

Consolidated Bylaw and Dog Control Policy 2017

Let us know what you think about the proposed changes
to the District Bylaws and Dog Control Policy



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1. Introduction

This year council is reviewing and updating its bylaws to keep them relevant and address any emerging issues.

Bylaws are rules made by the Council that affect the way we live, work and play in certain areas. They cover protecting the public from nuisance, minimising offensive behaviour, health, safety and a range of environmental issues. Councils have the power to make local laws to help manage these sorts of issues.

Included in this document are:

- summary of the proposal
- scope and reasons for the proposal
- main changes proposed
- legal provisions
- Options considered by Council
- where you can find more information and copies of the proposal
- how you can submit on the proposal

A full copy of the draft of the proposed Bylaw and Dog Control Policy can be found on the Council website www.timaru.govt.nz, or a paper copy is available at Council offices, service centres and libraries.

This document constitutes the Statement of Proposal for the purposes of Section 83(1) (a) and 86 of the Local Government Act 2002. We are undertaking consultation to assess public support for the proposal to amend the Bylaw. The decision to amend the Bylaw or leave it the same will be made following community feedback.

2. Summary of the Proposal

The proposal is to:

1. Amend the following chapters of the existing Timaru District Consolidated Bylaw 2013:

- Chapter 1: Introductory and Miscellaneous
- Chapter 7: Parks, Reserves, Beaches and Tracks
- Chapter 21: The Keeping of Animals, Poultry and Bees

2. Revoke the following chapters of the existing Timaru District Consolidated Bylaw 2013:

- Chapter 17: Demolition, Construction and Maintenance of Building and Site Works
- Chapter 18: Apartment and Boarding Houses

3. There are minor changes proposed to the following chapters of the existing Consolidated Bylaw 2013:

- | | |
|---|---|
| ■ Chapter 2: Public Places | ■ Chapter 13: Parking |
| ■ Chapter 3: Trading in Public Places | ■ Chapter 14: Solid Waste |
| ■ Chapter 4: Liquor Ban in Public Places | ■ Chapter 23: Health Protection (Pools, Beauty Facilities, Skin Piercing and Tattooing) |
| ■ Chapter 6: Control of Dogs | ■ Chapter 24 – Airport Charges |
| ■ Chapter 8: Cultural and Recreational Facilities | |

4. There are no changes proposed to the following chapters of the existing Consolidated Bylaw 2013:

- | | |
|------------------------------------|--|
| ■ Chapter 5: Skateboards | ■ Chapter 12: Licences for Vehicle Stands on Streets |
| ■ Chapter 9: Cemeteries | ■ Chapter 15: Water Services |
| ■ Chapter 10: Traffic | ■ Chapter 16: Water Races |
| ■ Chapter 11: Traffic Speed Limits | N.B. Chapter 19, 20 and 22 have been previously revoked. |

5. Amend the Dog Control Policy

A minor amendment is proposed – to include the Timaru Dog Park as an off the leash dog exercise area

6. Revise the structure of the Timaru District Consolidated Bylaw 2013 to incorporate the changes above. The proposed structure of the new Bylaw is:

- | | |
|--|--|
| ■ Chapter 1 – Introductory and Miscellaneous | ■ Chapter 11 – Traffic Speed Limits |
| ■ Chapter 2 – Public Places | ■ Chapter 12 – Licences for Vehicle Stands on Streets |
| ■ Chapter 3 – Trading in Public Places | ■ Chapter 13 – Parking |
| ■ Chapter 4 – Liquor Ban in Public Places | ■ Chapter 14 – Waste Minimisation |
| ■ Chapter 5 – Skateboarders | ■ Chapter 15 – Water Services |
| ■ Chapter 6 – Control of Dogs | ■ Chapter 16 – Water Races |
| ■ Chapter 7 – Parks, Reserves, Beaches and Tracks | ■ Chapter 17 – The Keeping of Animals, Poultry and Bees |
| ■ Chapter 8 – Cultural and Recreational Facilities | ■ Chapter 18 – Health Protection (Pools, Beauty Facilities, Skin Piercing and Tattooing) |
| ■ Chapter 9 – Cemeteries | ■ Chapter 19 – Airport Charges |
| ■ Chapter 10 – Traffic | |

3. Review Scope and Reasons for the Proposal

Council has completed a review of the Bylaw under section 158 to 160 of the Local Government Act.

Under sections 158 to 160 of the Local Government Act, Council is required to review any new Bylaw within 5 years of commencement, and review an existing Bylaw within 10 years.

The last review occurred in 2013 with the inclusion of some new chapters to the Bylaw. The Council has decided to review the full Bylaw before April 2018.

