

## **Attachment B – Consolidated General Bylaws 2008**

### **Sections 155 & 77 Local Government Act 2002 assessment**

The current Consolidated General Bylaw 2008 is made under the Local Government Act 2002 (LGA) and one Part also made under the Land Transport Act.

The statutory review of the Consolidated General Bylaw requires an assessment under section 155 of the LGA. This report details this assessment and should be read in conjunction with the 'Legislative process, analysis and consultation requirements' as attached to the Council Report to the March Council meeting, as well as the report itself. This assessment includes an analysis of the available reasonably practicable options to address the perceived problem(s), together with advantages and disadvantages of each in accordance with section 77 LGA.

Each Part of the Consolidated General Bylaw 2008 has been assessed below.

## 1) Table one – Assessing and Identifying the problems

### Part 1 - Introductory

#### 1. Assessment summary

- 1) This Part brings all of the other Parts of the Bylaw together, for example where possible common definitions. It also outlines the process when Council permissions are required as this is not stipulated in other Parts of the bylaw.
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is not considered the most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

#### 2. Perceived problems

- 1) The Consolidated General Bylaw is a consolidation of a number of different Parts. Rather than repeating certain provisions the Introductory Part brings together those provisions that are common throughout the other Parts. These provisions include:
  - a) Definitions of common terms use throughout the bylaw;
  - b) Serving of orders and notices;
  - c) Powers of delegation and entry;
  - d) Suspension of licences (approvals) and revocation of licences;
  - e) Removal of works executed contrary to the bylaws;
  - f) Fees and charges; and
  - g) Offences and breaches and penalties for breach of bylaws.
- 2) The Bylaw 2008 does not provide guidance on licences, only the suspension and revocation of licenses.
- 3) There are some sections that require clarification to make clauses easier to be understood.
- 4) The flow of the sections within this part could flow better.
- 5) Penalties for breaches are outdated and should reflect the Local Government Act 2002.

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|  | <p>6) Without the Introductory Part, there would be a number of doubling up of requirements and numerous different definitions. This could then cause confusion, unless each Part becomes a separate bylaw in itself, in which case it would no longer be consolidated.</p> <p>7) Some clauses do not reflect the intended scope of the Introductory Part and are better placed in other Parts of the Bylaw.</p> |
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## Part 2 – Public Places

### 1. Assessment summary

- 1) Council may make a bylaw to protect the public from nuisances, and protect, promote and maintain public health and safety and to minimise the potential for offensive behaviour under section<sup>1</sup> 145.
- 2) Part 2 of the Bylaw is to regulate a diverse range of activities.
- 3) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 4) The current bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw is the most appropriate form of bylaw.
- 6) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) Additional activities not currently captured in Part 2 includes, use of skating devices and smoking and vaping in designated areas.
- 2) Letting off fireworks within a public place is also a perceived problem when done during dry weather.
- 3) Nuisances from flying drones in a public place is not covered and there is no clear Council mechanism in place for approvals.
- 4) Clauses around billboards appear to be out of place in this Part.
- 5) Vehicle crossing provisions do not have a mechanism to compel applicants to gain a final sign off.
- 6) Vehicle crossing permits do not have a set time frame in place.
- 7) 2km distance for the movement of stock appears to be short.
- 8) Some gaps are present in terms of flow of the provisions.

<sup>1</sup> All sections of an Act referred to hereinafter are sections of the Local Government Act 2002 unless stated otherwise.

## Part 3 – Trading in Public Places and Trading as a Hawker, Mobile Shop or Itinerant Trader

<b>1. Assessment summary</b> <ol style="list-style-type: none"> <li>1) Council may regulate the trading in public places under section 146 (a)(vi).</li> <li>2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.</li> <li>3) The current bylaw is the most appropriate form of bylaw.</li> <li>4) The proposed bylaw is the most appropriate form of bylaw.</li> <li>5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.</li> </ol>	<b>2. Perceived problems</b> <ol style="list-style-type: none"> <li>1) Part 3 seeks to regulate trading in a public place and outlines the need for a licence, license process, fees and exemptions under section 146(a).</li> <li>2) District Plan does not provide for permissions for public land, although it contains rules that need to be followed.</li> <li>3) In cases where a resource consent is not needed there is no mechanism to get people to consider traffic management and other safety considerations.</li> </ol>
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## Part 4- Solid waste

