

Statement of Proposal

Revoking Part 19: Nuisances and Public Health Bylaw 2008

This document constitutes the Statement of Proposal and the Summary of the Statement of Proposal for the purposes of Section 83 (1) of the Local Government Act 2002 (the Act).

Introduction

Whakatāne District Council (the Council) adopted Part 19: Nuisances and Public Health Bylaw as part of the Consolidated Bylaw in July 2008.

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

Proposal

The Council proposes to revoke its Nuisances and Public Health Bylaw 2008 (the Bylaw).

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

- a. A statement that the bylaw is to be revoked;
- b. The reasons for the proposal; and
- c. A report of any determinations by Council under section 155 of the Act.

Reasons for the Proposal

The objectives of the Bylaw are to promote public health and prevent conditions which are likely to be offensive or are injurious to health or cause a nuisance. The current Bylaw regulates

- Nuisances; and
- Public Health and Safety.

Legal Requirements

Under section 155 of the Local Government Act, Council must determine whether a bylaw is the most appropriate way for addressing the perceived problem.

Table 1 provides an analysis of the Bylaw in line with Section 155 of the Act.

Perceived Problem	Is a bylaw the most appropriate way of addressing the perceived problem?	Is the Bylaw the most appropriate form of bylaw?	Any NZ Bill of Rights 1990 implications
<p>Part 1: Nuisances</p> <p>This section focuses on the health risks that could occur if:</p> <ul style="list-style-type: none"> • refuse or offensive material is not buried appropriately, • night soil or manure is not deposited appropriately • vehicles containing manure are parked anywhere and cause a nuisance or are offensive. • Creating a nuisance or allowing vermin or flies, mosquitoes or other insects dangerous to health to breed. 	<p>Section 29 of the Health Act 1956 enables Council to investigate nuisances, or any conditions likely to be injurious to health without the need for a bylaw</p>	<p>No bylaw is required to address these issues.</p>	<p>No bylaw is required.</p>
<p>Part 2: Public Health and Safety</p> <p>This section relates to the monitoring and safety requirements of commercial spas and pools</p>	<p>Commercial operators of pools and spas are required to comply with their relevant industry standard.</p> <p>The Health Act 1956 allows staff to investigate health nuisances. Concerns over poor water quality in a commercial or school pool would be considered a nuisance.</p> <p>Changes to Health and safety legislation provide protection for employees working at a commercial pool. If a staff member working at a commercial or school pool became ill because the pool water quality did not comply with the industry standard, this situation could be dealt with under section 37 of the Health and Safety Act 2015.</p>	<p>No bylaw required.</p>	<p>No bylaw required.</p>

Options

In proposing to revoke part 19: Nuisances and Public Health Bylaw 2008, Council considered the following options:

Option	Pro	Con
a. Revoke the Bylaw (recommended)	<ul style="list-style-type: none"> • Does not duplicate legislation. • Removes unnecessary regulation. • Does not prevent staff from continuing to investigate nuisances or any conditions likely to be injurious to health or offensive under the Health Act 1956. 	<ul style="list-style-type: none"> • The perception that Council will no longer investigate health concerns. However, while Council will not enforcement powers under the Local Government Act 2002, it will still have authority to address issues under the Health Act 1956.
b. Amend the Bylaw	<ul style="list-style-type: none"> • Allows the local community and Council to set the standards for public health. • Provides a potential proactive monitoring regime. 	<ul style="list-style-type: none"> • Duplication of legislation that already addresses the issues. • Increased cost / staff resources.
c. Make no changes to the Bylaw		<ul style="list-style-type: none"> • Does not bring the Bylaw into line with changes in the legislation. • Provides unnecessary restraint on the public.

Council has determined through this review that existing statutory and regulatory controls adequately provide for the management of nuisances and public health issues in Whakatāne without the need for a bylaw.

Council is of the view that a bylaw is not the most appropriate means of addressing any issues relating to Nuisances and Public Health.

The Council does not propose to make any bylaw to replace the bylaw it wishes to revoke.