



Statement of Proposal

under Special Consultative Procedure as per
Section 83 of Local Government Act 2002:

2018 Review of Various Bylaws and Policy on Dogs

Submit online at www.westlanddc.govt.nz

17th May 2018

THE PROPOSAL:

Following review under the Local Government Act 2002, the Westland District Council proposes a range of amendments to 9 of its 10 existing bylaws, including a new Alcohol Control Bylaw to replace the existing Liquor Bans Bylaw. In addition, it proposes reinstatement of the lapsed Waste Water Bylaw. It also proposes a revised Policy on Dogs to reflect the proposed changes to the Dog Control Bylaw.

This proposal is now open for public consultation (17th May 2018 to 15th June 2018)

Submit online at www.westlanddc.govt.nz

GET YOUR SUBMISSION TO COUNCIL BY 5.00PM ON FRIDAY 15TH JUNE 2018

Reason for the Proposal

A total of 9 of Council's existing 10 bylaws are due for review this year or next year, so a combined review of these bylaws has been undertaken as follows.

Under Section 158 of the Local Government Act 2002 ('the Act'), a bylaw must be reviewed within five years of being adopted. The following bylaw is due for review by 28 November 2018:

- Traffic and Parking Bylaw 2013

Once reviewed, Section 159 of the Act requires a bylaw to be reviewed again within 10 years of the review date. The following bylaws, all last reviewed in 2008, are due for review by 19 June 2018:

- Airport Charges Bylaw 1998
- Dog Control Bylaw 1997
- Fencing Bylaw 1991
- Refuse Bylaw 1992 (proposed to be retitled "Refuse and Recycling Bylaw")
- Speed Limits Bylaw 2006
- Trading in Public Places Bylaw 2008

The following bylaw, last reviewed in 2009, is due for review by 9 December 2019:

- Wildfoods and Other Events Bylaw 2003

The following bylaw expires on 18 December 2018 due to the Local Government (Alcohol Reform) Amendment Act 2012 and is required to be reviewed and reinstated (if necessary) under the new provisions of the Act:

- Liquor Bans Bylaw 2007 (proposed to be retitled "Alcohol Control Bylaw 2018")

The following bylaw is not due for review until June 2021 so is not proposed to be reviewed at the current time:

- Water Supply Bylaw 2016

In addition to existing bylaws, the following bylaw lapsed in February 2018 due to not being reviewed within the required timeframe, and is proposed to be re-instated:

- Waste Water Bylaw 2010

The Dog Control Act 1996 also requires the Council to have a Policy on Dogs, and to review it if there are any changes required by changes to its Dog Control Bylaw.

A copy of the 9 reviewed bylaws, the proposed bylaw to be reinstated, and the reviewed Policy on Dogs are attached to this Statement of Proposal, and available at www.westlanddc.govt.nz.

Appropriateness of the bylaw approach

Council is required to determine if the adoption of each bylaw (including the review of any bylaw) is the most appropriate way of addressing what Section 155 of the Local Government Act 2002 refers to as a perceived problem.

In relation to alcohol control (e.g. liquor ban) bylaws, Section 147 of the Act also says that Council must be satisfied that:

- (a) the bylaw can be justified as a reasonable limitation on people's rights and freedoms; and
- (b) a high level of crime or disorder (being crime or disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made; and
- (c) the bylaw is appropriate and proportionate in the light of that likely crime or disorder.

All 10 bylaws dealt with in this proposal have been in place with Westland District Council for several years, including the Waste Water Bylaw 2010 which only lapsed in February 2018. In most cases the bylaws have been previously reviewed and assessed by Council as being an appropriate way of addressing the perceived problems, and in the other cases the Council assessed them as appropriate when initially putting them in place. No concerns appear to have been raised by the community that the bylaws are now inappropriate methods of addressing the problems.

In the case of the proposed Alcohol Control Bylaw, the expiring Liquor Bans Bylaw has been used as a basis, with only minor amendments for clarity. The Council is satisfied that the Alcohol Control Bylaw meets the tests of Section 147 of the Act, limiting people's rights and freedoms in a reasonable way to ensure that a high level of crime and disorder does not arise as a result of alcohol consumption in certain areas at certain times.

In general, the bylaws give Council a combined toolkit that is useful in raising awareness and fostering communication on various issues, regardless of whether enforcement action is taken in any given case. In the event that education and dialogue is unsuccessful and enforcement action is required in a particular case, the bylaws are the only method of providing Council with the necessary powers to take such action (e.g. fines).

Are the bylaws the most appropriate form of bylaw?