<b>1. Assessment summary</b> <ol style="list-style-type: none"> <li>1) Council may regulate solid wastes under section 146 (a)(iii).</li> <li>2) The current bylaw is not consistent with legislation and Council's Policy.</li> <li>3) A bylaw is considered to be the most appropriate way of addressing the perceived problems.</li> <li>4) The current bylaw is not the most appropriate form of bylaw.</li> <li>5) The proposed bylaw is the most appropriate form of bylaw.</li> <li>6) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.</li> </ol>	<b>2. Perceived problems</b> <ol style="list-style-type: none"> <li>1) There are persistent issues around the following:           <ul style="list-style-type: none"> <li>• Illegal rubbish dumping;</li> <li>• Rubbish put out to early for collection, resulting in mess that generate complaints;</li> <li>• Wrong bags being put out for collection (could be considered illegal dumping) Bags are sometimes from private contractors who don't undertake collections in a particular area;</li> <li>• Multiple unlicensed operators, resulting in lack of knowledge of waste streams;</li> <li>• Lack of ability to gain accurate reporting from operators for purposes of Council legal reporting requirements;</li> </ul> </li> </ol>
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- Clean fills – need better and enforceable regulations around these;
  - Litter bins being used to deposit household rubbish (considered illegal dumping on a smaller scale);
  - Hazardous waste disposal; and
  - Trade Waste disposal.
- 2) Clear infringement details and Acts they relate to.
- 3) Current bylaw does not reflect well Council's Waste Minimization Plan and current national direction.

## Part 5 – Control of Advertising Signs

### 1. Assessment summary

- 1) Council may make a bylaw to protect, promote and maintain public health and safety and to minimise the potential for offensive behaviour under section 145.
- 2) The problems identified were around the ensuring signs creating a hazard or danger to public safety. This includes the placement of signs so not to cause visibility issues along roads and to ensure appropriate construction of signs over a certain size.
- 3) Problems were identified around uncertainty around the enforcement of signs or messages on vehicles,
- 4) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 5) The current bylaw is not the most appropriate form of bylaw.

### 2. Perceived problems

- 1) Activities related to the construction of signs to ensure that they do not pose a health and safety risk particularly in a public place.
- 2) Signs could be placed inappropriately so as to cause health and safety issues.
- 3) Unclear on Council's ability to enforce signs or messages on vehicles that are offensive.
- 4) The main perceived problems are around sites for signs and the potential of causing a hazard if unregulated.
- 5) The District Plan is not considered sufficient to capture the potential health, safety and hazards associated with an inappropriately erected sign in a timely manner. The bylaw allows for alternative enforce actions where the problem(s) being experienced do not fit under the District Plan such as around the maintenance of the signs.

<p>6) The most reasonably practicable option is to reaffirm the existing bylaw.</p> <p>7) The proposed bylaw is the most appropriate form of bylaw.</p> <p>8) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.</p>	
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## Part 6 – Amusement Galleries

### 1. Assessment summary

- 1) There does not appear to be any problems with Amusement Galleries in the Kaipara District and there has been no uptake on these types of activities in the last ten years.
- 2) There are other mechanisms in place should an issue or problem occur. A specific bylaw could be seen as a double up of other legislation and regulations.
- 3) A bylaw is not considered to be the most appropriate way of addressing the perceived or potential problems.
- 4) The bylaw references a section of an Act that has been repealed.
- 5) The most reasonably practicable option is to revoke the existing bylaw and refer directly to the District Plan, the Acts and regulations that govern these types of activities should issues arise.

### 2. Perceived problems

- 1) Any potential problems are likely to occur around, noise, suitability of premises, and assembling of large numbers of people. There are other mechanisms both in the Consolidated General Bylaw and within other legislation that can be used to address these perceived problems.

- 6) The proposal to revoke the bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

**Part 7 – Fire safety** -This part of the bylaw was revoked on 1 July 2018 through section 152B of the Local Government Act 2002 in accordance with the Fire and Emergency Act 2015 transitional provisions.

## Part 8 – Animals, Poultry, Stock and Bees

### 1. Assessment summary

- 1) Council may regulate the keeping of animals, bees and poultry under section 146 (a)(v).
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is the most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) Too many animals on small sections can cause odour and other nuisances.
- 2) Animal welfare issues may arise if animals are kept in inappropriate conditions.
- 3) Some animals can cause unhealthy and insanitary conditions.
- 4) No clear mechanism to deal with nuisances and health and safety concerns with regards to the location of beehives in the Rural Zone.

