Hey, we need to talk
me kōrero ngātahi tātou

We’re proposing some changes to our Nuisance Bylaw.

Some of the changes may affect you or your family and we’d like to know what you think.

When we’ve taken into account all the feedback received, we’ll finish off the bylaw and it will become effective. What is a bylaw? See page 4 for a brief description of what a bylaw is, and how it works for you.

**IMPORTANT DATES**

Open for written feedback:
29 March 2019.

Provide your written feedback by:
29 April 2019.

**TALK TO US**

**Paeroa Library Reading Room drop in:**
Saturday, 6 April 2019, 9am-10am.

**Ngatea Service Centre drop in:**
Friday, 12 April 2019, 10am-11am.

**Waihi Service Centre Meeting Room drop in:**
Wednesday, 17 April 2019, 11am-12pm.

**Whiritoa Community Hall drop in:**
Thursday, 18 April 2019, 2pm-3pm.

**Hearing of submissions:**
22 May 2019 in the Hauraki District Council Chambers, William Street, Paeroa.

See page 4 for the various ways you can have your say.

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**What we’re proposing**

We’ve made some proposed changes to our Nuisance Bylaw include removing a number of clauses, changing the current clauses, and adding some new ones. We want your feedback on these proposed changes.

In a nutshell, the changes we’ve made are:

- Updating definitions to make our intent clearer.
- Removing parts of the bylaw that are covered elsewhere, like littering and camping.
- Removing parts of the bylaw we think are not best addressed by the bylaw, such as disorderly behaviour, and damage to public places.
- Introducing requirements around keeping livestock, bees, pigs and poultry in urban areas or low density residential zones.
- Introducing some fees to recover our costs for permission to have a vehicle on the beach, and to keep certain animals in urban or low density residential zones.
- Revoking some bylaws that have applied only to the Kaiaua, Pūkorokoro / Miranda areas that were part of the Franklin District in the past.

These proposed changes are explored further on the following pages.
Preventing animal nuisance
(this doesn’t include dogs)

Many parts of our bylaw refer to ‘zones’ or ‘areas’. We know this can sometimes be confusing, so we’re proposing to clarify the definitions, and have included links to our District Plan so you can see in which zone a property is located. The definitions shown in the blue box will help with reading the below information.

Keeping livestock in urban areas
See clause 5.2 of the proposed bylaw

Our current bylaw allows for a ban or limit to be placed on the number of livestock allowed in urban areas, but the number was never decided. We don’t think it’s appropriate to keep these animals in urban areas, given the small size of properties (not including lifestyle blocks) and the community expectation that stock should be kept in rural areas not in town. We’re proposing to ban keeping stock in urban areas, with some exceptions e.g. for calf club or group day, or where the section is in pasture and rural in nature. The ban does not include Low Density Residential Zones.

Bee keeping
See clause 6.0 of the proposed bylaw

As in the current bylaw, people still need to get our permission to keep bees in an urban area or Low Density Residential Zone. We’re not proposing to change this, however we are making it clearer how we’ll make the decisions on the keeping of bees. We’ll consider, amongst other things, the size of the property where the hives are to be kept and the opinions of the owner and occupier of any adjacent property.

We’re proposing that bee hives must be located at least 10 metres from any dwelling or any other building on an adjoining property, or at least 2 metres from any adjoining property boundary or road. We’ve included this as good flight path management is required and is less likely to be achieved if the hives are too close to the neighbours’ house or boundary.

Keeping pigs
See clause 5.3 of the proposed bylaw

We haven’t changed our ban on keeping pigs in an urban area. We’re proposing to include that up to four pigs are allowed in a Low Density Residential Zone if our written permission is given. We don’t think the ban on keeping pigs should extend to Low Density Residential Zones where section sizes and the location of the property might make it appropriate for the keeping of a small number of pigs.

Poultry
See clause 5.4 of the proposed bylaw

We receive several complaints each year in relation to wandering poultry, noisy poultry and other nuisances related to poultry. We’re proposing that poultry houses are not allowed within 10 metres from occupied buildings, or within 2 metres of the boundary. We also assessed the limits other councils of similar size placed on their residential areas and we think a limit of 6 poultry kept in urban areas and a limit of 12 poultry in Low Density Residential Zones is appropriate. We haven’t changed the fact that you can keep 25 poultry in a rural area before you need a resource consent (as contained in our District Plan).

New fees for permission to keep bees, pigs and poultry

Our proposed bylaw requires permission to be given by the Council for the following matters:

- Keeping of bees in an urban area or Low Density Residential Zone,
- Keeping of up to four pigs in a Low Density Residential Zone,
- Keeping of more than 6 poultry in an urban area,
- Keeping of more than 12 poultry in a Low Density Residential Zone.

We’re proposing some new fees to recover the reasonable costs incurred by providing this permission. This means a $60 fee for an application to keep these animals, and a $100 fee for inspection in relation to any application. An inspection may not always be needed.

DEFINITIONS

Low Density Residential Zone has the same meaning as defined in the Hauraki District Plan. In a nutshell, this is a semi-rural zone such as a lifestyle block.

Urban area means land within a Residential, Township, Marae Development (Waihi Community Marae only), Town Centre, Industrial and Reserve (Active) Zones as defined in the Hauraki District Plan. For the purpose of the bylaw the term ‘Urban area’ does not include a Low Density Residential Zone.
General nuisances

As noted above, we’ve removed some definitions that weren’t relevant to the proposed bylaw.

We’ve updated the definition of ‘Nuisance’ to meet the definition in the Health Act 1956, and reflect that a nuisance means anyone causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Vehicles on the beach

See clause 3.9 of the proposed bylaw

Over the years we’ve given approval to a number of people to drive their vehicle on the beach at Whiritoa for the purpose of launching boats. Unfortunately, identification stickers were not given out and expiration dates were not stipulated, so the Council is no longer aware of exactly how many people have permission to use vehicles on the beach. Our research shows that there could be an issue with the number of vehicles on the beach at Whiritoa, and we’re having trouble enforcing the bylaw when there is no clear way to identify which vehicles are permitted on the beach. As we’re working towards improving this process, a new fee of $60 is proposed to meet the administration costs of assessing and providing this written permission. We’ve included transitional provisions so that those who currently have permission have 6 months to renew their permit to use their vehicle on the beach.

Disorderly behaviour and damage

We’re proposing to remove clauses around disorderly and offensive behaviour as these are matters best dealt with by the NZ Police as they’re better trained and equipped for these situations than Council officers. We’re also proposing to remove clauses relating to damaging or defacing public places. We don’t think the bylaw is the best way to address this as the NZ Police have more enforcement tools and community connections to address these issues.

Driving dangerously and off-road parking

We’re proposing to remove the clauses about driving and parking vehicles off-road, or driving in a dangerous or inconsiderate way. The Ministry of Transport recommends that we address vehicle issues in our land transport bylaws. This enables the Police to enforce certain aspects of the bylaw and means we can issue stationary vehicle infringements. We’re expecting to look at this when we review our traffic bylaw later in 2019, so watch this space.

Camping

We’re proposing to remove a clause relating to camping, as this is now covered in our Freedom Camping Bylaw.

Keep our district beautiful

We’re proposing to remove the clause about littering, because we don’t think it’s necessary. We can fine people up to $400 for littering in a public place without having it in our bylaw. We’ve also removed the prohibition of interfering with rubbish that’s waiting for collection as this is already in our Solid Waste Bylaw.

Gatherings, parades and peaceful protests

We’re proposing to remove the clause requiring people to seek our permission for gatherings and meetings that will affect pedestrians. However, you still need our permission if you want to march on the road as this requires a road closure. The right to peaceful assembly, freedom of association and freedom of movement are human rights. If issues arise during a protest or march such as a breach of the peace, we think this should be assessed by the NZ Police on a case by case basis.

