

SOUTH WAIRARAPA DISTRICT COUNCIL

26 JUNE 2019

AGENDA ITEM C3

PROPOSED WAIRARAPA CONSOLIDATED BYLAW 2019

Purpose of Report

The report has the following two purposes:

1. *To present the Wairarapa Consolidated Bylaw 2019 for Council's adoption.*
2. *To seek approval from Council to undertake further consultation on Part 12: Beauty Therapy, Tattooing and Skin Piercing of the Wairarapa Consolidated Bylaw 2019, due to proposed amendments in response to submissions received.*

Recommendations

Officers recommend that the Council:

1. *Receives the information.*
2. *Resolves that the proposed bylaws:*
 - a. *are the most appropriate way of addressing the perceived problems.*
 - b. *are the most appropriate form of bylaw and can be justified as a reasonable limitation on people's rights and freedoms.*
 - c. *does not give rise to any implications under the New Zealand Bill of Rights Act 1990.*
3. *Resolves to revoke the Masterton and South Wairarapa District Council Consolidated Bylaw 2012.*
4. *Resolves to adopt the proposed Wairarapa Consolidated Bylaw 2019.*
5. *Adopts the Masterton and South Wairarapa District Council Solid Waste Bylaw.*
6. *Approves officers to undertake further consultation on proposed new clauses in Part 12: Beauty Therapy, Tattooing and Skin Piercing of the Wairarapa Consolidated Bylaw 2019 regarding eyeball tattooing and Tā Moko practitioners.*

1. Executive Summary

Officers have followed the special consultative procedure as outlined in the Local Government Act 2002 (LGA) for undertaking the five-yearly review of the Masterton and South Wairarapa Consolidated Bylaw 2012.

As part of the review process, officers of Carterton District Council (CDC) showed interest in joining the consolidated bylaw along with Masterton District Council (MDC) and South Wairarapa District Council (SWDC). Prior to this CDC had their own separate bylaws. This change required the previous bylaw to be renamed and officers propose the new name to be the Wairarapa Consolidated Bylaw 2019.

The proposed amendments to the bylaw have had community consultation undertaken using the Special Consultative Procedure outlined in the Local Government Act 2002.

This report outlines the process and recommended outcomes of the bylaw review process.

2. Background

Territorial Authorities are empowered by section 145 of the Local Government Act 2002 (LGA) to make bylaws for:

- protecting the public from nuisance;
- protecting, promoting and maintaining public health and safety; and
- minimising the potential for offensive behaviour in public places.

In accordance with section 158 of the LGA, bylaws are to be reviewed five years after they are first made, and every ten years thereafter. Since the Masterton and South Wairarapa District Council Consolidated Bylaws were first adopted in September 2013 they are due for review. Although the five-year timeframe for review has passed, the LGA states that a bylaw is not revoked until two years after the due review date.

2.1 Joint Review

SWDC has conducted the review of the Masterton and South Wairarapa District Council Consolidated Bylaw 2012 jointly with CDC and MDC. Both CDC and MDC will be considering the proposed Wairarapa Consolidated Bylaw 2019 for adoption at each of their Council meetings scheduled for 26 June 2019.

2.2. Community Consultation

At the February 20 2019 Council meeting, SWDC adopted the Statement of Proposal for the Wairarapa Consolidated Bylaw 2019. CDC and MDC likewise also adopted Statements of Proposal at their Council meetings which occurred on 20 February 2019 and 27 February 2019 respectively.

The Statement of Proposal outlined the recommended amendments to the bylaw along with information on how the community could provide feedback.

The Wairarapa community was subsequently consulted on the proposed bylaws in accordance with the Special Consultative Procedure outlined in the LGA. Community consultation was undertaken between 4 March to 5 April 2019.

3. Discussion

3.1 Submissions

The authority to hear submissions and make recommendations back to the three Councils on the proposed bylaw was delegated to the Wairarapa Policy Working Group at the February Council meeting.

Twenty-seven submissions were received on the proposed bylaw and these were from a range of organisations as well as individuals.

3.2 Hearing

Membership of the Working Group consisted of:

- Cr Mike Gray, SWDC
- Cr Ross Vickery, SWDC
- Cr Frazer Mailman MDC (appointed Chairperson for this policy review)
- Cr Brent Goodwin MDC
- Cr Rebecca Vergunst, CDC
- Cr Ruth Carter, CDC

Six submitters presented at the hearing which was held on 1 May 2019 at the Carterton Event Centre.