## Part 9 - Cemeteries and Crematoria

### 1. Assessment summary

- 1) Council may manage, regulate against, or protect from, damage, misuse, or loss, or prevent the use of, the land, structures, or infrastructure associated with cemeteries under section 146 (b)(v).
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is not most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) Lack of transparency on how Council manages its cemeteries.
- 2) Lack of transparency around decision making with the management of the cemeteries.
- 3) Lack of ability and clarity on enforcement of the rules.
- 4) Powers to make rules in current bylaw are too broad and not specific enough, should Council be challenged on them.
- 5) No current empowering bylaw provisions to fine when breaches occur.

## Part 10 – Public Libraries

### 1. Assessment summary

- 1) The Library Part of the bylaw stipulates the conditions for which someone may borrow a book, when service may be refused and powers of the Library Manager which includes the day to day running of the library. The bylaw is largely used as a management tool.
- 2) A bylaw is not considered to be the most appropriate way of addressing the perceived problems.
- 3) The most reasonably practicable option is to revoke the existing bylaw and not replace it.

### 2. Perceived problems

- 1) The main perceived problems within the library is centred on aggressive customers. They can be trespassed in the absence of a bylaw.
- 2) The provisions within this Part of the bylaw are not readily used, rather internal policies are.



- 4) Revoking the bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

## Part 11 – Cultural and Recreational Facilities

### 1. Assessment summary

- 1) Council may manage, regulate against, or protect from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with reserves, recreation grounds, or other land under the control of the territorial authority, under section 146(b)(vi).
- 2) This part of the bylaw is to enable Council to control and set standards for the operation of the cultural and recreational facilities under the ownership or control of Council.
- 3) The provisions of this bylaw are not readily used.
- 4) Council can make rules and conditions of use outside of a bylaw for recreational and cultural facilities under Council's control.
- 5) Currently only the Northern Wairoa War Memorial Hall (Dargaville Town Hall) is captured under this bylaw.
- 6) The bylaw seeks to have mechanisms in place to see to the day to day running of recreational and cultural facilities.
- 7) A bylaw is not considered to be the most appropriate way of addressing the perceived problems.
- 8) The most reasonably practicable option is to revoke the existing bylaw and not replace it.

### 2. Perceived problems

- 1) There are no perceived problems being experienced.
- 2) Potential problems could include, noise issues, solid waste issues (rubbish), and anti-social behaviour due to excessive consumption of alcohol.
- 3) Other mechanisms such as conditions of hire can be put in place to mitigate any potential problems.

- 9) Revoking the bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

## Part 12 – Public Nuisances

### 1. Assessment summary

- 1) Council may protect the public from nuisance under section 145 (a).
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is the most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) Potential for smoke nuisances to occur.
- 2) Animal carcasses have been known to be left in sight of the public, both in the rural and urban zones.
- 3) Health issues can occur as a result of elevated number of vermin and flies.
- 4) Without a bylaw it becomes harder to address perceived problems.

## Part 13 - Skate boards

### 1. Assessment summary

- 1) Council may protect, promote, and maintain public health and safety, and minimise the potential for offensive behaviour in public places under sections 145 (b) and (c).
- 2) This Part of the bylaw is to enable Council to manage health and safety and nuisances that may arise from skateboards through controlling where skateboards may go.
- 3) The provisions of this bylaw are not readily used.

### 2. Perceived problems

- 1) No issues currently occurring.
- 2) Issues may arise if skateboards, and skating take off or the activity uptake grows.
- 3) Areas where skateboards currently cannot go are where you are more likely to encounter a build-up of people.

- 4) The most reasonably practicable option is to revoke the existing bylaw and not replace it.
- 5) Revoking the bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

## Part 14 – Gin Traps

### 1. Assessment summary

- 1) This Part of the bylaw is to stop people from using gin traps in an urban area.
- 2) The provisions of this bylaw are not readily used.
- 3) There is national legislation that controls gin traps.
- 4) The most reasonably practicable option is to revoke the existing bylaw and not replace it.
- 5) Revoking the bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) There are no perceived problems being experienced.
- 2) Regulations around use of gin traps are covered under other legislation.

## Part 15 - Traffic

### 1. Assessment summary

- 1) Council can make a bylaw under the Land Transport Act 1998 for the purposes of managing parking and other vehicular controls on roads under the control of Council.
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is the most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.
- 5) The proposed bylaw does not give rise to any New Zealand Bill of Rights 1990 implications.