Numbering of properties

The current bylaw has very detailed requirements for the size of numbering displayed for street numbering. We’re proposing to remove these stringent requirements around sizing as we don’t believe they’re needed.

Toilets that don’t flush

The current bylaw states that people cannot use a toilet other than a flushing toilet (e.g. long drop or composting toilets), unless they are maintained in a way not to create a nuisance. We’re proposing to remove this clause. It is a building control, health, and resource management matter which is governed by the Waikato Regional Plan as well as various other legislation such as the Health Act 1956 and the Building Act 2004, without need for a bylaw.

Ex Franklin bylaws

We’re proposing to revoke the Franklin District Council (FDC) Brothel Bylaw 2010 as we are not aware of any issues with brothels in the Kaiaua Coast area. We’re also proposing to revoke the FDC Trading in Public Places Bylaw 2008 as this is covered in our current bylaw and the proposed Nuisance Bylaw 2019. Additionally, other clauses in this bylaw are not needed as we don’t have issues with them, e.g. vehicle window washers. The Nuisance Bylaw 2019 will apply to all residents of the Hauraki District and the ex-Franklin District.

FURTHER INFORMATION

We think this bylaw is appropriate so we can protect people from nuisance and maintain and promote public health and safety. Our proposed bylaw does not affect your rights under the NZ Bill of Rights Act 1990. The complete bylaw and the background information explaining what we’ve considered so far is included in this document, or you can download this from our website: https://weneedtotalk.hauraki-dc.govt.nz
A guide to giving feedback

Any organisation or member of the public can give us feedback in writing, on the phone, in person or all of these. This is your chance to tell us your thoughts about what we’re proposing.

Good feedback is clear, concise and to the point. Tell us which parts you support, and which ones you don’t. Let us know why. You are most welcome to provide additional pages or supporting material to with your feedback.

Remember to provide your contact details if you would like to be kept informed of the decisions made after considering your feedback.

Your feedback will be a council record, so may be reproduced as an attachment to a Council agenda, made publicly available and remain on Council minute records. If you aren’t providing feedback on behalf of an organisation and would like your contact details to be kept private, please let us know.

Everyone who provides feedback will be notified in writing of the outcome.

Special assistance
We can offer assistance with special requirements at a hearing in terms of language translation, including that of sign language, or presenting through audio visual mechanisms. If assistance is required, please let us know and we will make the appropriate arrangements.

Huh?! What’s a bylaw?

Our bylaws are only applicable to the Hauraki District. They’re rules that local councils can develop to make our district a safe and healthy place. They can protect the public from nuisance; protect, promote and maintain public health and safety; and minimise the potential for offensive behaviour in public places. We make them in consultation with you – that’s why it’s important to have your say.

A bylaw can be enforced by the Council or others we have nominated, such as the New Zealand Police. Most of our bylaws are coming up for review over the next couple of years.

1. We review how well the bylaw is working, involving key groups
2. Changes are made to the bylaw as a result of early discussions
3. You tell us what you think of the proposed changes to the bylaw
4. We look at the feedback and may make further changes as a result of your views
5. The bylaw is adopted and then effective

How you can have your say

If you want to talk to us:
• drop in to one of our sessions in Whiritoa, Waihi, Paeroa or Ngatea and have a cuppa with a councillor.
• contact us to book in to speak to the Council at a hearing in Paeroa on 22 May 2019, or tick the box on the feedback form to show us you’re keen to attend. We’ll contact you closer to the date of the hearing to arrange a time for you to speak.
• give us a call and speak with a member of the strategic planning team – we can draft your feedback into a written statement and we’ll provide you with a copy.

If you want to write to us:
• fill out the online feedback form on our website https://weneedtotalk.hauraki-dc.govt.nz
• message or comment on our Facebook page
• email your feedback to info@hauraki-dc.govt.nz
• write a letter, or fill in the printed feedback form (available at our service centres, or downloadable from our website)
Draft Nuisance Bylaw 2019

(Including the keeping of animals and bees)

Effective [MONTH] 2019
Contents

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1.0 Introduction

1.1 Purpose

This bylaw facilitates the enjoyment of living in and visiting the Hauraki District by managing and regulating the use of public places and certain activities on private land, including the keeping of animals and bees.

1.2 Title

This bylaw is the Hauraki District Council Nuisance Bylaw 2019.

1.3 Enabling enactments

This bylaw is made in accordance with the Local Government Act 2002 and the Health Act 1956.

1.4 Commencement

This bylaw comes into force on XXXX 2019.

This bylaw amends the relevant clauses of Part 3 (Public Safety) of the Hauraki District Council Consolidated Bylaw 2007 and was renamed accordingly.

1.5 Review

The review of this bylaw will be undertaken no later than 10 years after the last review.

1.6 Related information

There is related information in comment boxes in this bylaw. Related information does not form part of this bylaw and may be inserted, changed or removed without any formality.
## 2.0 Definitions

For the purposes of this bylaw the following definitions shall apply:

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Animal</strong></td>
<td>means stock, poultry and any other vertebrate animal of any age or sex that is kept in a state of captivity or is dependent upon humans for its care and sustenance.</td>
</tr>
<tr>
<td><strong>Authorised officer</strong></td>
<td>means any person delegated, appointed or authorised in writing by the Council to act on its behalf.</td>
</tr>
<tr>
<td><strong>Barbed wire</strong></td>
<td>means any wire that contains barbs, spikes, blades, jagged edges or pointed projections along its length and is used to make fences and barriers.</td>
</tr>
<tr>
<td><strong>Beach</strong></td>
<td>means the foreshore (including the inter-tidal zone above the mean low water spring) and any adjacent area that can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation and includes the adjacent coastal marine area.</td>
</tr>
<tr>
<td><strong>Council</strong></td>
<td>means the Hauraki District Council or any person delegated or authorised to act on its behalf.</td>
</tr>
<tr>
<td><strong>District</strong></td>
<td>means the district of the Hauraki District Council.</td>
</tr>
<tr>
<td><strong>Low Density Residential Zone</strong></td>
<td>has the same meaning as defined in the Hauraki District Plan.</td>
</tr>
<tr>
<td><strong>Nuisance</strong></td>
<td>has the meaning given by section 29 of the Health Act 1956 and its amendments and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.</td>
</tr>
<tr>
<td><strong>Occupier</strong></td>
<td>means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner.</td>
</tr>
<tr>
<td><strong>Poultry</strong></td>
<td>means any bird including, but not limited to domestic fowl, ducks, geese, turkeys, guinea-fowl, pheasants, peacocks and pigeons.</td>
</tr>
<tr>
<td><strong>Premises</strong></td>
<td>means any private land that is occupied or unoccupied and includes any dwelling, building, shop, yard, or part of the same.</td>
</tr>
</tbody>
</table>
**Hauraki District Council Draft Nuisance Bylaw 2019**