Following the hearing, the Working Group deliberated and agreed on a set of recommendations for the three Councils, which are presented in Appendix 1.

3.3 Proposed Changes to the Wairarapa Consolidated Bylaw

Due to submissions received after consultation, further amendments to the proposed Wairarapa Consolidated Bylaw are recommended, as shown in Appendix 1.

The majority of the recommended changes are aimed at clarifying the bylaw and do not change the intent of the bylaw as originally proposed. The exceptions to this are the changes proposed for the following parts of the bylaw:

- Part 3: Sale of Goods and Services in Public Places;
- Part 6: Keeping of Animals, Poultry and Bees; and
- Part 12: Beauty Therapy, Tattooing and Skin Piercing.

A rationale for the proposed amendments to these parts of the bylaw are provided in Appendix 2.

3.4 Standalone Bylaw

As per the Statement of Proposal, the Masterton and South Wairarapa District Council Solid Waste Bylaw has been removed from the consolidated bylaws and had minor administrative amendments made. No submissions received requested

amendments to the Masterton and South Wairarapa District Council Solid Waste Bylaw. Councils across the Wellington region are currently working on a regional Solid Waste Bylaw that will supersede this Bylaw. A draft of the regional bylaw is expected to be prepared by August 2019.

3.5 Legal Review

3.5.1 Full Legal Review

The three Wairarapa Councils engaged Hazelton Law to complete a legal review of all Parts of the proposed Wairarapa Consolidated Bylaw 2019.

The Working Group delegated the responsibility to review the legal advice and recommend changes to the bylaw review project's Technical Advisory Group, which is made up of staff from the three Wairarapa Councils.

No concerns regarding legality of the proposed bylaws were raised during the review. The suggestions provided by Hazelton Law were all matters of clarity and the minor changes made in response to the suggestions do not change the intent of the bylaw.

3.5.2 Legal Review of Proposed Amendments following Consultation

In addition to the full review, an opinion was also sought from Hazelton Law regarding whether the changes proposed to Part 6 and Part 12 of the bylaw in response to community feedback, would require further consultation. The advice from Hazelton Law, and staff recommendations in response to that advice, is provided in the table below.

Proposed Change	Advice from Hazelton Law	Staff Recommendation
Part 6: Keeping of Animals, Poultry and Bees Clauses 6.2 and 6.3, relating to the keeping of poultry	If the restrictions stated in Clauses 6.2 and 6.3 are to be expanded to apply to rural areas, further consultation would be required.	The proposed wording provided to Hazelton Law did not make it clear that the restrictions stated in Clauses 6.2 to 6.5 apply to urban areas only. These clauses have since been updated to clarify that they apply to the urban area only. With this amendment, no further consultation is required.
Part 12: Beauty Therapy, Tattooing and Skin Piercing Section 5: A prohibition, in Masterton and Carterton, on	The proposed section expands the restrictions on eyeball tattooing to all people who are not an ophthalmologist, so affects the rights and obligations	The Part restricts people from carrying out a prescribed process, unless they hold a recognised qualification. The intent of Section 5 is to provide clarity that eyeball

Proposed Change	Advice from Hazelton Law	Staff Recommendation
<p>eyeball tattooing, unless carried out by an ophthalmologist.</p>	<p>of those the bylaw applies to. Therefore, the amendment requires further consultation, using the Special Consultative Procedure.</p>	<p>tattooing is a specialist skill, and may not be undertaken by any qualified tattooist. While this amendment is not considered significant, given the recommendation below for further consultation on Part 12, the proposed Section 5 has not been included in the Wairarapa Consolidated Bylaw 2019. It is proposed that Part 12 be adopted without this amendment, noting that further consultation will be completed in relation to the proposed Section 5.</p>
<p>Part 12: Beauty Therapy, Tattooing and Skin Piercing Clause 8.6 and 13.1(g): Explicit exemption from compliance with the bylaw for practitioners of Tā Moko who are authorised by a marae in the Wairarapa region, noting that Ministry of Health guidelines regarding healthy</p>	<p>The proposed clauses remove restrictions on the rights of traditional Māori tattooists, so affects the rights and obligations of those the bylaw applies to. Therefore, the amendment requires further consultation, using the Special Consultative Procedure.</p>	<p>This amendment was proposed to clarify the current process, where only registered commercial tattoo premises are regulated by Council. This excludes traditional Māori tattooists operating outside of a registered tattoo premise. Staff agree that this was not clear in the proposed bylaw, and restrictions could be implied by the current phrasing of the bylaw. The proposed</p>

Proposed Change	Advice from Hazelton Law	Staff Recommendation
and hygienic cultural tattooing should be adhered to.		change may therefore have attracted additional and/or alternative submissions if this had been clearer. Given that, the proposed Clause 8.6 has not been included in Wairarapa Consolidated Bylaw 2019. It is proposed that Part 12 be adopted without this amendment, noting that further consultation will be undertaken in relation to the proposed Clause 8.6.

