

DRAFT CONTROL OF ANIMALS (EXCLUDING DOGS) BEES AND POULTRY BYLAW 2018

STATEMENT OF PROPOSAL

Introduction

The Whakatāne District Council (the Council) seeks your views on a new Control of Animals (Excluding Dogs), Bees and Poultry Bylaw.

The proposed bylaw contains a revised, updated version of the Part 10 of Whakatāne District Council's Consolidated Bylaw.

Proposal

The Council proposes to revoke Part 10: Control of Animals (excluding Dogs) of the Consolidated Bylaw and replace it with the proposed stand-alone Control of Animals (Excluding Dogs), Bees and Poultry Bylaw 2018.

The Draft Control of Animals (Excluding Dogs), Bees and Poultry Bylaw is being released for public consultation using the Special Consultative Procedure as outlined in section 86 of the Local Government Act 2002 (the Act).

In accordance with section 86(2) of the Act, the Council is required to include the following in a Statement of Proposal:

- A draft of the proposed bylaw
- The reasons for the proposal; and
- A report of any relevant determinations by Council under section 155 of the Act.

The attached copy of the proposed Whakatāne District Council Draft Control of Animals (Excluding Dogs), Bees and Poultry Bylaw 2018 forms part of this Statement of Proposal.

The proposed bylaw will be a stand-alone bylaw.

Reasons for the Proposal

Under sections 158 to 160 of the Act, the Council is required to review all bylaws within five years of their adoption and every ten years thereafter.

1. Council staff have reviewed Part 5: Control of Animals (Excluding Dogs) Bylaw 2008 and consider that it is generally fit for purpose.

2. The existing bylaw is a part of the Consolidated Bylaw which means that a user needs to also read Part 1: Introduction to access all relevant information. Council considers this bylaw should be stand-alone and therefore all relevant information from Part 1 has been included in the draft bylaw.
3. The existing section *Slaughter of Stock* is outdated and not relevant in its current form because it focuses on animal welfare issues, which are dealt with legislation including through the Food Act 1981, Animal Products Act 1999, Animal Welfare Act 1999 and other Acts. This title has been changed because this section refers to the processing of animal carcasses. The replacement section in the Draft Bylaw focuses on the prevention of nuisance or public offence when animals are processed.
4. The existing section *Animal Traps* is outdated and redundant. The Animal Welfare Act 1999 and the Animal Welfare (Leg-Hold Traps) Order 2007 restricts the sale and use of traps. This section has been removed.

Other minor changes have been made to increase clarity and where possible, the wording has been simplified and streamlined.

Table 1 below outlines all specific changes made to the existing bylaw.

Table 1: Specific changes made to the Bylaw

Section in existing bylaw	Reason for proposed change	Proposed change	Outcome if change approved	Section in Draft bylaw
S10.1 Interpretation	Current bylaw is part of the Consolidated Bylaw. Many definitions are outlined in Part 1: Introduction	Extend this section to include all definitions in this section to ensure it is a stand-alone document.	All relevant information is included in a single document.	S5 Interpretation
S10.2 Animals and Stock	This section of the bylaw should focus on the management of nuisance caused by stock in public places and in urban areas. Current bylaw refers only to horse, cattle or sheep. Other stock that are not included.	Change the heading to 'Stock' Change the text to: 'Keep any stock	Ensures bylaw refers to any animal that could be kept.	S6(1)(a) Stock
S10.2.6(a)	There are circumstances when it is legitimate for animals to be trained, cleaned hired etc. in public places. For example as part of a show, market or family day where	Amend this clause to: 'Breaks in, trains, cleans, shoes, bleeds, dresses, or exposes for show, hire or sale, any horse or other animal on any public place except with written consent of the Council or an authorized officer.'	Will allow these activities to take place provided written consent has been obtained.	S6 (6)(a) Stock

	donkey rides are provided			
S10.5.1 and S10.5.2 Poultry Keeping	This details around what is a properly constructed poultry house is provided in the Building Code. Not necessary or relevant here.	Replace existing text with: 'No poultry, caged or otherwise, shall be kept in any urban area except in a properly constructed poultry house.'	Unnecessary detail is removed.	S9(1) & S9(2) Poultry Keeping
S10.5.2 Poultry Keeping	Current bylaw restricts the erection of a poultry house or run to at least 10 metres from any dwelling, factory or any other building.	10 metres is unrealistic. The distance has been reduced to 2 metres.	Change distance to 2 metres	S9(4) Poultry Keeping
S10.5.5, s10.5.6 and s 10.5.7 Poultry Keeping	These clauses contain instructions regarding how to maintain a poultry house in good condition. Detail is not needed here.	Replace these three clauses with: 'Every poultry house and poultry run shall be maintained by the owner in good repair, in a clean condition free from any offensive smell or overflow and free from vermin.'	Unnecessary detail is removed.	S9(5) Poultry Keeping
S10.5.9 Poultry Keeping	This clause is out of date and refers to situations that have never occurred here.	Delete clause	Unnecessary detail is removed.	
New Clause	There is nothing in the bylaw prohibiting anyone from keeping roosters in an urban area.	Add new clause: 'No roosters shall be kept in an urban area.'	Enables Council to enforce this if a problem arises.	S9(7) Poultry keeping
S10.6.2 Noise from Animal or Bird	Current clause outlining the process by which Council will respond to complains is unclear. This section can be adapted to include Nuisance from Animals or Birds.	Replace existing clause with: 'After receipt of a complaint regarding an animal, bird or poultry causing an alleged nuisance under clause 9(1), an authorised officer from the Council will serve notice on the owner of the animal or bird, outlining the steps that need to be taken to remedy the situation and the defined timeline within which those actions must be taken.'	New clause outlines the process Council will take, that is easy to understand and to enforce. This clause addresses both noise and nuisance.	S10(2) Nuisance from Animal or Bird.
S10.7 Stock Slaughter	Existing bylaw is outdated and focuses on requirements under the Food Act	Change title to 'Stock Processing'	The new section deals with issues around how the slaughter of	S11 Stock Processing