### 2. Perceived problems

- 1) Needing to go through a bylaw change each time a schedule is changed.
- 2) No provisions for restricting the weight on bridges or roads under the control of Council.
- 3) Unable to restrict parking to vehicles using charge stations.
- 4) No provisions for u-turns.
- 5) No mechanism to address immovable vehicles on the road reserve.
- 6) If not covered in the bylaw it is difficult to enforce.

## Part 16 - Water supply

### 1. Assessment summary

- 1) Council may manage, regulate against, or protect from, damage, misuse, or loss, or prevent the use of, the land, structures, or infrastructure associated with water supply, under section 146 (b)(ii).
- 2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.
- 3) The current bylaw is the most appropriate form of bylaw.
- 4) The proposed bylaw is the most appropriate form of bylaw.

### 2. Perceived problems

- 1) Repeated provisions
- 2) Contradictory provisions
- 3) Lack of clarity on what is required
- 4) Poor flow between provisions

This Part of the bylaw is required to:

- Set where Councils responsibilities start and finish
- Ensure work undertaken for connections are done right
- What people can and cannot do in relation to works within a water supply system

<p>5) The proposed bylaw does not give rise to any NZ Bill of Rights implications.</p>	<ul style="list-style-type: none"> <li>• Make it clear around acceptable water use</li> <li>• Be more responsive to environmental conditions e.g. water restrictions, flooding</li> <li>• Maintain the integrity of public water systems</li> </ul>
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## Part 17 – Land Drainage

<p><b>1. Assessment summary</b></p> <p>1) Council may manage, regulate against, or protect from, damage, misuse, or loss, or prevent the use of, the land, structures, or infrastructure associated with land drainage, under section 146 (b)(iv).</p> <p>2) A bylaw is considered to be the most appropriate way of addressing the perceived problems.</p> <p>3) The current bylaw is the most appropriate form of bylaw.</p> <p>4) The proposed bylaw is the most appropriate form of bylaw.</p> <p>5) The proposed bylaw does not give rise to any NZ Bill of Rights implications.</p>	<p><b>2. Perceived problems</b></p> <p>1) Lacked plain English</p> <p>2) Works required to maintain integrity of public drains not clearly articulated</p> <p>This Part of the bylaw is required to:</p> <ul style="list-style-type: none"> <li>• Maintain the integrity of the public drains.</li> <li>• Set out what works can be undertaken near a drain</li> <li>• Define responsibilities around planting of trees near public drains.</li> </ul>
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## 2) Table Two - Is a bylaw the most appropriate way of addressing the problems?

The first step in a review process is to assess the perceived problem(s) and analyse mechanisms available to Council to address the perceived problem(s). Table Two poses the key question: Is a bylaw the most appropriate way to address the perceived problems?

	Is a bylaw the most appropriate way to address the perceived problems?	Comment
<b>Part 1 - Introductory</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report. A bylaw allows for enforcement activities for all sections of the Consolidated General Bylaw. This is consistent with the above analysis.
<b>Part 2 – Public Places</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report. A bylaw allows for enforcement activities within a public place. This is consistent with the above analysis.
<b>Part 3 – Trading in Public Places</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report. A bylaw allows for enforcement activities and ability for Council to regulate to ensure health and safety issues are addressed. This is consistent with the above analysis.
<b>Part 4- Solid waste</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around management and regulation around waste operators. A bylaw allows for clear expectations relating to solid waste operators. This is consistent with the above analysis.
<b>Part 5 – Signs</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around health and safety.

		A bylaw allows Council to consider health and safety issues that sit outside of the District Plan and provide clear messaging on expectations when putting up a sign or billboard. This is consistent with the above analysis.
<b>Part 6 – Amusement Galleries</b>	No	It is considered not appropriate to manage the activity of amusement galleries through a bylaw. Rather the potential problems that may arise, are already able addressed through other mechanisms such as the District Plan. This is consistent with the above analysis.
<b>Part 7 – Fires in open air</b>	N/A	Already revoked – captured here for completeness.
<b>Part 8 – Animals. Poultry and bees</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around health and safety. A bylaw allows for enforcement activities for the benefit of the general public. This is consistent with the above analysis.
<b>Part 9 - Cemeteries and Crematoria</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around health and safety and transparency. A bylaw allows for enforcement activities for the benefit of the general public. This is consistent with the above analysis.
<b>Part 10 - Libraries</b>	No	The Policies currently in place are already the first port of call. The bylaw is seen as a double up of existing mechanisms we already use. This is consistent with the above analysis.
<b>Part 11 – Cultural and Recreational facilities</b>	No	There are currently no perceived problems being experienced and any potential problems could be managed through other avenues. There are other ways to manage these areas without a bylaw and meet the same outcome. Conditions of hire could form a legally binding. This is consistent with the above analysis.
<b>Part 12 – Nuisances</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around nuisances and health and safety.

