

Statement of Proposal

DOG CONTROL BYLAW 2018

Introduction

The Whakatāne District Council (the Council) has reviewed Part 6: Dog Control of the Consolidated Bylaw 2008 that is due to expire in 2018.

The Whakatane District Council seeks your views on the Draft Dog Control Bylaw 2018.

Proposal

The Council proposes to revoke Part 16: Dog Control of the Consolidated Bylaw and replace it with a stand-alone Dog Control Bylaw. The Draft Dog Control Bylaw 2018 is being released for 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, 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 on any relevant determinations by Council under section 155 of the Act.

The attached copy of the proposed Whakatane District Council Draft Dog Control Bylaw 2018 forms part of this Statement of Proposal.

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.

Council staff have reviewed Part 15: Dog Control Bylaw 2008 and consider that overall, the bylaw is fit for purpose.

The key change to Draft Bylaw is the removal of a requirement that in the current bylaw that dangerous dogs wear a reflective collar. Our Council is the only one with this requirement and the public does not understand what a reflective collar signified.

The key changes made to the locations where dogs are prohibited or are required to be on a leash include:

- All dogs will be prohibited from going into Burma Road. Forest and Bird monitoring cameras have shown dogs in the Burma Road Reserve being allowed to run off their leashes and at times attacking birds; and
- All dogs will be prohibited on the Opihi and Ōhope Spits to protect endangered wildlife.

Specific changes made in the Draft Dog Control Bylaw 2018

The Table below shows the specific changes that have been made in the Draft Dog Control Bylaw 2018.

Section in existing bylaw	Reason for proposed change	Proposed Change	Outcome if change approved	Section in Draft Bylaw
New Sections	Current Bylaw is part of the Consolidated Bylaw and does not contain these sections.	Add new sections: - Short Title and Commencement - Revocation - Purpose	All relevant information is contained in a single document.	S1 Short Title and Commencement S2 Revocation S3 Purpose
S6.1 Interpretation	Current bylaw is part of the Consolidated Bylaw. Many of the definition included in Part 1 of the Consolidated Bylaw.	Extend this section to include all relevant definitions to make this Bylaw a stand-alone document.	All relevant information is included in a single document.	S4 Interpretation
S6.5 Dogs Prohibited at Specific Times S6.6 Dog Prohibited Areas	A goal of the review is to streamline all bylaws where possible. These two sections relate to different aspects of dog prohibitions.	Combine both sections into one section.	Streamlined bylaw.	S8 Dog Prohibited Areas.
S6.7 Exemptions	This clause duplicates S5 of existing bylaw which exempts working dogs.	Delete this section.	Removes duplication.	
S6.13 Responsibility to Remove Faeces	Current bylaw does not prohibit owners from depositing dog faeces in public places.	Add new clause 'Owners may not deposit dog faeces in any public place except in a recognized waste or rubbish bin.'	Prohibits dog owners from depositing dog faeces in a public place.	S14 (2) Responsibility to Remove Faeces
S6.16 Requirement to Wear Reflector Collar	This requirement has not worked as a method for informing the public that a dog is classified as dangerous. People do not understand what a reflector collar means. We are the only Council with this requirement.	Delete this clause.	Removes a requirement that is not working	
S6.17 Penalties	This section does not reference the Dog Control Act 1996 which authorizes Council to penalize breaches of the bylaw.	Add new clause: '(2) Every person who commits an offence under this bylaw is liable to a penalty under section 242(4) of the Local Government Act or section 20(5) of the Dog Control Act.	Clarifies legislative source for imposing penalties when breaches of the bylaw occur.	Part 3: Other Matters 17 Offences and Penalties
Schedule 1	The Dog Control maps have been updated to reflect the proposed changes.	The key changes made to dog exercise areas or the locations where dogs are	Locations where dogs are prohibited and dog exercise	Schedule 1

		prohibited or are required to be on a leash include: <ul style="list-style-type: none"> • A new dog exercise area has been created on the Warren Cole Walkway from McAlister Street to the Heads; • All dogs are now prohibited in Burma Road and in the Reserve; • Dogs on leashes will now be allowed on the Ōhope Harbourside Trail; • A new dog exercise area has been created east of the boat ramp on the Ōhope Spit; and • All dogs are now prohibited on the Opihi Spit east of Coastlands. 	areas take into account the protection of wildlife.	
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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 protect the public from nuisance and to maintain public health and safety.

Without a bylaw, Council would be unable to fulfil its responsibilities under section 145 of the Act to protect the public from nuisance, protect, promote, and maintain public health and safety and to minimise the potential for offensive behaviour in public places.

Council's ability to make a Dog Control Bylaw

The Act sets out the procedure for making a bylaw. The 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 controlling nuisances and promoting and managing public health 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.

Consultation and Submissions

Council invites the community to give us feedback on the proposed Bylaw to assist it in the decision-making process. The formal consultation process will take place between **12 March and 12 April 2018**. Council will hold a hearing in May 2018.

Any person or organisation is welcome to make a submission on the Draft Dog Control Bylaw 2018. The Council take into account all submissions when it decides on the final content of the bylaw.

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

Hard copies are available from:

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

Formal submissions may be made:

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

Post to: Dog Control Bylaw, Private Bag 1002, Whakatane 3158.

Deliver to: Dog Control Bylaw, Whakatane District Council, 14 Commerce Street, Whakatane.

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 12 April 2018.

Submitters should note that their submission will be copied and made available to the public after the submission period closes.

Your 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.