The 2017 Bylaw Review is being undertaken to ensure it remains fit for purpose and meets legal requirements under the Local Government Act 2002. The existing Bylaw has generally operated well without major issues to date. It has been subject to a full legal review to ensure it reflects statutory requirements, that the controls included are reasonable and necessary and referencing is correct.

The main tests we apply as to whether or not a Bylaw is fit for purpose are summarised below:

- Is the issue (nuisance) a real issue or a perceived issue?
- Is the proposed Bylaw the best way of dealing with the issue or do other mechanisms/strategies exist that might give better effect to the desired outcome?
- Is the proposed Bylaw contrary to the Bill of Rights Act 1990 and the freedoms protected by that Act?
- Is the proposed Bylaw practical and enforceable?

The review has identified that various improvements should be made to make the Bylaw more robust as well as easier to read and understand. These include a range of technical amendments to terminology and references. Definitions have been changed or removed as required to reflect best practice and improve clarity.

4. Summary of Main Proposed Changes to Bylaw Chapters

4.1 Proposed Consolidated Bylaw 2017

Council's proposed consolidated Bylaw has 19 chapters. Many chapters are unchanged or have minor changes. The review proposes the following changes to chapters in the existing Consolidated Bylaw 2013:

Chapter	Proposed Changes	Reason(s)
<i>Chapter 1: Introductory and Miscellaneous</i>	<ul style="list-style-type: none"> ■ Definitions have been added for Beauty Facility and Beauty treatment ■ Definitions have been removed including prescribed process, waste operation and any definitions relating to revoked or proposed revoked chapters of the Bylaw (e.g. Barbeque, Food, Fire District, Boarder) ■ Some definitions have been changed, including for Approved taxi organisation, Council facility, Licensee, Model Aeroplane, public place, public pool, skin piercing and tattooing, tracks, waste operator 	<ul style="list-style-type: none"> ■ Minor changes to better reflect the current legal and/or operational environment
<i>Chapter 2: Public Places</i>	<ul style="list-style-type: none"> ■ Adjustment to Clause 210 making a more general Bylaw around interfering with the safety, use and enjoyment of public places ■ Removed Clause 219: Processions and public meetings, as this is administered by other means ■ Under Schedule 4, for Temporary electric fences on road reserves, require that these are not supported by steel waratahs ■ Other minor changes to improve the clarity of the Bylaw chapter and to remove duplication 	<ul style="list-style-type: none"> ■ Minor changes to better reflect the current legal and/or operational environment ■ For Schedule 4 Temporary electric fences – amended to clarify and to address safety issues
<i>Chapter 3: Trading in Public Places</i>	<ul style="list-style-type: none"> ■ Removal of exemption for selling fish in vicinity of a fishing vessel 	<ul style="list-style-type: none"> ■ Minor changes to better reflect the current legal environment
<i>Chapter 7: Parks, Reserves, Beaches and Tracks</i>	<ul style="list-style-type: none"> ■ Update to definitions for reserve to cover wider definition of parks, beaches and tracks ■ Addition of drones to the definition of model aeroplanes ■ Removal of Camping on Council owned land ■ Obstruction to Bathers clause 	<ul style="list-style-type: none"> ■ The proposed clause to deal with unwanted campers on Council land is unlawful and can only be dealt with by way of a Freedom Camping Bylaw in accordance with the Freedom Camping Act 2011 ■ Obstruction to Bathers is already covered by chapter 3 of the Bylaw
<i>Chapter 14: Solid Waste</i>	<ul style="list-style-type: none"> ■ Change name of this chapter to Waste Minimisation to reflect the current operating environment. It will be Chapter 14 in the new Consolidated Bylaw ■ Removal of restriction on number of bins for each rateable property or business ■ Enable Council to conduct audits on bin compliance ■ Require red bins to be placed first from the driver's direction of travel 	<ul style="list-style-type: none"> ■ Proposed changes to align with Council's Waste Minimisation Policy
<i>Chapter 17: Demolition, Construction & Maintenance of Buildings & Site Works</i>	<ul style="list-style-type: none"> ■ Proposal to revoke Chapter 	This chapter is largely a double up of other regulations and legislation.
<i>Chapter 18: Apartment Buildings and Boarding Houses</i>	<ul style="list-style-type: none"> ■ Proposal to revoke Chapter 	This chapter is largely a double up of other regulations and legislation.