<table>
<thead>
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</thead>
<tbody>
<tr>
<td><strong>Public performance</strong></td>
<td>includes public speaking, busking, miming, singing, dancing, acting or the playing of musical instruments.</td>
</tr>
<tr>
<td><strong>Public place</strong></td>
<td>is a place under the control of the Hauraki District Council, and is open to, or being used by the public, whether or not there is an admission charge, and includes: (i) any road within the district, whether or not the road is under the control of the Council; and (ii) any part of a public place. Examples of a public place include a reserve (including road reserve), public square, cemetery, beach, wharf, footpath, Hauraki Rail Trail.</td>
</tr>
<tr>
<td><strong>Urban area</strong></td>
<td>means land within a Residential, Township, Marae Development (Waihi Community Marae only), Town Centre, Industrial and Reserve (Active) Zones as defined in the Hauraki District Plan. For the purpose of this bylaw the term ‘Urban area’ does not include a Low Density Residential Zone.</td>
</tr>
<tr>
<td><strong>Reserve</strong></td>
<td>means any reserve, park, domain or recreational area under the control or ownership of the Council.</td>
</tr>
<tr>
<td><strong>Rural area</strong></td>
<td>means land zoned Rural, Coastal, Marae Development (excluding the Waihi Community Marae), Conservation (Indigenous Forest or Wetland), or Karangahake Gorge Zones in the Hauraki District Plan.</td>
</tr>
<tr>
<td><strong>Skating device</strong></td>
<td>means roller skates, roller blades, inline skates, skateboard, scooter or other or similar recreational devices but does not include any wheelchair, baby or invalid carriage or bicycles.</td>
</tr>
<tr>
<td><strong>Slaughter</strong></td>
<td>means the process of killing, skinning, and dismemberment of any animal, the retention of parts for use, and disposal of the balance and slaughtered and slaughtering shall have a corresponding meaning.</td>
</tr>
<tr>
<td><strong>Stock</strong></td>
<td>means cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats, and any other animal farmed, and dependant on humans for their care and sustenance. It does not include pigs, poultry or bees.</td>
</tr>
</tbody>
</table>

**Maps showing the various urban and rural areas in the District can be found on our website:** [www.hauraki-dc.govt.nz/our-council/district-plan/dp-maps](http://www.hauraki-dc.govt.nz/our-council/district-plan/dp-maps)
3.0 Public places

3.1 Prohibited conduct in public places

No person shall in any public place:

a) deposit any household or trade refuse in a public litter receptacle;

b) use any item or object, including skating devices, bicycles or motorised scooters, recklessly or in a manner which may intimidate, be dangerous, injurious, or cause a nuisance to any person, or damage a public place;

c) place or leave any material or object, including signage or items for sale or hire, in a way that interferes with or obstructs the free movement of pedestrians or traffic in any way;

d) solicit any subscription, collection or donation or provide a public performance in a way that does or is likely to create a nuisance.

3.2 Restricted conduct in a public place

Except with the prior written permission of the Council, no person shall in any public place:

a) set off any fireworks, flare or other explosive material;

b) install, construct, or abandon any object, vehicle, material or structure on, over, or under a public place;

c) obstruct any entrance to or exit from a public place;

d) allow any gate or door on property neighbouring a public place to swing over or across the public place;
e) hang an awning, blind or screen from a premises or a structure, or erect or maintain an awning over any public place;

f) take off or land any aircraft, hot air balloon, hang glider, parachute or similar aircraft except in an emergency;

g) carry out any work on any motor vehicle, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed;

h) damage, interfere with, destroy or remove any grass plot, ornamental verge, flowerbed, tree, shrub or plant, or any inscription or label relating to it;

i) remove any sand, soil or other naturally occurring material found in a public place;

j) open a drain or sewer on, or disturb or remove the surface of any public place.

3.3 Electrical or barbed wire fencing

a) Except with the prior written permission of the Council, no person shall erect any electrified fencing or barbed wire fencing along the boundary or within one metre of a public place.

b) Clause 3.3 a) does not apply within a rural area, except when the fence abuts or adjoins a footpath.

3.4 Ban on use of skating devices

The riding of skating devices is prohibited in certain public places in Paeroa, Ngatea and Waihi as contained in the maps in Schedule 1 of this bylaw.
3.5 Trading in public places

No person shall trade, or provide a service to the public, or display for sale any article or service in a public place, except with the prior written permission of the Council.

3.6 Encroachment on public places

If any building, structure or object or any part thereof is installed, constructed or placed upon, under, over or across any public place; or

If any vegetation is permitted or allowed to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place without the permission of the Council, the Council may by notice in writing require the owner of such building, structure, object or vegetation to remove the same or part thereof as specified in the notice.

3.7 Fires in public places

No person shall light a fire in any public place unless:

a) the fire is contained in an appliance designed for outdoor cooking provided by the Council, or

b) the fire is contained in a portable gas barbeque in a Council reserve, or

c) the Council has given prior written approval.

3.8 Access to beach

Any person wanting to gain access from a public place to a beach must use a designated access where this is available.
3.9 Vehicles and horses on beach

3.9.1

No person shall ride, drive, stop, stand, or park a vehicle on a beach under the control of the Council except:

a) with the prior written permission of the Council; or

b) when launching or retrieving a boat from the sea, or estuary or river; provided that the vehicle access is restricted to the designated launching and retrieval point approved by the Council (such as a boat ramp); or

c) the vehicle is an emergency vehicle used at the time to save or protect life or health, or serious damage to property, or a vehicle used in an official capacity at the time by an authorised officer.

3.9.2

No person shall drive or ride a vehicle or horse on a beach under the control of the Council in a way as to endanger the safety of persons, or be an annoyance or inconvenience to persons, either on the beach or the foreshore.

3.10 Animals on public places (excluding dogs)

a) A person in control of an animal on any public place must ensure that the animal is kept under proper control so as not to create a nuisance or danger for other people using the public place.

b) A person in control of an animal on any public place must ensure that the animal is kept under proper control to ensure that no damage is caused to the public place or to any object in the public place.

c) A person in control of an animal on any public place must immediately remove any faeces deposited by that animal.
3.11 Slaughter of animals

a) No person is to slaughter any animals or dismember, handle, process or dispose of the carcass or remains of an animal on any premises which, in the opinion of an authorised officer, causes or is likely to cause nuisance or threat to public safety.

3.12 Reserves

3.12.1

A person must not enter or remain on a reserve that Council has:

a) restricted or closed access to the public (for example, to protect public safety from unsafe or damaged areas, protect flora from disease, or for maintenance activity); or

b) set aside for exclusive use of a particular group for the duration of that use, unless that person is part of that group (for example, to allow areas to be temporarily booked for small and large events such as weddings, triathlons, concerts or festivals).

3.12.2

Except with the prior written permission of the Council, no person is to distribute any printed or written material advertising any product, service or public entertainment on a Council reserve.

3.13 Reinstatement on completion of authorised works

A person doing authorised works on a public place must, on completion of the works, reinstate the place to the satisfaction of the Council.

3.14 Road and building identification

a) The Council may alter the number of a building, complex or property when it is necessary or advisable to do so.
b) Numbers required are to be maintained by the owner or occupier in such a manner so as to readily identify the property at all times.

4.0 Nuisance on private property

4.1 Prohibited conduct on private property

No person may on any private property:

a) burn, cause, or permit to be burnt, any matter or thing in a way that creates a nuisance,

b) deposit in or discharge, or cause or permit the deposit or discharge of any litter, animal or other offensive matter or thing into a stream, watercourse, pond, lagoon, open drain, gutter or channel that creates or is likely to create a nuisance,

c) being the owner or occupier of premises, cause or permit offensive liquid or matter to remain in or on, or flow from those premises in a way that creates, or is likely to create a nuisance,

d) being the owner or occupier of premises to cause or permit conditions on those premises likely to contribute to the outbreak or spread of disease by the agency of flies, mosquitoes, or other insects, or of rats, mice, or other vermin.

5.0 Keeping of animals (excluding dogs)

5.1 General nuisance created by animals

Every person keeping an animal on private property must ensure it is kept in a manner that the animal does not create a nuisance to any person, as determined by an authorised officer.

Under the Litter Act Council can require a person to clean up litter on private property if it 'grossly defaces or defiles' the area.

Be a caring owner. This bylaw is in addition to other obligations, such as those in the Animal Welfare Act 1999 and related codes of welfare.
5.2 Keeping of stock in urban areas

a) No person may keep any stock on or within any premises in the urban areas of the District, except where the stock is less than 12 months of age and is being kept for participation in a children’s agricultural day event.

b) Clause 5.2 (a) does not apply where the premises is part of a Structure Plan in the District Plan and is not yet subdivided into lots as permitted by the Structure Plan, or where the section is in pasture and rural in nature.