3.6 Determinations under the Local Government Act 2003

On 20 February 2019, Council resolved that in accordance with section 155 of the LGA, that they were satisfied that the proposed bylaws:

- a. are the most appropriate way of addressing the perceived problems.
- b. are the most appropriate form of bylaw and can be justified as a reasonable limitation on people's rights and freedoms.
- c. does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

Prior to adopting the final consolidated and standalone bylaws, Council must be satisfied that the proposed amendments do not change this determination.

3.7 Options Considered

A summary of the options considered is included in the table below.

Option	Advantages	Disadvantages
1 Adopt the proposed consolidated and standalone bylaws with the recommended amendments; and Proceed with further consultation on the two additional changes proposed to Part 12.	Updates the proposed bylaw for clarity and better reflects the views of our community and the current legal and operational environment. Further consultation on Part 12 ensures all legal requirements have been met.	Further consultation will take additional time and resource.
2 Adopt the proposed consolidated and standalone bylaws	Updates the proposed bylaw for clarity and better reflects the views	Part 12 would not fully reflect the views of our community or the

Option	Advantages	Disadvantages
with the recommended amendments; and Do not proceed with the two additional changes to Part 12.	of our community and the current legal and operational environment. Further consultation will not be required.	current operational environment.
3 Adopt the proposed consolidated and standalone bylaws with changes to the recommended amendments.	No advantages identified.	May not provide necessary clarifications, which could create uncertainty. May not reflect the views of our community. The current legal and operational environment may not be reflected as well. Further consultation may be required on any changes.
4 Adopt the proposed consolidated and standalone bylaws without the recommended amendments.	Less staff time required to complete amendments.	Does not provide recommended clarification, which may create uncertainty. The views of our community may not be reflected. The current legal and operational environment may also not be reflected.

3.8 Strategic, Policy and Legislative Implications

All statutory requirements have been addressed as detailed throughout this report.

Option 1 above is in alignment with the purpose of local government as stated in the LGA. That being:

- to enable democratic local decision-making and action by, and on behalf of, communities; and
- to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

3.9 Significance, Engagement and Consultation

The recommendations to adopt the amended proposed consolidated and standalone bylaws has been considered against Council's Significance and Engagement Policy.

The recommendation to adopt is not considered significant as the changes have been made following consultation using the Special Consultative Procedure. The amendments are also minor as they do not affect the intent of the proposed bylaws.

The additional amendments proposed to Part 12: Beauty Therapy, Tattooing and Skin Piercing are considered significant in that they may have attracted additional and/or different submissions and, for this reason, have not been included in the Wairarapa Consolidated Bylaw 2019 proposed for adoption. Further consultation on these amendments using the Special Consultative Procedure is recommended.

3.9.1 Consultation already completed

As noted, community consultation has been completed using the Special Consultative Procedure. The consultation period was promoted via public notice in the Wairarapa Times Age, distribution via email database, Council's website, Facebook posts, the REAP noticeboard and the Connecting Communities Neighbourhood Support newsletter.

Kahungunu ki Wairarapa and Rangitāne o Wairarapa were notified of the consultation period. The following key stakeholders were also notified:

- Regional Public Health;
- Whaiora Medical Centre;
- Compass Health;
- the Castlepoint Residents and Ratepayers Association;
- Riversdale Beach Ratepayers Association;
- Fire and Emergency New Zealand;
- Destination Wairarapa;
- Wairarapa Chamber of Commerce;
- Wairarapa Federated Farmers;
- Riversdale Beach and Castlepoint Stores; and
- and registered beauty businesses (including tattooists).

A community meeting was held on 27 March 2019 in Masterton and a second meeting was held on 3 April 2019 in Greytown. These were open meetings where all Wairarapa residents and ratepayers had an opportunity to be heard and share their views on any part of the proposed bylaw. Feedback from these meetings was provided to the hearing panel and considered as part of the deliberations process.