Chapter	Proposed Changes	Reason(s)
<i>Chapter 21: The Keeping of Animals, Poultry and Bees</i>	<ul style="list-style-type: none"> ■ Proposes banning roosters from urban zoned properties 	<ul style="list-style-type: none"> ■ Proposed inclusion in response to noise and nuisance complaints
<i>Chapter 23: Health Protection (Pools, Beauty Facilities, Skin Piercing and Tattooing)</i>	<ul style="list-style-type: none"> ■ Includes a process for making, amending or revoking Codes of Practice that Pools, Beauty Facilities, Skin Piercing and Tattooing premises must comply with 	<ul style="list-style-type: none"> ■ Minor changes to better reflect the legal/societal environment
<i>Remaining Chapters</i>	<p>The following chapters have minor changes such as updating text to reflect current legislation, ensuring controls are reasonable and necessary, correcting referencing, improving clarity of text or other minor changes:</p> <ul style="list-style-type: none"> ■ Chapter 4: Liquor Ban in Public Places ■ Chapter 6: Control of Dogs ■ Chapter 8: Cultural and Recreational Facilities ■ Chapter 13: Parking ■ Chapter 24: Airport Charges <p>The following chapters have no significant changes:</p> <ul style="list-style-type: none"> ■ Chapter 5: Skateboards ■ Chapter 9: Cemeteries ■ Chapter 10: Traffic ■ Chapter 11: Traffic Speed Limits ■ Chapter 12: Licences for Vehicle Stands on Streets ■ Chapter 15: Water Services ■ Chapter 16: Water Races 	<ul style="list-style-type: none"> ■ Minor amendments or changes have been made to the Consolidated Bylaw where necessary to reflect current legislation, practices and procedures, ensure controls are reasonable and necessary, correct referencing, improved clarity of text and other minor changes

To view the proposed amendments to the Bylaw see www.timaru.govt.nz. The proposed amendments are shown in strikethrough (for deletions) and underline (for additions) in the draft Bylaw document.

The structure of the new Bylaw will change as outlined under 2.0.

4.2 Proposed Dog Control Policy 2017

The Dog Control Policy sets out the rules for dog owners in the Timaru District to help owners meet their obligations under the Dog Control Act 1996 and includes where dogs may be exercised, what areas they are prohibited in and where they must be walked on a leash. It also outlines how the Council will deal with menacing dogs.

The Dog Control Policy is the set of rules which reflect the requirements of Dog Control Act 1996, which is then implemented through Chapter 6 of the Consolidated Bylaw – Control of Dogs.

Timaru District Council will therefore make any amendments to the proposed Chapter 6 of the draft Consolidated Bylaw following completion of the consultative process and adoption of this Policy (draft Chapter 6 of the Consolidated Bylaw is being consulted on as part of the Bylaw review).

The draft Dog Control Policy 2017 has only one minor change, the addition of the Timaru Dog Park as an off the leash dog exercise area.

5. Options Considered by Council

A Bylaw review has been undertaken in accordance with section 160 of the Local Government Act. Council is proposing Option A, as outlined in the table below

Option	Advantages	Disadvantages
Option A – Restructure and amend the draft Bylaw as set out in this document (Council's Preferred option)	<ul style="list-style-type: none"> ■ Updates the existing Bylaw for clarity and to better reflect the current legal and operational environment. 	<ul style="list-style-type: none"> ■ New provisions of the Bylaw may cause confusion in the community. ■ Costs for consultation/ communications.
Option B – Keep the Bylaw as it is	<ul style="list-style-type: none"> ■ No change to current situation, no new rules for the community. 	<ul style="list-style-type: none"> ■ Does not provide recommended clarifications and may create uncertainties. Does not reflect best practice. ■ Does not meet requirements for a five yearly review of new bylaws.
Option C – Revoke the Bylaw	<ul style="list-style-type: none"> ■ Reduces Council's enforcement activity requirements. 	<ul style="list-style-type: none"> ■ Does not meet the needs of the community. ■ To have no Bylaw would remove the Council's ability to regulate. ■ Review analysis has shown the Bylaw is working well. ■ Not considered a reasonably practicable option in accordance with s77 (1)(a) of the Local Government Act.
Option D – Revoke the current bylaw and replace with a new Bylaw	<ul style="list-style-type: none"> ■ No advantages identified. 	<ul style="list-style-type: none"> ■ The current bylaw addresses the specific identified problems. There is no technical need for a new Bylaw. ■ Will mean the Bylaw is due for review in 5 years as it will be a new Bylaw. ■ Additional costs involved. ■ Not considered a reasonably practicable option in accordance with s77(1)(a) of the Local Government Act.

6. Legal Provisions

6.1 Local Government Act 2002

Section 145 of the Local Government Act 2002 (LGA 2002) provides territorial authorities with general powers to make and amend bylaws.

