

Final Consolidated General Bylaw

Meeting: Kaipara District Council
Date of meeting: 28 October 2020
Reporting officer: Shireen Munday, Policy Team Leader

Purpose/Ngā whāinga

To make the Consolidated General Bylaw 2020.

Executive summary/Whakarāpopototanga

Council adopted a Statement of Proposal (SOP) for consultation to revoke the 2008 General Bylaws and replace them with a Consolidated General Bylaw. At the same meeting Council delegated the authority to hear and deliberate on matters raised in submissions to a Panel of Elected Members. This report includes the final proposed Consolidated General Bylaw based on the decisions of the Panel.

Council must consider three key matters before it determines to make the Bylaw, which are whether a bylaw is the most appropriate way of addressing the perceived problem, whether the proposed Bylaw is the most appropriate form of bylaw and whether the Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

In addition to making the new Bylaw, Council must also revoke the existing 2008 General Bylaws.

The Bylaw is scheduled to come into effect on 1 December. Staff will provide a hand-over to the Regulatory Department and will report to the November Council Briefing on the future review process of the Bylaw.

Recommendation/Ngā tūtohunga

That Kaipara District Council:

- a) Determines that a bylaw is the most appropriate way of addressing the perceived problem, and that the proposed Consolidated General Bylaw 2020
 - i. is the most appropriate form of bylaw
 - ii. does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
- b) Makes the Consolidated General Bylaw 2020 as provided in Attachment A, with effect from 1 December 2020.
- c) Revokes the 2008 General Bylaws, with effect from 30 November 2020.
- d) Authorises the Chief Executive to make any minor edits or amendments to the Bylaw to correct any spelling errors or make typographical edits, and/or to reflect decisions made by Council at this meeting.

Context/Horopaki

Council's current 2008 General Bylaws are subject to the review requirements of the Local Government Act 2002 (LGA). This review was commenced in 2017 but was not able to be completed until April 2020.

Council has now consulted on the revocation of the General Bylaws 2008 and the associated proposed new Consolidated General Bylaw (the Bylaw). Council delegated to a Panel of Elected Members (The Consolidated General Bylaw Panel) the authority to hear views and consider written

and verbal submissions, and to make associated recommendations to Council. The Panel was chaired by Deputy Mayor Curnow and consisted of Councillors Larsen and Vincent as members.

This report outlines those recommendations and the remaining matters Council must address before making a final determination.

Discussion/Ngā kōrerorero

Consultation outcomes and Panel recommendations

The Consolidated General Bylaw Panel has heard submitters and held deliberations. The relevant agenda items and minutes for these meetings are available on Council's website, for the hearing [here](#) and for the deliberations meeting [here](#).

Submissions to the Bylaw were made on the following topics:

- Smokefree matters
- Footpath use
- Vehicles and horses on the beach adjacent to the Mangawhai Wildlife Sanctuary
- Solid Waste
- Bees
- Cemeteries and crematoria
- Water supply

The Panel discussed and approved the proposed changes to the Bylaw as a result of the submissions and associated staff recommendations.

Further proposed staff amendments for clarity, deletion of duplications and associated consequential amendments were proposed and approved by the Panel.

During deliberations the Panel included requests for three minor further changes to be made. These are; one new explanatory note, an edit to an existing explanatory note and combining two existing savings provisions in Parts 6 and 10 of the Bylaw into a single provision in Part 1 of the Bylaw. These further changes have been approved by the Panel Chair, Deputy Mayor Curnow, in accordance with the resolutions of the Panel at the 6 August 2020 deliberations meeting.

The final Consolidated General Bylaw 2020, based on the decisions of the Panel, and the approval of the Panel Chair, is provided in Attachment A and presents the Panel's recommendations to Council for the final Bylaw in accordance with the Panel's delegations.

Legislative determinations

The relevant legislative framework within which Council undertakes a bylaw review and makes subsequent decisions has been outlined to Council in various previous items on this review process and as far back as 2017. The matters of section 155 LGA in particular, guide Council's decision-making process. These matters were presented for Council's consideration prior to making their determination to adopt the SOP in April this year.

Council must make the following three key determinations before making a bylaw:

- is the bylaw the most appropriate way of addressing the perceived problem (s155(1))
- is the proposed bylaw the most appropriate form of Bylaw (s155(2)(a))
- does the proposed bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990.

The relevant information and analysis on these matters was provided in [Attachment A](#) and [Attachment B](#) to the April 2020 agenda report and can be found on Council's website.

Making the new Bylaw and revocation of the 2008 General Bylaws

The adopted SOP included two aspects, the proposal to make a new Bylaw and at the same time to revoke the existing 2008 General Bylaws. While the 2008 General Bylaws would normally have been automatically revoked in June this year, Covid-19 related local government legislation means that this period has been extended until June 2021. Therefore, Council must both make the new

Bylaw as well as revoking the current 2008 General Bylaws. This matter is reflected in the recommended resolutions.

While the 2008 General Bylaws are to be revoked, the Consolidated Bylaw contains provisions to ensure that certain matters addressed or permitted in accordance with the previous Bylaw remain in force. This also applies to any relevant resolutions of Council made under the 2008 General Bylaws.

Significance and engagement/Hirahira me ngā whakapāpā

Council has consulted with the community on the Bylaw in accordance with section 83 LGA and as provided for in sections 156 and 160 of the LGA. The recommendations and associated decisions are made in accordance with the legislative requirements and are being made after appropriate consultation and engagement with the community has been undertaken.

Next steps/E whaiake nei

Staff will complete a hand-over with the Regulatory Department prior to the commencement date of the new Bylaw.

The item presented to Council at the April meeting to adopt the SOP for consultation provided that the process included the recommendation to propose a new Bylaw, as opposed to amending the current General Bylaws 2008. Council has proceeded on this basis. The implications for this are that in accordance with section 158 of the LGA, this new Bylaw must be reviewed within five years of being made (instead of the 10 year review period for an amended bylaw). This means that the Bylaw will require a complete review by September 2025.

The review process has highlighted some issues and concerns about the scale of the Bylaw and how useful it is to have all the individual Parts combined into a single bylaw. A submission on this matter was also received and this issue was further commented on by the Panel.

Staff are considering solutions to this matter, which will likely include recommending that the Bylaw is split up into its individual Parts or logical groups of Parts and that this process commences in the near future so as to avoid a significant workload for staff and Council leading up to the 2025 review date.

Staff are in the process of preparing a Briefing item on this matter to be presented to Council at the November Briefing.

Attachments/Ngā tapiritanga

	Title
A	Consolidated General Bylaw