Following discussion at the first community meeting, the following additional organisations/groups who represent Māori in our community were directly notified of the consultation process: Kahungunu ki Wairarapa Tāmaki Nui ā Rua Trust, Rangitāne Tū Mai Rā Trust, Te Pātukituki o Wairarapa, Te Ore Ore Marae Committee, Te Rangimārie Marae Committee, Wairarapa DHB Māori Directorate and Te Hauora Rūnanga o Wairarapa.

These organisations/groups were offered an extended feedback period to 19 April 2019 and were invited to make a written submission or to contact staff to discuss their feedback.

3.10 Financial Implications

The proposed bylaws do not increase the level of enforcement resource required. Any financial impact on enforcement is more likely to decrease costs due to the bylaws being more clearly defined. The cost of enforcing the bylaws is included within regulatory operational budgets for each Council.

3.11 Treaty Considerations/Implications for Māori

The significance of the bylaws to tangata whenua is acknowledged, particularly in relation to the traditional cultural practices (such as Tā Moko, scattering of ashes and Māori burials) and protection of the environment. Kahungunu ki Wairarapa and Rangitāne o Wairarapa were advised of the bylaw review, in addition to other key organisations and groups who represent Māori in our community (as noted above).

3.12 Communications/Engagement Plan

The amended consolidated and standalone bylaws will be published on Council's website.

The community will be notified of the revised bylaws via public notice (as required by s.157 LGA), a news item on the SWDC website home page and Facebook posts.

3.13 Environmental/Climate Change Impact and Considerations

The bylaws contribute to the environmental protection of the Wairarapa in a number of ways, particularly via the regulation of the water supply, wastewater drainage networks and solid waste.

4. Conclusion

Staff recommend Option 1 as it is considered the most effective way to manage the problems that the bylaws address and provides an appropriate balance between regulatory control and people's rights and freedoms. Option 1 also reflects the views of our community and addresses the comments received from the legal review.

If Council adopts the proposed Wairarapa Consolidated Bylaw 2019 and the standalone bylaw at this meeting, the amended bylaws will come into effect on 8 July 2019.

Further consultation on Part 12: Beauty Therapy, Tattooing and Skin Piercing would begin mid-August 2019, following adoption of a Statement of Proposal on these matters.

5. Appendices

Appendix 1 – Report of the Joint Proposed Wairarapa Bylaw Review Hearings.

Appendix 2 - Schedule of Key Amendments.

Prepared by: Shane Sykes, Environmental Services Manager

Reviewed By: Russell O'Leary, Group Manager Planning and Environment

Appendix 1 - Report of
the Joint Proposed
Wairarapa Bylaw
Review Hearings

**REPORT OF THE JOINT PROPOSED WAIRARAPA BYLAW REVIEW HEARINGS HELD AT THE CARTERTON
EVENTS CENTRE ON WEDNESDAY 1 MAY 2019 AT 4.00PM**

PRESENT

Councillor Frazer Mailman (Chair, MDC), Councillor Brent Goodwin (MDC), Councillor Rebecca Vergunst (CDC), Councillor Ruth Carter (CDC), Councillor Ross Vickery (SWDC) and Councillor Mike Gray (SWDC)

IN ATTENDANCE

MDC Manager Strategic Planning, MDC Manager Assets and Operations, MDC Manager Planning and Building, MDC Manager Environmental Services, MDC Policy Advisor, SWDC Group Manager Planning and Environment, SWDC Environmental Services Manager, CDC Infrastructure, Services and Regulatory Manager and CDC Planner/Policy Adviser.

CONFLICTS OF INTEREST

No conflicts were declared

APOLOGIES

There were no apologies

LATE ITEMS

There were no late items

HEARING OF SUBMISSIONS

The Committee heard the following submitters:

Sub #	Name
21	Frank & Lisa Cornelissen, Martinborough Top 10 Holiday Park
9	David Hancock, Destination Wairarapa
5	Sally Walker
20	Oliver Druce, Birds NZ Wairarapa Branch
14	Garrick Emms, Wairarapa Racing Club
24	Stephen Baker, It's Quite Cool Ltd

Moved by Councillor B Goodwin

That the Joint Hearing Panel:

- a) receives the submissions on the proposed Wairarapa Consolidated Bylaw 2019.**
- b) notes that 27 submissions were received.**
- c) notes that of those submissions received, seven submitters have requested to be heard by the Joint Hearing Panel.**

Seconded by Councillor R Carter and CARRIED

The hearing concluded at 5.26pm

The meeting adjourned at 5.26pm

The meeting reconvened at 5.41pm for deliberations

Members present when the meeting reconvened were Councillor F Mailman, Council B Goodwin, Councillor R Carter, Councillor R Vergunst, Councillor R Vickery and Councillor M Gray.