		A bylaw allows for enforcement activities for the benefit of the general public. This is consistent with the above analysis.
<b>Part 13 - Skate boards</b>	Yes	Council has specific bylaw-making powers that allows it to make bylaws to address the perceived problems as outlined in this report around nuisances and health and safety. A bylaw allows for enforcement activities for the benefit of the general public. This is consistent with the above analysis.
<b>Part 14 – Gin Traps</b>	No	It is considered not appropriate to manage the use of gin traps through a bylaw. There is already legislation that deals with the use of gin traps. This is consistent with the above analysis.
<b>Part 15 - Traffic</b>	Yes	Council has specific bylaw-making powers under the Land Transport Act to create Bylaws that can set requirements for parking and control of vehicular or other traffic on any road under the control of Council within the Kaipara District. This is consistent with the above analysis.
<b>Part 16 - Water supply</b>	Yes	Council has specific bylaw-making powers that allows Council to manage, regulate against, or protect from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with water supply. A bylaw allows for enforcement activities for the benefit of the general public and maintain the integrity of Council water supply systems. This is consistent with the above analysis.
<b>Part 17 – Land Drainage</b>	Yes	Council has specific bylaw-making powers that allows Council to manage, regulate against, or protect from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with land drainage. A bylaw allows for enforcement activities for the benefit of the general public and maintain the integrity of Council land Drainage systems. This is consistent with the above analysis.



### 3) Table 3 - Reasonably practicable options

The review requirements of section 160(2) have now been addressed within this report. The Council now has four options to consider in accordance with section 160(3) as outlined in Table 2. These options also provide a link to the decision making requirements of section 77, including the identification of reasonably practicable options.

	<b>Option A</b> Amend the existing bylaw	<b>Option B</b> Revoke the Bylaw and do not replace	<b>Option C</b> Revoke and replace the bylaw	<b>Option D</b> Keep the current Bylaw without amendments	<b>Comments – advantages /disadvantages</b>
<b>Part 1 - Introductory</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw.  This Part brings all of the other Parts together. Proposed changes will help reduce duplication of common terms and provisions throughout the rest of the bylaw. This means all other Parts need to refer to this Part as well, therefore no one Part is stand alone. If this Part was not available then we would be looking at 11 separate bylaws.
<b>Part 2 – Public Places</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw.  Proposed changes such as the addition of the skating areas from Part 13 provides a one stop for public places and also provides mechanisms for Council to address future public concerns over Particular issues e.g. smoking in public. Would allow Council to address the potential and perceived problems.

<b>Part 3 – Trading in Public Places</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	<p>A - Amend the existing bylaw.</p> <p>Very minor changes have been proposed. This provides an approval process for anyone to use public land for a perceived private benefit. Council would not have as much control over the use of public land and how it is used. While Council could introduce a policy, a policy would not have the same legal standing as a bylaw.</p>
<b>Part 4- Solid waste</b>	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	<p>C - Revoke and replace this Part of the bylaw.</p> <p>Significant changes have been made to reflect changes in national policy, legislation and Council direction with regards to waste minimisation. This brings Council in line with best practice. However additional resources maybe required to help with the day to day administration, implementation, and monitoring of these changes. Given the changes there may be some push back from waste operators for the new regime under this bylaw.</p>
<b>Part 5 – Signs</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	<p>A - Amend the existing bylaw.</p> <p>This Part fills a gap around health and safety that the District Plan does not cover. The District Plan is more concerned with amenity. It also considers the use of public land permission process. While it could be placed in the District Plan it is easier and more cost effective to administer under a bylaw.</p>