	<p>1981, Animal Products Act 1999, Animal Welfare Act 1999 and other Acts. None of this is relevant to the nuisance the slaughter of stock can cause.</p> <p>The title of this section is too narrow.</p>	<p>Replace entire section with:</p> <p>(1) No person, except a licensed veterinarian shall slaughter animals on any premises within the urban area</p> <p>(2) All waste associated with the slaughter of animals must be removed from the premises immediately. No person shall dispose of the body, any part of the body, bodily fluids or effluent of any animal belonging to that person, or in that person's charge or keeping, in a manner that will produce odour, cause a nuisance or a threat to public health.</p> <p>(3) No person shall hang or otherwise store an animal carcass in a state where it is injurious to public health.</p>	<p>animals can cause offence to the public.</p> <p>This approach is in line with all other bylaws.</p>	
S10.8 Prevention of Nuisance	<p>This section is redundant as the entire bylaw deals with the prevention of nuisance. All types of nuisance listed in this section have been covered off elsewhere.</p>	<p>Delete existing section</p>	<p>Unnecessary detail is removed.</p>	
S10.9 Animal Traps	<p>This section is redundant. The Animal Welfare Act 1999 and the Animal Welfare (Leg-Hold Traps) Order 2007 restricts the sale and use of traps.</p>	<p>Delete existing section.</p>	<p>Bylaws do not need to duplicate legislation.</p>	

Other Options to the proposed bylaw considered

Council considered two other options:

- Keeping the existing bylaw
- Having no bylaw at all.

Council considers that the proposed bylaw is the most appropriate method to address the issues relating to the management of animals (excluding dogs), bees and poultry in the District.

Having no bylaw would remove Council's ability to manage issues related to the keeping of animals, bees or poultry in the District.

Council's Ability to make a Control of Animals (excluding Dogs), Bees and Poultry Bylaw

The Act 2002 sets out the procedure for making a bylaw.

Sections 145 and 146 of Act and section 64 of the Health Act 1956 allows the Council to make a bylaw for regulating the keeping of animals, bees and poultry.

Council is required under section 155 of the Act to determine whether a bylaw is the most appropriate way to address perceived problems. Section 155 (1) of the Act requires the Council to determine whether a bylaw is the most appropriate way to address perceived problems and section 155(2) requires Council to determine whether the proposed bylaw:

- Is the most appropriate form of bylaw; and
- Gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The proposed bylaw is the most appropriate form to address issues relating to the control of animals (excluding dogs), bees and poultry because it meets the following tests:

- The bylaw is authorised by statutory authority under the Local Government Act 2002;
- The bylaw is not repugnant to the general laws of New Zealand;
- The proposed bylaw is certain and provides clear direction;
- The bylaw is reasonable; and
- The bylaw is not overly restrictive, onerous on any one person, or impractical.

There are no implications under the New Zealand Bill of Rights Act. The draft bylaw does not place any limits on freedom of movement, expression or association, and does not isolate any particular social group in terms of the Act. In addition, any offences under the bylaw will require a judicial process through the Courts.

Section 156 of the Act requires the Council to use the Special Consultative Procedure set out in section 83 of the bylaw and continues to apply.

Adopting the Proposed Bylaw

Council invites the community to give us feedback on the proposed Bylaw to assist it in the decision-making process.

Consultation and Submissions

The formal consultation process will take place between **8 November and 8 December 2017**. Council will hold a hearing be held in February 2018.

Any person or organisation is welcome to make a submission on the Draft Animal Control (excluding Dogs), Bees and Poultry Bylaw 2018. The Council take into account all submissions when it decided on the final content of the bylaw.

Copies of the Statement of Proposal are available on Whakatāne District Council's website <http://www.whakatane.govt.nz>

Hard copies are available from:

- Whakatāne District Council 14 Commerce Street, Whakatāne
- Whakatāne Library 49 Kahahoroa Drive, Whakatāne
- Edgecumbe Library 38 College Road, Edgecumbe
- Ohope Library 4 Harbour Road, Ohope
- Murupara Library / Service Centre Civic Square, 48 Pine Drive, Murupara

Consultation will take place during the period from **8 November to 8 December 2017**.

Formal submissions may be made:

Online: <http://www.whakatane.govt.nz>

Post to: Draft Animal Control (excluding Dogs), Bees and Poultry Bylaw, Private Bag 1002, Whakatāne 3158.

Deliver to: Draft Animal Control (excluding Dogs), Bees and Poultry Bylaw, Whakatāne District Council, 14 Commerce Street, Whakatāne.

Email to: submission@whakatane.govt.nz Attention Bylaw Review

Informal submissions can be made by commenting on our Facebook page at <http://www.facebook.com/WhakataneDistrictCouncil>

Submissions close at 5pm on Friday 8 December 2017.

Submitters should not that their submission will be copied and made available to the public after the submission period closes.

Submission should include your name, address, telephone number and email address and should state if you wish to speak to Council in support of your submission. The Council will contact in writing, all submitters who wish to be heard to advise the confirmed time, date and venue of the hearing.