DRAFT PROPOSED BYLAW REVIEW HEARING RECOMMENDATIONS

Members discussed the recommendations in the spreadsheet tabled by officers and passed the resolutions below.

As no submissions had been received on Part 1 and Part 11 it was:

Moved by Councillor Frazer Mailman

That the Joint Hearings Panel recommend that no changes are made to Part 1: Introductory, Part 11 Speed, of the Wairarapa Consolidated Bylaw 2019 and the Masterton and South Wairarapa District Council Solid Waste Bylaw.

Seconded by Councillor Brent Goodwin

PART 2: PUBLIC PLACES (INCLUDING PARKS AND RESERVES)

In relation to Submission 7:

Staff noted that it is currently possible to camp anywhere, with the exception of those areas where camping is restricted in South Wairarapa (noting the South Wairarapa bylaw is not a Freedom Camping Bylaw), whether self-contained or not. The revised wording doesn't change the intent of the bylaw, it just makes it clearer.

In relation to section 2, a definition of camping was needed, for example to exclude people who were sleeping in their car on the side of the road to avoid fatigue.

To have a bylaw under the Freedom Camping Act required evidence of a problem before putting a bylaw in place restricting camping. The existing SWDC bylaw wouldn't be affected by the proposed changes to the consolidated bylaw. Concern was expressed by a member that if a problem arose, under the new wording, there would be no way of dealing with it.

Moved Councillor Brent Goodwin

That in relation to Part 2 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

1. **Part 2 Section 2 a new definition be added as follows (subject to legal review): "Camp: Using 1 or more of the following:**

- a. a tent or other temporary structure:**
- b. a caravan:**
- c. a car, campervan, housetruck, or other motor vehicle.**

Does not include the temporary and short-term parking of a motor vehicle; recreational activities commonly known as day-trip excursions or resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue."

2. **Add a note under Clause 3.1(o) referring to SWDC's Bylaw for Camping in Coastal Areas.**

3. **Remove the second sentence of 3.1.(o) as follows: 3.1 Except with the prior permission of Council or an authorised officer, and then only in accordance with such conditions as may be imposed, a person shall not on any public place: ... o) camp in an area where a prohibition or restriction is set out in any Council bylaw. ~~In this context camping shall include the use of any vehicle for sleeping whether or not it is specially set out for sleeping.~~**

Seconded Councillor Ruth Carter and CARRIED

Councillor Vergunst requested her vote against the motion be recorded.

PART 3: SALE OF GOODS OR SERVICES IN PUBLIC PLACES

In relation to Submission 26

The issue was Masterton District Council specific and would be discussed by Masterton District Council.

In relation to Submission 5

The issue was Masterton District Council specific and would be discussed by Masterton District Council.

In relation to Submission 24

The issue was South Wairarapa District Council specific and would be discussed by South Wairarapa District Council.

Moved Councillor Ross Vickery

That In relation to Part 3 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

- (i) no change be made to the proposed bylaw; and**
- (ii) In relation to Submission 26, that**
 - a) MDC explore signage and parking restrictions that provide guidance on overnight parking at Castlepoint; and**
 - b) MDC liaises with DOC regarding the concerns regarding camping at the DOC carpark.**
- (iii) In relation to Submission 5, that MDC consider amending the First Schedule to identify the following Castlepoint locations as designated mobile trading areas:**
 - (a) one site at the toilets; and**
 - (b) one site at the Guthrie Crescent carpark.**
- (iv) in relation to Submission 24 that SWDC consider the matter raised in the submission individually.**

Seconded Councillor Brent Goodwin and CARRIED

PART 4: PREVENTION OF NUISANCE FROM FIRE AND SMOKE

Moved Councillor Brent Goodwin

That in relation to Part 4 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that the references to 'safety risk' in Clauses 3.1 and 3.2 are deleted.

Seconded by Councillor Mike Gray and CARRIED

PART 5: WATER SUPPLY

Moved Councillor Brent Goodwin

That In relation to Part 5 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

- (i) Clause 4.5a is amended as follows: "Ordinary use of water **supplied by the WSA** shall be metered..."; and**

- (ii) in relation to Submission 17 that the submitter is advised that MDC's charging model will be determined in 2019-20, which will consider affordability and any other issues related to water meters.

