated General Bylaw outlines what the proposal is, the reason for the proposal and a copy of the draft Consolidated General Bylaw 2020 (Attachment C). A Summary of the Proposal is also available (Attachment D).

Consultation and decision making

Council must consult with the community in accordance with the requirements of section 156 of the LGA when making a bylaw. Due to the global COVID-19 situation and the current alert level 4 in place in New Zealand, staff have been developing an alternative engagement plan that will meet statutory requirements while maintaining compliance with the relevant alert level. Staff will provide an overview of the proposed engagement plan and timeframes at the meeting.

The relevant information regarding consultation dates and timeframes has been left blank in the attachments to this report. These will be amended accordingly prior to publication. It is proposed

that delegations should be provided to at least three Elected Members to both hear people's views verbally and by written submissions and to make recommendations to Council on the proposal. Delegated Elected Members will need to be able to attend all relevant meetings to hear submitters, deliberate on the matters raised and make recommendations to Council.

Options

Council has four options to consider:

Option 1: Status Quo. This would involve rolling over all provisions in the existing Consolidated General Bylaw with no changes. This is inconsistent with the findings of the analysis conducted in accordance with sections 155 and 77, LGA (Attachments A & B). This option will mean that current perceived problems will not be addressed adequately, and Council staff will continue to struggle to enforce the bylaw.

Option 2: Have no Bylaw. This would involve revoking the existing Consolidated General Bylaw 2008 and not replace it in any way shape or form. As assessed, it is considered that some Parts of the Consolidated General Bylaw be revoked and not replaced. This option is consistent for these Parts (refer to Attachments A & B). However, it is inconsistent with the other Parts whereby the assessments have determined that a bylaw is appropriate to address the perceived issues, either as is, or amended.

Option 3: Amend the current Consolidated General Bylaw 2008. This would involve amending the existing Consolidated General Bylaw 2008. If the amendments were small and discrete this would be the best option. This would also reduce the time required of Elected Members as it would likely limit the number of potential submissions received. However, the amendments are many in relation to: language used (plain English), reducing duplications, flow of provisions and in response to changes in legislation, Council Policy and best practice. In terms of content most Parts have small changes, with two Parts having substantial changes. The two Parts with significant changes would benefit from a five-year review to ensure that any issues with implementation are addressed sooner rather than later.

Option 4: Revoke the current Consolidated General Bylaw 2008 and replace with a new Bylaw. This is the preferred option as it would trigger a five-year statutory review that would be an appropriate timeframe to assess the new Parts 4 Solid Waste, and Part 9 Cemeteries and Crematoria. This is consistent with the assessment undertaken, (refer to Attachments A & B).

The recommended option is **Option 4**.

Policy and planning implications

The direction proposed supports other Council Policy and direction such as Council's Waste Minimisation Plan and Smokefree Kaipara Policy. Provisions proposed make it clearer what people are required to do and makes it easier should enforcement be required.

Teams within Council that will implement the draft Consolidated General Bylaw 2020 will need to ensure that any, delegations, application forms, processes, guidance and web page content is in place, when the draft Consolidated General Bylaw is adopted.

General Bylaw decisions in response to submissions is adopted.

Financial implications

There will be some costs associated with consulting on the Statement of Proposal and hearing verbal submissions.

Financial implications may result from any additional resources required for implementing the Solid Waste licensing regime proposed within the draft Consolidated General Bylaw 2020. Any new signage required will come from resolutions made under the bylaw rather than the proposed bylaw when it is made as final.

Risks and mitigations

The Bylaw is a legal document and could be open to challenge. To mitigate the risk a full legal review of the draft Bylaw 2020 has been undertaken. Affected Council teams have also

been involved in the review process to ensure the provisions in the draft Bylaw 2020 are able to be implemented.

Significance and engagement/Hirahira me ngā whakapāpā

Under section 156 of the LGA, Council must use the special consultative procedure under section 83 as modified by section 86 of the LGA, if there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of a bylaw, or is directed to do so under Council's Policy on Significance. It is determined that some changes will have a significant impact on the public due to the proposal and that consultation in accordance with section 83 and 86 of the LGA is appropriate.

Next steps/E whaiake nei

Staff will implement the engagement plan and schedule the necessary meetings with the relevant Elected Members.

Attachments/Ngā tapiritanga

	Title
A	Legislative process, analysis and consultation requirements
B	Section 155 and 77 LGA Assessment
C	Statement of Proposal for the draft Consolidated General Bylaw 2020
D	Summary of Proposal for draft Consolidated General Bylaw 2020