5.3 Pig keeping

a) No person may keep any pigs on or within any premises in urban areas of the District.

b) With the prior written permission of the Council, up to four pigs may be kept on a property in the Low Density Residential Zone in the District.

c) No person is to keep any pigs in a manner that is a nuisance or offensive, in the opinion of an authorised officer.

d) Except with the prior written permission of the Council, no person is to construct or allow any pigsty to remain, or any pigs to range, less than 50 metres from any boundary of any adjoining property or road.

5.4 Poultry keeping

a) No person may keep, or permit to be kept, any rooster or cockerel on or within any premises in the urban area and Low Density Residential Zone in Paeroa, Ngatea and Waihi.

b) No person shall keep more than six head of poultry on or within any premises in urban areas, except with the prior written permission of the Council.
c) No person shall keep more than twelve head of poultry on or within any premises in the Low Density Residential Zone, except with the prior permission of the Council.

d) In urban areas and the Low Density Residential Zone all poultry must be kept in a poultry house, to which a poultry run may be attached. Every poultry run shall be enclosed to confine the poultry within the poultry run, with the exception of coops used to keep pigeons, doves and similar birds.

e) No poultry house or poultry run is to be installed or maintained so that any part of it is within 10 metres of any dwelling or any other building on an adjoining property, whether wholly or partially occupied, or within 2 metres of the boundary of an adjoining property or road.

f) Every poultry house and poultry run is to be maintained in good repair, in a clean condition free from any offensive smell or overflow, and free from vermin.

g) No person is to keep on or within any premises in the urban area or Low Density Residential Zone, any noisy poultry which is causing a nuisance, in the opinion of an authorised officer.

h) If a nuisance is created as a result of any poultry house or poultry run or the keeping of poultry, the Council may serve a notice on the owner or keeper of the poultry house, poultry run or poultry requiring that person to stop the nuisance.

6.0 Bee keeping

a) No person is to keep bees or cause or permit bees to be kept on or within any premises in the urban area or Low Density Residential Zone, except with the prior written permission of the Council.
b) No person is to keep bees or cause or permit bees to be kept at or on any public place, except with the prior written permission of the Council.

c) When making a decision on the keeping of bees, the Council will consider, amongst other things, the size of the property where the hives and bees are to be kept and the opinions of the owner and occupier of any adjacent property.

d) Bee hives must be located at least 10 metres from any dwelling or any other building on an adjoining property, whether wholly or partially occupied, or at least 2 metres from the boundary of an adjoining property or road.

e) Every person keeping bees or causing or permitting bees to be kept on private property must ensure that:

i) the bees do not create, nor are likely to create a nuisance or cause distress to any person; and

ii) the bees are not kept in such conditions that create or are likely to create a nuisance or cause distress to any person.

7.0 Fees

Any relevant licence, permit, consent or approval fees are documented in the Council’s Schedule of Fees and Charges.

8.0 Permits/licences/consent

8.1 Transfer

No licence, permit, consent or approval issued to a person named in that licence, permit, consent or approval, or to a vehicle listed in that licence, permit, consent or approval, shall be transferable to any other person or vehicle and no such licence, permit, consent or
approval shall authorise any person or vehicle other than the person or vehicle named therein.

8.2 Revocation

If circumstances change, the Council may revoke the licence, permit, consent or approval or suspend it for as long as the Council thinks fit.

8.3 Appeal

There shall be a right of appeal by the applicant from any decision by an authorised officer to the relevant Group Manager. After consultation with the Chief Executive the Group Manager may refer the appeal to the Council, or relevant Committee of the Council, when in the Chief Executive’s opinion this is justified.

9.0 Enforcement

9.1

The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

9.2

The Council may pull down, remove or alter or cause to be pulled down, removed or altered any work, material or thing erected or being in breach of this bylaw and recover costs of the removal or alteration from the person who committed the breach.

10.0 Offences and penalties

Every person who fails to comply with any part of this bylaw commits an offence and will be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Local Government Act 2002 and the Health Act 1956.
11.0 Dispensations

The Council may at its discretion waive any of the requirements of this bylaw except any prescribed by statute if it believes good reason to do so exists.

12.0 Transitional Provisions

Any licence, permit, consent or other form of approval granted under Part 3 (Public Safety) of the Hauraki District Council Consolidated Bylaw 2007 continues in force but;

a) expires on the date specified in that approval; or

b) if no expiry date is specified, it expires on the date 6 months after the commencement of this bylaw; and

c) can be renewed only by application made and determined under this bylaw.

Nuisance Bylaw validation

This bylaw was adopted at a meeting of the Hauraki District Council on [DATE], following public consultation.

The Common Seal of the Hauraki District Council was given on [DATE] in the presence of:

_____________________________ Mr. John Tregidga, Mayor

_____________________________ Mr. Langley Cavers, Chief Executive
Schedule 1: Prohibited areas for skating
**Decision Report**

**To:** The Mayor and Councillors  
**From:** Policy Analyst and Strategic Policy Planner  
**Date:** Monday, 11 March 2019  
**File reference:** Document: 2548282  
Appendix A: Statement of Proposal Draft Nuisance Bylaw 2019 (2548221)  
**Portfolio holder:** Councillor Milner  
**Meeting date:** Wednesday, 27 March 2019  
**Subject:** Adoption of the Draft Nuisance Bylaw 2019

**Recommendation:**

THAT the report be received, and  
THAT in accordance with section 155(1) of the Local Government Act 2002 the draft Nuisance Bylaw 2019 is the most appropriate way of addressing the perceived problems, and  
THAT in accordance with section 155(2) of the Local Government Act 2002 the draft Nuisance Bylaw 2019 is the most appropriate form of bylaw and does not have any implications under the New Zealand Bill of Rights Act 1990, and  
THAT in accordance with section 145 and section 159 of the Local Government Act 2002 the Council approves the draft Nuisance Bylaw 2019 (as contained in the Statement of Proposal attached) for public consultation, and  
THAT the Council approves the proposed new fees for ‘permission to keep pigs, poultry or bees in an urban area or low density residential zone’ and the proposed new fee for ‘permission to drive a vehicle on the beach’ for public consultation, and  
THAT the Council approves the proposed revocation of the Franklin District Council Brothel Bylaw 2010 and the Franklin District Council Trading in Public Places Bylaw 2008 for public consultation, and  
THAT the special consultative procedure is used for community engagement on the draft Nuisance Bylaw 2019 (and associated fees and the revocation of the Franklin District Council Bylaws) and related timeframes and approach are approved, and  
THAT in accordance with sections 156(1)(a) and 86 of the Local Government Act 2002 the Council adopt the attached Statement of Proposal for the Draft Nuisance Bylaw 2019.
1 Purpose

This report seeks the Council’s approval of the draft Nuisance Bylaw 2019, the related fee changes and the adoption of the Statement of Proposal prior to public consultation.

This report also seeks approval for the proposed revocation of the Franklin District Council Brothel Bylaw 2010, and the Franklin District Council Trading in Public Places Bylaw 2008 for consultation.

The matter or suggested decision does not involve a new activity, service, programme, project, expenditure or other deliverable.

2 Background

At the Council meeting on 29 August 2018 Mayor Tregidga, Deputy Mayor Adams and Councillors Milner, Leonard, Spicer and Harris were appointed to a councillor working party to work with staff on the review of various bylaws. The majority of the Council’s bylaws are due for a legally required 10-year review.