Section 155(2) of the Local Government Act 2002 requires Council to determine that each proposed or reviewed bylaw is the most appropriate form of bylaw – essentially whether the bylaw contains the appropriate content. That is the question that Council has considered in forming this proposal, and it is satisfied that each bylaw is the most appropriate form of bylaw for Westland at this time. They are generally based on model bylaws used by other Council around New Zealand, with alterations to reflect Westland's unique circumstances and requirements. They are generally flexible and allow changing circumstances to be recognised.

Options Considered by Council

In developing the current proposal, the Council considered three options for each bylaw:

- **Approve without amendment:** Council considers that all the reviewed bylaws require some amendments, in most cases relatively minor but still necessary. The option to approve without amendment would therefore mean that existing controls will be out-of-date and inadequate to meet current requirements.
- **Approve with amendment:** This option allows each bylaw to reflect recent legislative changes, to reflect best practice in local government where appropriate, to incorporate amendments for clarity, and to address issues not adequately dealt with by the bylaw in its present form. It will also allow for further amendments to be made (or proposed amendments to be altered or deleted), following consideration of submissions received in response to this proposal.
- **Revoke or allow to lapse:** This option would mean that Council has determined that there is no longer a need for a particular bylaw, in which case the bylaw could be revoked or allowed to expire (in which case it is automatically revoked two years after the expiry date). The Council considers that none of the bylaws in this proposal should be revoked or allowed to lapse, for reasons explained in the “Appropriateness of the bylaw approach” section above.

How will the bylaws be monitored and enforced?

The reviewed bylaws will be monitored and enforced as required by Council officers and, in particular instances, police officers. The existence of any bylaw or any particular provisions within a bylaw does not mean that an intensive monitoring regime will occur; however, if a matter comes to Council’s attention that requires enforcement action, the bylaws allow this action to occur. In some cases a discussion that references the appropriate bylaw and the potential penalties (i.e. a warning) will resolve the situation and remove the bylaw breach.

New Zealand Bill of Rights Act 1990

The Council must determine whether the bylaws made under the Local Government Act 2002 give rise to any implications under the New Zealand Bill of Rights Act 1990. The reviewed bylaws have come under different forms of scrutiny in the past and are similar to bylaws used by other territorial local authorities, and there is no legislative commentary reviewed that would suggest Bill of Rights implications. The proposed bylaw content is considered to reflect a suitable balance between personal freedoms and community protection, and is not considered to have discriminatory effects.

What amendments have been proposed?

The following is a summary of the key changes proposed to each bylaw as part of this review. Interested parties are able to view the entirety of each bylaw they are interested in, and compare it with the previous version available at www.westlanddc.govt.nz/bylaws-and-policies, to identify the complete extent of the changes proposed.

Traffic and Parking Bylaw 2013

This bylaw has undergone the most significant change. Numerous additions are proposed, based in part on recent bylaws elsewhere in New Zealand, to give the Council options for addressing modern issues related to traffic and parking. Actual implementation of several of these options (e.g. metered parking areas, reserved parking, no stopping areas or skating ban areas) would require a resolution of Council, and will not occur without Council consideration of the need for such measures. The inclusion of these options in the bylaw at this time is simply to provide Council with the toolkit it might need in the future, alongside the rest of the current bylaw review, without needing a bylaw amendment in the future.

The key additions and changes include:

- Allowing for coupon or metered parking areas, by Council resolution, as a method of further encouraging turnover of time-restricted parking and recovering costs of monitoring and enforcement.
- Allowing for reserved parking (where a permit is required) and no stopping areas, by Council resolution
- Only allowing for parking on grass where damage or danger is not likely to result
- Prohibiting long-term parking of immobilised or unlicensed vehicles on a road
- Allowing for skating ban areas to be put in place, by Council resolution, to address safety or nuisance issues
- Allowing for outdoor dining or 'parklets' (small landscaped spaces), by Council resolution, as alternative uses of on-street parking spaces
- Requiring Council permission for containers over a certain size to be placed on a road, with the intention of allowing these if safety issues are addressed
- Prohibiting advertising on legal road if it causes safety issues
- Allowing for temporary parking restrictions for road upgrade and/or maintenance work
- Allowing for a range of defences and exemptions to this bylaw, including for activities done in accordance with a valid traffic management plan.