Section 86 of the LGA requires the local authority to include comment on any relevant determinations under Section 155, including:

- a) Whether a bylaw is the most appropriate way of addressing a problem
- b) Whether the proposed bylaw is the most appropriate form of bylaw
- c) Whether the proposed bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990

6.1.1 Bylaw most appropriate way to addressing problem

All chapters of the proposed Consolidated Bylaw currently exist and have been in operation since 2013. The Bylaw is considered the most appropriate way to address the relevant problems and achieve the provisions of Section 145, namely to:

- a) protect the public from nuisance
- b) protect, promote and maintain public health and safety
- c) minimise the potential for offensive behaviour in public places

6.1.2 Bylaw most appropriate form of bylaw

The Council have considered the Draft Consolidated Bylaw through a workshop and agree that it is the most appropriate form of bylaw.

6.1.3 Any implications under the New Zealand Bill of Rights Act 1990

It is the view of staff preparing the Proposed Bylaw that it is not considered inconsistent with, or likely to give rise to any implications under the New Zealand Bill of Rights Act 1990.

The LGA 2002 requires that Council use the special consultative procedure set out in Section 83 and 86 when making, revoking or amending any bylaw.

6.2 Dog Control Act 1996

In adopting this Statement of Proposal for consultation, including a draft Dog Control Policy and Chapter 6 of the proposed Timaru District Consolidated bylaw, the Council is required to consider whether these meet the requirements of Sections 10 and 20 of the Dog Control Act 1996.

The Council considers the draft Dog Control Policy and Chapter 6 of the Consolidated Bylaw do meet these requirements.

7. Frequently Asked Questions

7.1 What about a Freedom Camping Bylaw?

Council is currently monitoring the need for a Freedom Camping Bylaw. If evidence indicates a need, this will be further discussed with the community.

7.2 Why isn't Council reviewing the Three Waters (Chapter 15 Water Services) in this review?

Water services Bylaws are prioritised for review in the next few years following the outcomes of internal work and any impact of government reviews of water services..

7.3 Why is Council not reviewing speed limits in this review? (Chapter 11 Traffic Speed Limits)

The setting of speed limits rule was only recently signed off by central government to have effect from 21 September 2017. This did not give Council sufficient time to implement the new rule requirements as part of this Bylaw review. The speed limits in the district (Chapter 11) will be reviewed in 2018.

8. Have Your Say

Let us know what you think about the Draft Bylaw and Dog Control Policy

You can do this by:

- Going to the Council website www.timaru.govt.nz and completing the online feedback form
- Filling out the submission form at the end of this document with your feedback and FreePost it back to Council (instructions on the next page)
- Scanning your feedback form and emailing this to submission@timdc.govt.nz

9. Want More Information?

Copies available

Copies of the full Statement of Proposal, including the full Bylaw document showing the proposed changes, and the Dog Control Policy are available:

- through the Timaru District Council website – www.timaru.govt.nz
- from Council Services Centre and Libraries
- by phoning the Council – (03) 687 7200

Note the Consolidated Bylaw is a large document, so electronic versions of delivery are preferable.

Submissions close 5.00pm
Monday 30 October 2017

If you have any questions about the proposed changes to the Bylaw and Dog Control policy, you can contact Paul Cooper, Environmental Compliance Manager, Timaru District Council (paul.cooper@timdc.govt.nz).

If you have any questions about the consultation process, please contact Mark Low (mark.low@timdc.govt.nz) or Ann Fitzgerald (ann.fitzgerald@timdc.govt.nz).

Telephone 03 687 7200

10. Timeline

Timeline for considering the proposed policy

**28 September 2017 –
30 October 2017**

Consultation period

30 October 2017

Submissions close

Week of 13-17 November 2017

Council considers submissions (hearing if required)

12 December 2017

Council decision on Consolidated Bylaw and Dog Control Policy

Draft Bylaw/Dog Control Policy

Submission Form

Your details

First name:

Last name:

Organisation (if applicable):

Phone (landline or mobile):

Email address:*

Postal address:*

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How to return this form via FreePost

Complete **Your details** and **Your feedback** sections

Put your form in a sealed envelope and address to:

FreePost Authority Number 95136
Draft Bylaw/Dog Control Policy
Timaru District Council
PO Box 522
TIMARU 7940

Thank you.

Do you want to speak about your submission at a Council Hearing? (tick a box)**:

☐ Yes ☐ No

*we require your email address and/or your physical postal address. **must complete. If you do not complete, we will assume you do not wish to speak.

Your feedback

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Submissions are public information

Submissions made to Council, including submitters' name, will be included in papers available to the Council, media and the public.

If requested, Council is legally required to make all written & electronic submissions available to the public including the name and contact details of the submitter, subject to the provisions of the Local Government Official Information and Meetings Act 1987.

If you believe there are compelling reasons why your contact details or submission should be kept confidential, please contact us.

Need more room?

Please use extra paper if required and attach with your submission.



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