The Council also resolved the various Parts of the Hauraki District Council Consolidated Bylaw 2007 be separated into individual bylaws. Subsequently Part 3 (Public Safety) of the Hauraki District Council Consolidated Bylaw will be separated into the following bylaws:

- Dog Control.
- Freedom Camping.
- Alcohol in Public Places.
- Food Grading.
- Nuisance.

This report is on the review of the following clauses in Part 3 (Public Safety) of the Hauraki District Council Consolidated Bylaw:

- Clause 2.0 Safety in public places,
- Clause 3.0 Nuisance on private property, and
- Clause 5.0 Keeping of animals (excluding dogs).

The 2018/2019 bylaw review process does not include dog control, freedom camping or alcohol control in public places because these bylaws are not due for review. The draft Food Grading Bylaw 2019 is also on the Council agenda for adoption.

2.1 The Bylaw

The Nuisance Bylaw facilitates the enjoyment of living in and visiting the Hauraki District by managing and regulating council controlled public places and certain activities on private land. The bylaw has specific rules on the keeping of pigs, poultry and bees in the built up areas of our district to protect people from nuisance and maintain and promote public health and safety.

To view the full 2007 version of Part 3 (Public Safety) of the Consolidated Bylaw, go to http://www.hauraki-dc.govt.nz/our-council/bylaws/.
2.2 Issues analysis and community opinion

To determine if the 2007 bylaw is the most appropriate form of bylaw, staff and the councillor working party considered issues received through the service request system, bylaw enforcement action taken to date, staff feedback, Long Term Plan submissions and past submissions to the 2007 bylaw review process.

The Council received the following number of related requests for service on average per year over the past 3 years (from 1 July 2015 – 1 July 2018):

- Fires – 37 requests per year. Most related to neighbours burning material in backyard causing a smoke nuisance and a small number related to burning silage wrap.
- Nuisance, keeping of roosters and poultry – 19 requests per year. Most complaints related to crowing roosters, and a few were about roaming poultry.
- Rubbish dumped on a public reserve – 38 requests per year.
- Rubbish dumped on a road reserve – 36 requests per year.
- Nuisance – 51 requests per year. This category has a wide range of request types. *
- Excessive noise – 304 requests per year.
- General monitoring – 67 requests per year. This category also has a wide range of request types. **

*Rubbish on private property, café tables and chairs obstructing pedestrian access on footpaths, fly/smell nuisance due to chicken farm, fly/smell nuisance due to pigs over the back fence, too many cats at neighbours causing an issue, vermin in long grass on private property, untidy sections, offal being left in paddock, food premises complaints.

**Trees overhanging footpaths, rubbish on private property, sale of vehicles on a berm, tyres being stockpiled, pig in residential area, unfenced swimming pool, bees being kept in residential area, smoke nuisance, drone flying over private property, commercial sign chained to power pole, advertising sign attached to a tree.

There were three submissions to the 2018 Long Term Plan asking for parking time restrictions in the main street of Paeroa. This matter will be investigated when the Land Transport section of the Consolidated Bylaw is reviewed. There was one submission asking for better enforcement of noise and smoke nuisances. There were no relevant submissions to the 2015 Long Term Plan.

A community survey was undertaken in December 2018 to help inform the review process and seek public opinion on some specific bylaw matters. 96 people completed the survey and the results are summarised below (people could tick a ‘no opinion’ option):

- 80 people (83%) support the current ban of riding skating devices (skateboards, roller blades, roller skates and scooters) on the main streets in Ngatea, Paeroa and Waihi.
- 11 people noted they are aware of issues with people driving vehicles on our beaches; with a few comments specifically referring to the number of quad bikes on Whiritoa Beach.
- 66 people (69%) agreed with the current bylaw where pigs should not be kept in urban areas (for example commercial, industrial, residential, low density residential and townships zones). 22 people (23%) did not agree. The SPCA support the ban as pigs are social animals and should be kept in at least pairs and require adequate space.
- 81 people (84%) support the ban on roosters in urban areas of Paeroa, Ngatea and Waihi. 11 people (11%) do not.
- 48 people (50%) do not agree with a ban on bee keeping in urban areas. 46 people (48%) want a ban. The SPCA and a bee keepers expressed concern that if people are not trained correctly bees will be more susceptible to pests, diseases and poor welfare. (i.e. good husbandry and health practices for the bees).
- 12 people (13%) noted they have had issues with drones flying over public places, such as reserves, causing a nuisance.
• 30 people (31%) noted they have experienced fireworks on private property causing a nuisance.
• 13 people (14%) noted they have had issues with signs blocking footpaths.
• 25 people (26%) noted they have had issues with trees or other vegetation overhanging or blocking footpaths.

The survey link was placed on Facebook, on the Council’s Hauraki Herald page and sent to key stakeholders, including iwi, Business After Five (BA5) distribution lists and previous submitters to the Long Term Plan.

2.3 What are the proposed changes to the 2007 Bylaw and why?

The councillor working party requested a ‘plain English’ rewrite of all the bylaws during the review process and are also recommending various policy changes to the Bylaw. For this reason, there were many wording ‘tweaks’ made to the bylaw as well as entire clauses rewritten. The more substantial changes are outlined in the table below.

<table>
<thead>
<tr>
<th>Changes in Draft Nuisance Bylaw 2019</th>
<th>Rationale</th>
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</thead>
<tbody>
<tr>
<td>Remove the definition of ‘Proscribed substance’ and the definition of ‘Boat’.</td>
<td>These terms are no longer required in the bylaw due to recommended policy changes.</td>
</tr>
<tr>
<td>Amend the definition of ‘Nuisance’ to mean the same as section 29 of the Health Act 1956, but also include; ‘a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place’.</td>
<td>The definition of Nuisance in the Health Act 1956 includes a list of situations where a nuisance shall be deemed to be created. The Act states the term ‘nuisance’ is not limited to that list and that is what we are trying to clarify in the bylaw definition.</td>
</tr>
<tr>
<td>Amend the definition of ‘Urban area’ and ‘Rural area’ in the bylaw so it lists the District Plan zones included in these areas, instead of referring readers to the District Plan.</td>
<td>A separate definition has been included for Low Density Residential Zone because the Council recognises that sometimes the rules for property in that zone need to be different than rules for the Residential Zone, Industrial Zone and Commercial Zone. This is because the Low Density Residential Zone is comprised of ‘lifestyle’ blocks and the size and location of the property differentiates them from other zones. This is outlined in more detail in the table below in relation to the keeping of stock, pigs, poultry and bees.</td>
</tr>
<tr>
<td>Add a separate definition for a Low Density Residential Zone so it is differentiated from the other zones in urban areas. (In definitions Clause 2.0)</td>
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</table>
| Remove the following clauses under ‘Prohibited Conduct’; No person shall in any public place:
  a) place or leave litter or any materials or object or substance, which are likely to be hazardous or injurious to any person, or likely to create a nuisance. | The Litter Act 1974 addresses littering in public places. The Council can fine people up to $400 for littering in a public place. This is more effective than prosecution under a bylaw, which is costly for the Council and requires considerable staff time. |
| The requirement to not interfere with refuse is in the Council’s Solid Waste Bylaw (clause 12.0, Part 8 of the Consolidated Bylaw). The Ministry of Transport recommends vehicle matters are included in councils’ traffic bylaws made under the Land Transport Act 1998. This enables the Police to enforce the bylaw and the Council to issue stationary vehicle infringements. | |
| Remove the following clauses under ‘Prohibited Conduct’; No person shall in any public place:
  c) interfere with any refuse, which is awaiting collection by an authorised collector;
  d) drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles; | |
### Changes in Draft Nuisance Bylaw 2019