Seconded Councillor R Vergunst and CARRIED

Staff advised that in relation to submission 25 they would be providing the submitter with a full response by letter.

PART 6: KEEPING OF ANIMALS, POULTRY AND BEES

Moved by Councillor Ruth Carter

That In relation to Part 6 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

- (i) **Clauses 6.1 to 6.6 are replaced with the following:**

- "6.1. No person shall keep poultry that by noise, odour, flies, insects, or vermin causes or is likely to cause a nuisance or create a danger to public health.**
- 6.2. In the Masterton and Carterton Districts, no person shall keep, or allow to be kept or to remain on any premise within the districts, any poultry except in a poultry house or otherwise confined within the owner's or occupier's property.**
- 6.3. In the South Wairarapa District, no person shall keep, or allow to be kept or to remain on any premise within the district, any poultry except in a poultry house, mobile poultry cage, poultry run, aviary or coop.**
- 6.4. Written approval of Council is required if a person in an urban area wants to keep more than 12 poultry.**
- 6.5. All poultry must have access to a properly constructed poultry house, aviary or coop covered with a rainproof roof and provided with a floor of concrete, wood or earth.**
- 6.6. No poultry house, mobile, aviary, coop or poultry run shall be erected or maintained within 10 metres of any neighbour's principal building or within two metres of the boundary of adjoining premises.**
- 6.7. No person shall keep a rooster or allow a rooster to be kept in an urban area."; and**

- (ii) **In relation to Submission 8 that**

- a) Council provide support through community messages that encourage the microchipping and desexing of domestic cats.**
- b) Council continue to monitor national legislation and trends in relation to cat control, including liaising with the Wellington and Palmerston North City Councils on the enforcement and effectiveness of their bylaws regarding cats.**

Seconded Councillor Ross Vickery and CARRIED

Councillor R Vergunst requested her vote against the motion be recorded.

PART 7: CEMETERIES AND CREMATORIA

Moved by Councillor Mike Gray

That In relation to Part 7 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that the following amendments are made:

- (i) Section 2 and Clause 7.3: Change reference to 'assignee' to 'power of attorney'.**
- (ii) Section 2: Amend definition of Exclusive Right of Burial to say: A right that may be purchased from the Council which grants the purchaser, ~~and his or her assignee or the person holding~~**

the purchaser's power of attorney, the exclusive right to determine who may be buried of burial in a designated plot for a period designated by Council...

Seconded by Councillor Ruth Carter and CARRIED

PART 8: WASTEWATER

Moved by Councillor B Goodwin

That In relation to Part 8 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that:

(i) the following amendments are made

(a) Clause 7.11 is moved to the 'Scope' section and the wording amended to say: "Application for acceptance of trade wastes into the public wastewater drainage network is the subject of Part Nine: Trade Waste."

(b) Clause 4.3 is amended to say: "The occupier of any premises shall immediately notify Council of any hazardous material entering the public wastewater drainage network, other than for discharges which are permitted or provided for under a trade waste permit in accordance with Part Nine: Trade Waste" and

(ii) In relation to Submission 17, requirements for greywater systems be considered as part of the review of the Wairarapa Combined District Plan.

Seconded by Councillor Mike Gray and CARRIED

PART 9: TRADE WASTE

Moved by Councillor Rebecca Vergunst

That In relation to Part 9 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

(i) Part 9 of the bylaw be accepted unchanged; and

(ii) In relation to submission 16 that the submitter is advised that:

a) the bylaw provides Council discretion to modify the acceptable characteristics for individual discharges, subject to appropriate operation and maintenance procedures; and

b) specific recognition of particular industries in the bylaw is not recommended as performance is dependent on the individual system design and usage.

Seconded by Councillor Ross Vickery and CARRIED

PART 10: TRAFFIC

Moved Councillor Ross Vickery

That In relation to Part 10 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

(i) the bylaw be accepted unchanged; and

(ii) in relation to Submission 2 Police are advised that MDC will contact them to discuss alternative options.

