

# **Deliberations – Proposed Consolidated General Bylaw**

**Meeting:** Consolidated General Bylaw Panel  
**Date of meeting:** 6 August 2020  
**Reporting officer:** Paula Hansen, Senior Policy Analyst

## **Purpose/Ngā whāinga**

To deliberate on matters raised in submissions and further matters raised by staff to make a recommendation to Council on the final form and content of the proposed Consolidated General Bylaw.

## **Recommendation/Ngā tūtohunga**

That the Consolidated General Bylaw Panel:

- a) Approves the proposed changes to the Consolidated General Bylaw as shown in track changes in Attachment B and as per the staff recommendations in this report, for a final recommendation to Council.
- b) Delegates the Chair of the Panel the authority to approve a report to Council recommending the making of the Consolidated General Bylaw based on the decisions made at this meeting, including the final version of the proposed Bylaw incorporating any final typographical changes

## **Context/Horopaki**

At its meeting on 29 April 2020, Council adopted a Statement of Proposal to revoke and replace Council's Consolidated General Bylaw (the Bylaw). This proposal was a result of the statutory review of the Bylaw completed in accordance with section 159 of the Local Government Act 2002 (the Act).

Consultation, in accordance with section 83 of the Act was undertaken, seeking written submissions for six weeks during May and June 2020. Council received 16 written submissions during this period. Three submitters also requested to attend the hearing, held on 30 June 2020 to present their views in person.

The Panel must now deliberate on the matters raised in submissions as well as any further staff advice before making a final recommendation to Council.

## **Discussion/Ngā kōrerorero**

### **Matters raised in submissions**

Matters raised in submissions were restricted to Parts 1, 2, 3, 4, 8, 9 and 16 of the Bylaw. Other matters that were out of scope of the proposed Bylaw were also raised in submissions.

No community feedback was received on any of the other Parts of the proposed Bylaw. Therefore, deliberations are not required on these Parts and they can proceed as proposed for Council's final consideration.

### **Overview of matters raised**

A detailed summary of submission issues, including out of scope matters; together with staff comments is provided in Attachment A.

### 1. Smokefree matters (Parts 1, 2, 3 and 9)

Three submitters requested changes in relation to smokefree clauses. This includes requests for appropriate definitions, more stringent application of the smokefree matters and requests for clarity on what public areas Council may potentially designate as smoke free.

#### Staff recommendation:

- a. That proposed clause 204 in Part 2 be removed and reconsidered when the Smokefree Kaipara Policy is next reviewed.
- b. That requests for amendments to other clauses regarding smokefree matters (in Parts 1, 2, 3 and 9), be declined, but consideration of the matters raised are included in the next review of the Smokefree Kaipara Policy.
- c. That the term mind altering substances be replaced with psychoactive substances and to use the definition provided in the Psychoactive Substances Act 2013

### 2. Footpath use (Part 2)

One submission was received on this matter. The request appears to be on the conflict, or potential conflict, between pedestrians and non-pedestrians on the footpaths within the Kaipara District and that the definition of 'recreational devices' should be extended to include bicycles, electric bicycles and other devices. The submitter has also provided considerable background information on shared paths.

#### Staff recommendation:

- a. That the definition of skating device is changed to the definition of 'wheeled recreational device' as provided in the Land Transport (Road User) Rule 2004.
- b. That clause 203 is amended to reference wheeled recreational devices instead of skating devices to ensure alignment and consistency with legislation.

### 3. Vehicles, and horses on Mangawhai Wildlife Sanctuary (Part 2)

Four submitters expressed concerned about the number of vehicles and horses that are accessing the Mangawhai Wildlife Sanctuary on Mangawhai spit and the effect that they are having on nesting shorebirds, particularly the critically endangered fairy tern.

The submissions request that Council prohibits vehicles, including bikes and e-bikes, horses, dogs, drones and motorised gliders, on the beach below mean high water springs adjacent to the Mangawhai Government Purpose Wildlife Refuge Reserve.

#### Staff recommendation:

Making the requested amendments to the Bylaw are not recommended at this time. Any changes would be considered significant and further consultation would be required. Additionally, further analysis is required to gain a better understanding of the issues and the legal framework on these matters. Any research on vehicles and horses on beaches should include the entire District.

### 4. Solid Waste (Part 4)

Two submission points were received regarding solid waste. The first point relates to a request to increase fines for fly dumping. The second matter is a request to allow for the recycling of materials from disposal sites where possible to reduce the environmental impacts.

#### Staff recommendation:

- a. The amount of 'fines' are regulated through the legislation within which the Bylaw is made. No changes to the proposed Bylaw can be made in this respect.
- b. Amend clause 427 to explicitly allow for the re-use of materials.