<table>
<thead>
<tr>
<th>Changes</th>
<th>Rationale</th>
</tr>
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<tbody>
<tr>
<td>Remove the following clauses under ‘Prohibited Conduct’; No person shall in any public place: f) consume, inject or inhale any proscribed substances or offer or sell such substances to any person; h) use profane or obscene language on a public place or within the hearing of a person in a public place; i) loiter or remain in or on a public place after being directed to move on by an enforcement officer;</td>
<td>The Council believes disorderly behaviour and offensive behaviour is better addressed by Police Officers in accordance with the Summary Offences Act 1981 as they are trained and better equipped for these situations than Council officers. The Council cannot issue fines (infringements) to people for these bylaw breaches and taking people to Court over these matters is not seen as a prudent use of resources.</td>
</tr>
<tr>
<td>Remove the following clauses from ‘Damage to public places’: Except with the prior permission of the Council, no person shall in any public place: b) pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with an ornament, statue, building, structure, or facility; d) cause or permit to be done any act whatsoever by which damage is caused to a public place, or a work or object in, on, over or under the public place; g) drive or park a vehicle in a public place except on a road or in an area set aside for the driving or parking of vehicles;</td>
<td>Section 11 of the Summary Offences Act 1981 addresses wilful damage and section 11A graffiti and tagging. The Council believes a council bylaw is not the best way to address wilful damage as Police have more enforcement tools and community connections to address these issues. Causing damage is also an offence under the Summary Offences Act. The Ministry of Transport recommends vehicle matters are included in councils’ traffic bylaws made under the Land Transport Act 1998. This enables the Police to enforce the bylaw and the Council to issue stationary vehicle infringements.</td>
</tr>
<tr>
<td>Remove the camping clause from the bylaw and include it in the Council’s Freedom Camping Bylaw. ‘No person shall camp in an area not set aside for that purpose for a period exceeding one overnight stay in any one calendar month’.</td>
<td>The High Court noted in one of its Judgements that all camping matters in council bylaws should be developed in accordance with the Freedom Camping Act 2011 and consolidated under one bylaw. The Freedom Camping Act 2011 allows for councils to issue fines (infringements) for breaches of freedom camping bylaw, where the Local Government Act 2002 does not.</td>
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<tr>
<td>Remove the ‘Assembly’ clause from the bylaw: No person shall without the prior written permission of the Council: i) participate in any assembly or associate with other persons in a public place so as to impede pedestrians or traffic or to prevent or hinder ready access to shops or premises facing onto the public place; or ii) organise, hold or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place so as impede traffic or cause an obstruction to, or impede, annoy or inconvenience any person.</td>
<td>The right to peaceful assembly, freedom of association and freedom of movement are human rights as outlined in sections 16-18 of the New Zealand Bill of Rights Act 1990. If issues arise where pedestrian movement and traffic is being affected and obstruction is occurring, the Council believes this should be considered and assessed by the Police on a case by case basis.</td>
</tr>
<tr>
<td>Changes in Draft Nuisance Bylaw 2019</td>
<td>Rationale</td>
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<tr>
<td>Remove size requirements for street numbers (clause 3.14) ‘being in no case less than 50 mm in height for residential buildings and not less than 150mm in height for all other buildings’.</td>
<td>The Council has not issued or inspected the size of street numbers in the past twelve years. It is believed the stringent size requirements are not needed.</td>
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</tbody>
</table>
| Remove the following clauses from 'Nuisance on private property':  
  No person may:  
  b) being the owner or occupier of premises use, or permit to be used or to remain on premises a lavatory other than a flush toilet, unless it be so maintained as to prevent the creation of a nuisance;  
  e) being the owner or occupier of premises, cause or permit a sanitary fixture (as defined in the Building Regulations 1992, Schedule 1, “The Building Code”) on those premises to be in such a state or defective condition as to create or be likely so to create a nuisance; | The matter of flushing toilets etc. is a matter for the Building Act 2004 and Waikato Regional Plan rules for effluent disposal.  
  Any sanitary issues with Buildings can be dealt with directly under the Health Act 1956, without need for a bylaw. |
| Add clause to the Bylaw (draft Bylaw clause 5.2)  
  a) No person may keep any stock on or within any premises in the urban areas of the District, except where the stock is less than 12 months of age and is being kept for participation in a children’s agricultural day event.  
  b) Clause 5.2 (a) does not apply where the premises is part of a Structure Plan in the District Plan and is not yet subdivided into lots as permitted by the Structure Plan, or where the section is in pasture and rural in nature. | The 2007 bylaw allowed for a ban or limit to be placed on the number of stock permitted in urban areas but a determination was never made. Given the small size of properties in urban areas (not including lifestyle blocks) and the community expectation that stock should be kept in rural areas not in town, the Council recommends a ban on the keeping of livestock with some exceptions e.g. calf club or group day or where the section is in pasture and rural in nature. The ban does not include Low Density Residential Zones. |
| Amendment – The 2007 bylaw states a person cannot keep any pigs on any property in urban areas of the District Plan. While the wording remains the same in the draft bylaw, please note the definition of urban area does not include low density residential zones.  
  Add the following clause under 5.3 ‘pig keeping’ in the draft bylaw:  
  ‘With the prior written permission of the Council, up to four pigs may be kept on a property in the Low Density Residential Zone in the District’. | The Council does not believe the ban on keeping pigs should extend to low density residential areas where section sizes and the location of the property might make it appropriate for the keeping of a small number of pigs.  
  According to the District Plan, if more than four pigs are kept on a property than it is no longer a domestic activity and may be classified as intensive pig farming and require a resource consent. This is not considered appropriate in a low density residential zone.  
  In the public survey 66 people (69%) agreed with the current bylaw where pigs should not be kept in our urban areas (for example industrial, residential, low density residential and townships zones). 22 people (23%) did not agree and thought the keeping of pigs should be allowed. The SPCA supports the ban of keeping of pigs in residential areas where there is not adequate grass and the ability to keep more than one pig, as pigs are very social and should have a companion pig. |
## Changes in Draft Nuisance Bylaw 2019

| Add new clauses under 5.4 ‘Poultry Keeping’ in draft bylaw: |
| No person shall keep more than six head of poultry on or within any premises in urban areas, except with the prior written permission of the Council. |
| No person shall keep more than twelve head of poultry on or within any premises in the Low Density Residential Zone, except with the prior permission of the Council. |
| (Note: The keeping of roosters is banned in Waihi, Paeroa and Ngatea) |
| No poultry house or poultry run is to be installed or maintained so that any part of it is within 10 metres of any dwelling or any other building on an adjoining property, whether wholly or partially occupied, or within 2 metres of the boundary of an adjoining property or road. |

| Rationale |
| The 2007 Bylaw stated the Council would limit the number of poultry allowed to be kept in an urban area, but a determination on the number was never passed. However, you can only keep 25 poultry in a rural area before you need a resource consent. This recognises that keeping more than 25 poultry can impact on pasture growth, causing dust and other nuisance. |
| The fact there is no limit on the number of poultry you can keep in an urban area, but there is in a rural area does not make for consistent policy. This, coupled with the fact the Council receives several service requests each year in relation to wandering poultry, noisy poultry and other nuisances related to poultry, provides rationale for limiting the number of poultry to be kept in residential areas. |
| The Council assessed what limits other councils of similar size placed on their residential areas and a limit of 6 poultry allowed to be kept in urban areas, and a limit of 12 poultry in low density residential zones is appropriate. |

| Add new clause under 5.5 ‘Bee keeping’ in the draft bylaw: |
| When making a decision on the keeping of bees, the Council will consider, amongst other things, the size of the property where the hives are to be kept and the opinions of the owner and occupier of any adjacent property. |
| Bee hives must be located at least 10 metres from any dwelling or any other building on an adjoining property, whether wholly or partially occupied, or at least 2 metres from any adjoining property boundary or road. |