<b>Part 6 – Amusement Galleries</b>	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	B – Revoke this art of the bylaw and do not replace. The potential issues or nuisances that this bylaw can address can also be addressed through the current District Plan provisions. There is little interest in this activity, so unlikely to create an issue.
<b>Part 8 – Animals. Poultry and bees</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw. Proposed amendments are to reflect plain English, clarity and to make it easier to administer. There are proposed wording changes to the scope of the bylaw to be able to address nuisances caused by bees. Otherwise the scope of this Part is on the urban area. This Part allows enforcement and control over the keeping of animals, stock, poultry, bees, pigs and cats. The control helps to minimise potential nuisances caused by keeping them in a primarily urban area.
<b>Part 9 - Cemeteries and Crematoria</b>	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	C - Revoke and replace this Part of the bylaw. Significant changes have been proposed to reflect current Council practice. This provides more certainty through a public process of expectations within Council cemeteries and allows provides provisions to address new kinds of burials should Council wish to pursue these due to significant public demand, eg natural burials. Currently the bylaw is too broad and not provide the certainty and transparency that helps people understand what is required.

<b>Part 10 - Libraries</b>	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	B – Revoke and do not replace this Part of the bylaw. Proposed to revoke as there is no benefit in keeping this Part of the bylaw when other mechanisms are in place. These policies also duplicate the bylaw.
<b>Part 11 – Recreational and Cultural Facilities</b>	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	B – Revoke and do not replace this Part of the bylaw. No benefit in keeping the bylaw when other mechanisms are in place. Reserves are subject to the Reserve Management Plans that provide high level management of reserves and the facilities on them. In terms of the management of these facilities there are other more effective mechanisms that could be used.
<b>Part 12 – Nuisances</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw. Minor amendments proposed to clarify existing provisions and make it easier to follow. Addition of dead animal clauses to help minimise nuisances and public health and safety issues.
<b>Part 13 – Skateboards</b>	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	B – Revoke and do not replace this Part of the bylaw. Amend Part 2 - Public Places to address potential issues. Proposed to place Parts of this into Part 2 of this bylaw. This will help simplify the bylaw and to take out provisions Council are unlikely to use.
<b>Part 14 Gin Traps.</b>	Inconsistent with analysis in Table 1	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	B – Revoke and do not replace this Part of the bylaw. National legislation is in place to manage gin traps. This is currently duplicating legislation. There does not appear to be any issues with their use.

<b>Par 15 - Traffic</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw. This provides robustness around the setting of parking and other roading restrictions on our local roads. This includes weight restrictions, no stopping areas and give way signs.
<b>Part 16 - Water supply</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw. Amendments are to reduce duplication of legislation and regulations. Wording has been amended to make it more plain English which will help with implementing the bylaw. Provisions proposed to be added are to help with water management.
<b>Part 17 – Land Drainage</b>	Consistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	Inconsistent with analysis in Table 1	A - Amend the existing bylaw. Minor amendments have been made to make it more plain English to follow.

#### 4) Is the existing bylaw the most appropriate form of bylaw?

The current bylaw is not the most appropriate form of bylaw. The bylaw -

- 1) Appears to be overly prescriptive in places;
- 2) Is unclear in some areas, with gaps within the clauses;
- 3) Duplicates powers Council already possesses under other legislation;
- 4) Includes provisions that are difficult to enforce; and
- 5) Does not reflect modern drafting practice nor uses 'plain English'.

## **Proposed Draft Consolidated General Bylaw Assessment**

### **5) Overall - is the proposed bylaw the most appropriate form of bylaw**

The proposed bylaw addresses the perceived problems and overcomes the issues with the current bylaw. It -

- Is not overly prescriptive;
- Adds important powers missed in the current bylaw;
- Addresses gaps that make each Part more workable and succinct;
- Minimises duplication throughout different Parts of the bylaw;
- Reflects legal developments and modern drafting practice; and
- Uses plain English.

Given the extent and number of proposed changes it is considered appropriate to revoke and replace the current Consolidated General Bylaw 2008 with a new bylaw. This will then trigger a five-year review, to be conducted in 2025. The Statement of Proposal for the new bylaw provides an overview of the proposed content changes.

### **6) Does the proposed bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990**

The only right or freedom under the New Zealand Bill of Rights Act 1990 potentially affected by the proposed bylaw is the right to freedom of movement. Limitations on that right in the bylaw must be no more than is reasonably necessary to achieve the purpose of regulating parking in public places and providing traffic management controls to protect the public from nuisance and promote and maintain public health and safety. Council will have to keep this requirement in mind when it comes to establishing site specific controls by resolution as provided for in the bylaw.