Seconded Councillor Brent Goodwin and CARRIED

PART 12: BEAUTY THERAPY, TATTOOING AND SKIN PIERCING

Moved by Councillor Ruth Carter

That In relation to Part 10 of the Wairarapa Consolidated Bylaw 2019 the Joint Hearings Panel recommend to MDC, CDC and SWDC that

(i) the following amendments to the bylaw are made:

- a) Section 2: Definition of Beauty Therapy Practices is amended to say: “Provision of various treatments aimed at improving a person’s appearance or wellbeing including, but not limited to, ~~processes such as epilation (eg waxing and electrolysis), pedicures, manicures, solarium, paraffin treatment and comedone extractions,~~ any commercial service that:
 - b) pierces the skin (including but not limited to e.g. tattooing, body piercing, electrolysis, red vein therapy, dermal rolling or stamping, extractions); or
 - c) risks breaking the skin (including but not limited to hair removal e.g. waxing and electrolysis, manicure, pedicure); or
 - d) risks burning the skin (including but not limited to pulsed light, laser treatments, solariums).
- e) Section 2: Add new definition: **Commercial service:** A service (whether from permanent, temporary or mobile premises or by a mobile operator) provided by one or more persons for another person for monetary payment or any other consideration.
- f) Add the following new section:
- g) Section 5: Prohibited Services
- h) In the Masterton and Carterton Districts only, eyeball tattooing is prohibited unless carried out by an ophthalmologist.
- i) Add new Clause 4.12 that states: **“The operator is required to specifically request the information needed under Clause 4.11.”**
- j) Amend Clause 8.5 to say: **The operator is responsible for ensuring all dyes, inks, pigments, or solutions used for tattooing ~~shall be obtained from approved sources~~ are:**
 - k) **approved under the New Zealand Environmental Protection Agency’s Tattoo and Permanent Makeup Substances Group Standard 2011 or meet the relevant standards that apply under legislation from the territory or country from which they are imported;- and**
 - l) **prepared, stored and dispensed in such manner as to prevent any likelihood of infection to any other person.**
- m) Add new Clause 8.6: **Tā moko are a taonga and are protected under the Treaty of Waitangi Principles. Tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in the Wairarapa region and in accordance with tikanga Māori, is exempt from compliance with this bylaw. Marae should consider the minimum standards in the Customary Tattooing Guidelines for Operators set by the Ministry of Health and a limit to the duration of the authorisation.**
- n) Amend Clause 10.1 to say: **“No equipment used for any prescribed process, such as needles and similar equipment ~~that pierces or risks cutting the skin~~ (including pedicure, manicure or waxing equipment) shall be reused unless it has been sterilised in one of the following ways.”**
- o) Amend Clause 10.4 to say: **“All materials containing body fluids and blood (including follicles) must be disposed of as medical waste in an approved manner...”**
- p) Add new Clause 13.1(g): **to Tā moko (traditional Māori tattooing) undertaken by artists authorised by a marae in the Wairarapa region and in accordance with tikanga Māori (refer Clause 8.6).**
- q) Add Clause 14.2 that states: **“A breach of this Part of the bylaw may result in a Certificate of Registration being revoked.”**

Seconded Councillor Mike Gray and CARRIED

MDC CONTROL OF DOGS BYLAW

Moved by Councillor Ruth Carter

That in relation to the MDC Control of Dogs Standalone Bylaw the Joint Hearings Panel recommend that no change is made to the bylaw and that the matters raised in submissions 8 and 20 be referred back to MDC for discussion.

Seconded by Councillor B Goodwin and CARRIED

MDC WATER RACES BYLAW

Moved by Councillor Ruth Carter

That in relation to the MDC Water Races Standalone Bylaw the Joint Hearings Panel recommend that no change is made to the bylaw and that the matters raised in submission 25 be referred back to MDC for discussion.

Seconded by Councillor B Goodwin and CARRIED

OTHER

Moved by Councillor Brent Goodwin

That in relation to Submission 17 that the submitter be advised that a public Swimming Pools bylaw is not required at this stage

Seconded by Councillor Ross Vickery and CARRIED

Moved by Councillor Ross Vickery

That in relation to

- (i) Submission 22 that it is noted that the submitter has been advised that the matter is addressed under the District Plan and that a proposed District Plan will be released for consultation in 2021**
- (ii) Submission 23 that it is noted that the submitter has been advised that the matter is addressed under the District Plan and that a proposed District Plan will be released for consultation in 2021**

Seconded by Councillor Ruth Carter and CARRIED

Moved by Councillor Ruth Carter

That in relation to the 27 March 2019 Community Meeting discussion on light emission control that requirements for light emission control be considered as part of the review of the Wairarapa Combined District Plan.