| Rationale |
| While the policy on bee keeping has not changed; people still need the permission of the Council to keep bees in an urban area and low density residential zone, the additional bylaw wording clarifies what the Council will take into consideration when making a decision on the keeping of bees. |
| The public survey demonstrated there is community concern with bee keeping in populated areas with 46 people (48%) wanting a ban. However, it should be noted that 48 people (50%) do not agree with an outright ban on bee keeping in urban areas. |
| A setback from dwelling and adjoining property is included in the bylaw as good flight path management is required and is less likely to be achieved if the hives are too close to the neighbour’s house or boundary. |

| Add ‘transitional provisions’ to the draft bylaw: |
| Any licence, permit, consent or other form of approval granted under Part 3 (Public Safety) of the Hauraki District Council Consolidated Bylaw 2007 continues in force but; |
| a) expires on the date specified in that approval; or |
| b) if no expiry date is specified, it expires on the date 6 months after the commencement of this bylaw; and |
| c) can be renewed only by application made and determined under this bylaw. |

| Rationale |
| Over the past twelve years the Council has given approval to a number of people to drive their vehicle on the beach at Whiritoa for the purpose of launching boats. Unfortunately, identification stickers were not given out and expiration dates were not stipulated, so the Council is no longer aware of exactly how many people have permission to use vehicles on the beach. |
| In the community survey people raised concerns with the number of vehicles on the beach at Whiritoa and Council enforcement staff have noted difficulties with enforcing the bylaw when there is no clear way to identify which vehicles are... |
### 2.4 What has stayed the same?

The following matters may have been reworded for ‘plain English’ purposes, however the policy intent remains the same:

- No person can use any object in a public place (including skateboards and bicycles) in a manner that is dangerous or intimidates people or damages a public place.
- Objects, including signs and items for sale must not block the free flow of pedestrians.
- Skating devices are prohibited on the footpaths of certain streets in Paeroa, Ngatea and Waihi (as identified in Schedule 1).
- In urban areas, including low density residential areas, barbed wire and electrical fencing is not permitted on any boundary with public places.
- If any building/structure or vegetation is encroaching onto a public place without the permission of the Council, the Council can require the land owner to remove this.
- People are required to use designated access ways when accessing the beach.
- Vehicles are not permitted on beaches without the consent of the Council. However, as outlined in the table above people will have to reapply for permission under the 2019 Bylaw.
- Horses are permitted on beaches in the district, but must not endanger the safety of persons; or be an annoyance or inconvenience to persons.
- A person must get a licence from the Council to trade in a public place.
- The Council can require the change of a street name and numbering.
- People must pick up their animal’s faeces in a public place.
- Council can limit access to reserves for specific reasons.
- No person may burn (on private property) anything in such a manner as to create a nuisance.
- A person may not slaughter an animal in a manner that creates a nuisance.
- A person cannot keep a rooster or cockerel in the urban areas and low density residential zones of Ngatea, Paeroa and Waihi. In the public survey 81 people (84%) support the ban on roosters in Paeroa, Ngatea and Waihi. 11 people (11%) do not.
- A person must get the permission of the Council to keep bees in an urban area and low density residential zone. I the public survey 48 people (50%) do not agree with a ban on bee keeping in urban areas. 46 people (48%) want a ban.

### 3 Issues and options

The Council is required by law to consider the following questions before adopting a bylaw.

#### 3.1 Is a bylaw the most appropriate way of addressing the problem?

Staff and the Councillor working party recommend retaining a Nuisance Bylaw as it is needed to regulate matters not regulated by statute law. It enables the Council to address community matters/complaints where the community expects the Council to play an enforcement role. For example, keeping a rooster in town is not an illegal activity under central government law, but the community believes it is not an acceptable activity for residential areas and the bylaw allows the Council to remove the rooster from the property.

A bylaw is the most appropriate enforcement option for the matters addressed in the draft Bylaw because if people do not comply with the bylaw, the Council can issue verbal warnings,
seize property, and prosecute through the District Court. It is a common enforcement tool used by councils for regulating and managing public places and nuisance on private property.

3.2 Is the proposed bylaw the most appropriate form of bylaw?

The draft Nuisance Bylaw 2019 is considered to be appropriate because it is proportionate to the issues the Council faces. The Council receives a considerable amount of service requests each year for issues addressed in the Public Place and Nuisance Bylaw such as; noisy and wandering poultry, smoke nuisance from fires, smelly animals, the inappropriate placement of signs, etc.

The bylaw recognises the benefit in controlling certain activities in public and on private land so people can expect a certain level of amenity in their towns and neighbourhoods. It is believed the positive effects of the bylaw outweigh any inconveniences associated with seeking the Council’s permission for certain matters.

3.3 Are there any implications under the New Zealand Bill of Rights?

A bylaw that unreasonably interferes with the rights and freedoms in the NZ Bill of Rights Act 1990 will be held to be unreasonable and invalid by the Courts. However, a human right can be interfered with if the issue is critical and the bylaw to address the issue is proportionate and therefore reasonable. Thus justifying the interference.\(^1\) Rights likely affected by bylaws include freedom of expression, freedom of peaceful assembly, freedom of association and freedom of movement, and freedom from discrimination.

On review, staff believe the draft Nuisance Bylaw 2019 does not have any implications on the rights and freedoms contained in the Bill of Rights Act 1990. While the bylaw does place bans on certain activities in certain parts of the district, there are no bans or unjustified limitations on any of the rights and freedoms contained in the Act.

3.4 Approval of the Draft Nuisance Bylaw 2019

There are various policy options that must be explored during all bylaw reviews including:
- Revoke the existing bylaw without a replacement as a bylaw is no longer needed.
- Status Quo – keep the existing bylaw in its current form.
- Amend aspects of the existing bylaw.
- Develop a new bylaw to address an identified issue or need.

The Councillor working party recommends amending the 2007 Bylaw to better meet the current environment and issues experienced over the past ten years. The rationale for the amendments are outlined in section 2.3 above. As noted in section 2 the 2007 Bylaw has been split into subject area and renamed for ease of use.

3.5 Approval of the proposed changes to the Community Protection fees

Under Section 150 of the Local Government Act 2002, the Council may prescribe fees payable for a certificate, authority, approval, permit, or consent from, or inspection by the Council in respect of a matter provided for in a bylaw made under the Act. As a result of the bylaw review, two new fees are recommended to be introduced.

3.5.1 Permission to keep pigs, poultry or bees in an urban area or low density residential zone in accordance with the Nuisance Bylaw 2019

\(^1\) Section 5 New Zealand Bill of Rights Act 1990.
The draft bylaw requires the permission of the Council for the following matters:

- Keeping of bees in an urban area or low density residential zone,
- Keeping of up to four pigs in a low density residential zone,
- Keeping of more than 6 poultry in an urban area, and
- Keeping of more than 12 poultry in a low density residential zone.

To recover the reasonable costs incurred by providing this permission, the following fees are proposed:

<table>
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<tr>
<th>Description</th>
<th>Proposed fee</th>
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<tbody>
<tr>
<td>Application to keep pigs, poultry or bees in an urban area or low density</td>
<td>$60</td>
</tr>
<tr>
<td>residential zone in accordance with the Nuisance Bylaw 2019.</td>
<td></td>
</tr>
<tr>
<td>Inspection of property in respect to an application to keep pigs, poultry</td>
<td>$100</td>
</tr>
<tr>
<td>or bees in an urban area or low density residential zone in accordance with</td>
<td></td>
</tr>
<tr>
<td>the Nuisance Bylaw 2019.</td>
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</table>

Any income expected to be received from applications is expected to be minimal, and as such not expected to materially affect income budgets for 2019/20. This activity is compliant with the Council’s Revenue and Financing Policy (R&FP) allowance for 5-15% of all animal control funding to be received from fees and charges.