### 5. Bees (Part 8)

Two submissions were received on the keeping of bees. One supported the provisions that allows Council to address nuisances caused by bees in rural areas. The other submission supported owner obligations, however had concerns around extending these obligations beyond the urban area and into the rural area. The submitter also recommended a proactive approach for limited numbers of hives in urban areas, rather than requiring permits for all hives in these locations.

**Staff recommendation:**

- a. That clause 806 allows for a slightly more permissive approach for urban areas to reduce the requirement for applications for permits.
- b. To include a detailed guideline for beekeepers as an explanatory note in the Bylaw.
- c. To add other subclauses to the Part to ensure enforcement officers have the necessary powers to undertake enforcement actions and to allow for existing permits to continue.

**6. Cemeteries and Crematoria (Part 9)**

The Submitter considered the Bylaw should reference any future replacement of the current legislation by including 'or its replacement' in the reference to the Burial and Cremation Act 1964.

**Staff recommendation:**

It is not standard practice to reference legislation in this way, the requested change is not recommended.

**7. Water supply (Part 16)**

Two submitters commented on this Part. One submission is concerned about an existing agreement that may be affected by the proposed changes within the Bylaw. The other submission requests that Council includes provisions to require the storage of water sufficient for a one in 100-year drought event and to define what an emergency is. A request to waive reconnection fees in certain circumstances was also requested.

**Staff recommendation:**

- a. That a saving clause be added to this Part of the Bylaw, allowing any existing agreements or permits to continue under current arrangements.
- b. Add an explanatory note on what would be considered an emergency.
- c. Provide a general waiver section in Part 1 of the Bylaw, allowing the Chief Executive to waive fees in certain circumstances.
- d. That clauses 1610 and 1620 are further reviewed and combined to provide clarity on the relevant matters.

**8. Proposed staff amendments**

Since the consultation document was adopted, further advice has been sought and the Bylaw was reviewed for technical strength, consistency of terminology and use of 'plain English'. This has resulted in several proposed changes, deletion of duplications and additions that do not change the overall content or context of the Bylaw but remove potential ambiguity and/or provide more clarity, including for enforcement purposes. Some consequential amendments to Parts 8 and Parts 16 of the Bylaw have also been identified as a result of submissions issues raised.

All proposed staff amendments are identified in the report in Attachment A.

Another specific matter recommended is renumbering the existing Parts of the Bylaw as well as providing them in a different sequence, so that Parts of a similar nature are grouped together. Where clauses and Parts are referenced in this report, these references are for the clauses and Parts as provided in the proposed Bylaw for consultation. The revised numbering of Parts is shown in the table below.

Existing Parts and Titles		Amended Parts and Titles	
Part 1	Introduction	Part 1	Introduction
Part 2	Public Places	Part 2	Public Places
Part 3	Trading in Public Places, and Trading as a Hawker, Mobile Shop or Itinerant Trader	Part 3	Trading in Public Places, and Trading as a Hawker, Mobile Shop or Itinerant Trader
Part 4	Solid Waste	Part 4	Public Nuisances
Part 5	Signs	Part 5	Signs
Part 8	Keeping of Animals, Poultry and Bees	Part 6	Keeping of Animals, Poultry, Stock and Bees

Part 9	Cemeteries	Part 7	Cemeteries and Crematoria
Part 12	Nuisances	Part 8	Traffic
Part 15	Traffic	Part 9	Solid Waste
Part 16	Water Supply	Part 10	Water Supply
Part 17	Land Drainage	Part 11	Land Drainage

### Proposed changes

All changes, both as a result of submissions and staff recommendations are shown as track changes in Attachment B. As there were no submissions received for Parts 5, 12, 15 and 17, nor any staff recommended changes, these Parts have not been included in the Attachment. Part 3 has also been excluded, as the staff recommendation was not to make any amendments to this Part as a result of submissions. The Parts are now renumbered as per the highlighted rows in Table 1.

### Significance and engagement/Hirahira me ngā whakapāpā

The decisions and matters of this agenda do not trigger the significance criteria of Council's Significance and Engagement Policy. Council has consulted with the community on the issues of this agenda in accordance with the statutory requirements of the Local Government Act 2002. The public will be informed via agenda publication on Council's website.

### Next steps/E whaiake nei

Staff will draft a report for Council on behalf of the Panel and in accordance with the decisions made at this meeting.

### Attachments/Ngā tapiritanga

	Title
A	Summary of submissions and staff comments
B	Consolidated General Bylaw Track Changes proposed amendments to parts