Airport Charges Bylaw 1998

- Adding reference to car parking charges at Hokitika Airport and Glacier Country Heliport

Dog Control Bylaw 1997

- Requiring all dogs in public areas to be on-leash (or in a container) within 20m radius of children's playgrounds, and everywhere else except designated off-leash public areas. A number of high-profile dog attacks including the killing of cats in the Hokitika have prompted the Council to try to ensure that dogs are under physical control in most public places. The 2018 residents' satisfaction survey also indicated that only 39% of residents who had had contact with Council on animal control matters were satisfied with the level of protection provided by Council. A number of respondents cited a problem with wandering dogs.
- Approved off-leash areas (where voice or whistle control is acceptable) include a range of public parks and reserves throughout Hokitika and Westland, with some restrictions on the Hokitika beachfront from Takutai to Three Mile, in terms of time of day (e.g. daylight hours only) and location (e.g. on the seaward side of the mean high water springs). The beach restrictions are to provide for public safety on the Hokitika waterfront walkways, and for the safety of little blue penguins who nest in the vegetated parts of the Hokitika beachfront areas.
- Requiring Council to consult with immediate neighbours when considering an application for more than two dogs on an urban property
- Requiring dog owners to immediately remove the faeces if their dog defecates in a public place or any land other than that occupied by the owner
- Requiring dogs classified as 'menacing' to be neutered (this was already in the Council's Dog Control Policy)

Policy on Dogs

- Reflecting the proposal Dog Control Bylaw requirement for dogs to be on-leash in public places unless in an approved off-leash area, and always within 20m of any children's playgrounds, and adding a reference to the bylaw's requirements with respect to fouling

Fencing Bylaw 1991

- Updating reference to the Local Government Act and the penalties therein

Refuse Bylaw 1992 (proposed to be retitled "Refuse and Recycling Bylaw")

- Changing title to reflect new content on recycling
- Changing definition of approved receptacle from bag to wheelie bin, and corresponding changes relating to placement and distribution of receptables
- Expanding restriction on contents to include medical waste
- Changing weight restriction to a restriction on overfilling

Speed Limits Bylaw 2006

- Minor updates to reflect legislative changes
- Updating register of speed limits to include local roads in recent subdivisions

Trading in Public Places Bylaw 2008

- Adding e-mail address and removing 'evidence of good character' as requirements for licence applications
- Allowing licence conditions relating to distance from businesses on private land selling same or similar goods; for example, to restrict a coffee cart from setting up outside a non-related café

- Allowing licence conditions to state the requirement for compliance with other applicable legislation (e.g. Food Act or Resource Management Act); for example, food carts will need a food licence, and non-temporary retail activities in a rural or residential area will generally require a resource consent.

Wildfoods and Other Events Bylaw 2003

- Updating references to legislation, and removing reference to liquor and alcohol which is covered by another bylaw
- Clarifying the definitions of “public place”, “specified public place” and “controlled camp site”
- Updating the map to include the full urban Hokitika area in the glass ban for Wildfoods weekend, as with the alcohol ban, and to show the latest controlled camp sites

Liquor Bans Bylaw 2007 (proposed to be retitled “Alcohol Control Bylaw 2018”)

- Updating references to legislation, and changing “liquor” to “alcohol” throughout consistent with new legislation
- Updating definition of “public place” as per new legislation
- Correcting formatting in the schedule of specified places and time periods, so that the places are aligned with the corresponding periods
- Adding an exclusion for controlled campground areas at Sunset Point and Wadeson Island during Wildfoods weekend, as per a previous Council resolution in early 2018
- Updating Map B to show the correct legal extent of the alcohol ban over Wildfoods weekend
- Adding Map C to show the controlled campground areas that are exempt from the alcohol ban over Wildfoods weekend

Waste Water Bylaw 2010 (proposed to be retitled Waste Water Bylaw 2018)

- Updating year in the bylaw title to reflect the fact that the 2010 Bylaw lapsed and a new bylaw is required
- Correctly referencing the Council’s Long Term Plan

How to make a submission

Any interested person or body is invited to make a submission or comments on the reviewed / reinstated bylaws, the other options that have been considered, and on any aspect of, or omission from, these bylaws.

Council will take account of all submissions made when making decisions on the bylaw review. There will be a Council hearing on 20th June 2018 for those submitters who indicate they wish to speak in support of their submission.

Please submit your feedback to Council by:

- (1) Delivery to the Customer Service desk, 36 Weld Street, Hokitika
- (2) Post to Group Manager: Planning, Community and Environment (Attn: Bylaw Review), Private Bag 704, Hokitika
- (3) Email to consult@westlanddc.govt.nz
- (4) You can also complete submissions at www.westlanddc.govt.nz

All submissions, including name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details are kept private.

All enquiries (not submissions) should be directed to 03 756 9010 or council@westlanddc.govt.nz.

Timetable

17th May 2018: submissions open

15th June 2018 (5pm): submissions close

20th June 2018: hearing of submissions

30th June 2018: Council meeting to decide on final content of bylaws

The revisions will generally take effect the day after the decision is made by Council

Don't forget, get your submission to Council by 5:00pm on 15th June 2018!