3.5.2 Permit to drive a vehicle on the beach

As noted above, the Council has previously given permission to a number of people to drive their vehicle on the beach at Whiritoa for the purpose of launching boats. As the Council is continuing to improve this process, a new fee of $60 is proposed to meet the administration costs of assessing and providing this written permission and vehicle identification.

While the description of the Health (sub)activity in the Council’s R&FP does not explicitly reference the Local Government Act 2002 as an enabling Act, this is the intent of the activity as stated under the Community Protection activity description in the Council’s Long Term Plan. Our Community Protection activity ensures the safety of public places and we support that by monitoring and enforcing in a number of areas, which includes the use of vehicles on the beach. The funding of the Health activity allows for 10-25% of funding received from fees and charges. A fee charged to give consent to drive a vehicle on the beach is expected to generate approximately $600 income in 2019/20 and is in compliance with the R&FP.

3.6 Revocation of the Franklin District Council Brothel Bylaw 2010

The Prostitution Reform Act 2003 allows councils to regulate the location of brothels and signage through a bylaw. When the Act was passed the Council took the approach that a bylaw was not an effective means of controlling the location and signage for brothels, as more robust and defensible controls can be implemented through the District Plan.

The Hauraki District Plan does not refer to brothels specifically, however they generally met the criteria for a commercial activity and have the right to operate either as permitted, controlled or discretionary activities in the appropriate zones. Prostitutes who work from their homes or in a residential area could qualify to be categorised as a home occupation and this would be a permitted or controlled activity in residential or rural zones provided activity standards relating to noise, signage, traffic effects, employee numbers, etc. were met. A number of enforcement mechanisms are available to Council under the Resource Management Act if breaches of standards occur in the permitted or consented operation of brothels. These range from abatement and infringement notices through to enforcement orders and prosecution.
In addition, under the Prostitution Reform Act\(^2\) when considering an application for a resource consent (Resource Management Act 1991) for a land use relating to a business of prostitution, the council must have regard to whether the business of prostitution:

- is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated; or
- is incompatible with the existing character or use of the area in which the land is situated.

The Council has not received any complaints with the location or signage of brothels in the Kaiaua Coast area, or the wider district. If any small brothels are being run in the Kaiaua Coast area, it has not been brought to the attention of Council staff. The anecdotal evidence indicates that no issues or problems have been dealt with by staff and that any existing operators are low key and discreet. Staff have not ‘used’ the bylaw to date. Council staff will also discuss the matter with local Police to get their opinion on whether or not there is an issue in the District relating to signage or the location of brothels.

The Franklin District Council Bylaw can be viewed at https://www.hauraki-dc.govt.nz/our-council/bylaws/franklin.

The Council has the following options for the review of the Franklin District Council Brothels Bylaw:

- Revoke the bylaw and have no brothels bylaw. Any brothel wanting to operate in the Kaiaua Coast area would then have to comply with the signage and other rules for commercial operations in the Franklin District Plan. Staff recommend this option, however, this is subject to confirmation from the District Planner that there are appropriate mechanisms in the Franklin District Plan to control this activity.
- Keep a bylaw that only applies to the Kaiaua Coast area – this seems unnecessary as we are unaware of any brothels operating or any associated issues. In line with the Council’s policy approach to date the location and signage requirements would be addressed via the Franklin District Plan.
- Have a bylaw that covers the entire district – this is not seen as a reasonable option as there are no issues to date with using the District Plan for regulation.

### 3.7 Franklin District Council Trading in Public Places Bylaw 2008

This bylaw requires people to obtain a licence from the Council before they can trade in a public place or from a vehicle in a public place. This is also known as hawking. It also prohibits the washing of windows of vehicles for payment or donation. The Council’s current Public Safety Bylaw and the proposed Nuisance Bylaw 2019 also requires people to seek the permission of the Council to trade in a public place so this will not change if the Franklin Bylaw is revoked and the Draft Nuisance Bylaw is adopted. The Council has not received complaints about vehicle window washing, probably because the district only has one set of traffic lights which are located in a rural area. Therefore, staff conclude we do not need a bylaw to address this matter. Staff recommend the Franklin District Council Trading in Public Places Bylaw 2008 is revoked.

The Franklin District Council Bylaw can be viewed at https://www.hauraki-dc.govt.nz/our-council/bylaws/franklin.

### 3.8 Adoption of Statement of Proposal for Draft Nuisance Bylaw 2019

The Council must also adopt the statement of proposal for public consultation, attached as Appendix A. Staff do not consider that it is necessary to develop a summary of the information

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\(^2\) Section 15 Prostitution Reform Act 2003
contained in the statement of proposal to enable public understanding, as the statement of proposal is already concise.

3.9 Approval of the consultation approach
The recommended approach to community engagement is outlined in the Significance and Engagement Assessment section below. This approach needs to be approved by the Council.

4 Significance and Engagement Assessment

A bylaw made, reviewed or revoked under the Local Government Act 2002 must be publicly consulted on before the decision is made. If it is deemed significant or the local authority considers that there is a significant impact on the public due to changes or proposals, then the more prescriptive ‘special consultative procedure’ must be followed (section 83) in addition to the general consultation approach (section 82).

The special consultative procedure requires that a statement of proposal is adopted by the Council and people must be given a period of at least one month to provide their views to the Council. This can be done by written or verbal feedback. Any person who wishes to present their views must be given a reasonable opportunity to do so.

The alternative engagement approach (if these significance ‘triggers’ do not apply) is to solely use section 82 ‘principles of consultation’ in the LGA which still requires that anyone who is affected or has an interest in a matter should be provided with clear information and encouraged to provide feedback to the Council, however the required one month feedback period is not mandatory. In reality, these two approaches can be quite similar when put into practice.

4.1 Recommended Engagement Approach

It is proposed the Council consult on the Draft Nuisance Bylaw at the same time as the Draft Wharves and Boat Ramps Bylaw, Draft Cemeteries Bylaw and the revocation of various Franklin Bylaws. It is believed the Nuisance Bylaw may be of significant interest or have significant impact on the general public as it affects how everyone uses public places and regulate certain activities on private land. Therefore, staff recommend that the special consultative procedure is used.

After considering the consultation needs and preferences of those likely to be affected by or have an interest in the proposals, it is proposed that provision be provided for people to provide feedback in both writing and verbally. In terms of written feedback, it is proposed that a one month written feedback period run from Friday 29 March – Monday 29 April 2019. The working party supports the forms of written feedback outlined in the Statement of Proposal as per Appendix A.

If people wish to provide spoken feedback to the Council, the working party recommend this is done by way of drop in sessions in Whiritoa, Waihi, Paeroa and Ngatea, and a formal hearing of feedback on Wednesday, 22 May 2019. Following the hearing, it is proposed that deliberations and decisions are made regarding the bylaw. As decisions are expected to be made on the same day, a resolution to hold an extraordinary meeting of the Council is contained in the Group Manager Planning & Environmental Services’ monthly report.
5 Budget Implications

Consultation undertaken as part of the special consultative procedure will involve planned expenditure in the strategic planning budget. This is not considered to be additional expenditure as it can be met through existing budget provision.

6 Recommendation

It is recommended the Council pass the relevant resolutions for making a bylaw under the Local Government Act 2002 and adopt the Statement of Proposal for the Draft Nuisance Bylaw 2019 for the special consultative procedure. The Statement of Proposal also includes proposed additional fees and the revocation of the Franklin District Council Brothel Bylaw 2010 and Franklin District Council Trading in Public Places Bylaw 2008. The working party recommends the Council approve the draft Nuisance Bylaw 2019 in its current form.

Charan Mischewski        Sarah Holmes
POLICY ANALYST            STRATEGIC POLICY PLANNER