Seconded by Councillor Brent Goodwin and CARRIED

Moved Councillor Ross Vickery

That the Joint Hearing Panel delegate responsibility to the Technical Advisory Group to make any changes recommended as a result of the legal review, where those changes do not change the intent of the bylaw.

Seconded by Councillor Ruth Carter and CARRIED

[Note to minutes: The minutes were subsequently confirmed by the Hearing Panel/Working Group at the Gambling and TAB Venues Hearing held on 5 June 2019. At that meeting the Hearing Panel/Working Group also agreed to the proposed response to the legal feedback received. This included an amendment to the proposed wording in Part 6: Keeping of Animals, Poultry and Bees (clauses 6.2 to 6.5) to clarify that these requirements apply to the urban area only.]

The deliberations ended and the meeting closed at 7.35pm

Appendix 2 - Schedule of Key Amendments

Schedule of Key Amendments

Part	Proposed Change	Reason for Proposal	Implications of Not Changing
Part 3: Sale of Goods or Services in Public Places	<p>Update the First Schedule to identify the following Castlepoint locations as designated mobile trading areas:</p> <ul style="list-style-type: none"> • site at the toilets; and • one site at the Guthrie Crescent carpark. 	<p>As this amendment relates only to the Masterton District, the Working Group referred this decision back to MDC. The proposed change is recommended by MDC staff.</p> <p>The amendment is proposed in response to a submission received requesting that the bylaw prohibit the sale of goods or services in a public place that is within 500 metres of the Castlepoint Store.</p> <p>While Council cannot create exclusion zones to protect a business, specified sites can be designated for mobile traders, to give clarity on where and how many traders can operate on public land.</p> <p>The bylaw already requires mobile traders to obtain a licence from Council before they may trade in a public place. Council may impose conditions on the licence, including the location of the trading. Designating mobile trading areas, supports efficient and consistent decision-making.</p> <p>As this amendment reflects Council’s right to impose conditions on trading in public places, it is not considered significant and does not require additional consultation.</p>	<p>Lack of certainty for Castlepoint mobile traders regarding where they may operate.</p> <p>Decision-making may not be consistent, which may be perceived as unfair.</p>

Part	Proposed Change	Reason for Proposal	Implications of Not Changing
Part 6: Keeping of Animals, Poultry and Bees	<p>Under Section 6: Keeping of Poultry, replace clauses 6.1 to 6.6 with the following:</p> <p><i>6.1. No person shall keep poultry that by noise, odour, flies, insects, or vermin causes or is likely to cause a nuisance or create a danger to public health.</i></p> <p><i>6.2. In the Masterton and Carterton Districts, no person shall keep, or allow to be kept or to remain on any premise within an urban area, any poultry except in a poultry house or otherwise confined within the owner's or occupier's property.</i></p> <p><i>6.3. In the South Wairarapa District, no person shall keep, or allow to be kept or to remain on any premise within an urban area, any poultry except in a poultry house, mobile poultry cage, poultry run, aviary or coop.</i></p> <p><i>6.4. Written approval of Council is required if a person in an urban area wants to keep more than 12 poultry.</i></p> <p><i>6.5. All poultry within an urban area must have access to a properly constructed poultry house, aviary or coop covered with a rainproof roof and provided with a floor of concrete, wood or earth.</i></p> <p><i>6.6. No poultry house, mobile, aviary, coop or poultry run shall be erected or maintained within 10 metres of any neighbour's principal building or within two metres of the boundary of adjoining premises.</i></p> <p><i>6.7. No person shall keep a rooster or allow a rooster to be kept in an urban area.</i></p>	<p>Two submissions were received relating to the keeping of poultry, one requesting that chickens be allowed to free range and another requesting that the requirement for poultry houses to have a concrete floor be removed.</p> <p>Staff considered these submissions and considered both requests to be reasonable. The proposed amendment better reflects the current operational environment and provides a better balance between regulatory control and people's rights and freedoms.</p>	<p>The bylaw will be unnecessarily restrictive.</p>

Part	Proposed Change	Reason for Proposal	Implications of Not Changing
Part 12: Beauty Therapy, Tattooing and Skin Piercing	<p>Section 2: Definition of Beauty Therapy Practices is amended to say:</p> <p><i>Provision of various treatments aimed at improving a person's appearance or wellbeing including, but not limited to, processes such as epilation (e.g. waxing and electrolysis), pedicures, manicures, solarium, paraffin treatment and comedone extractions. any commercial service that:</i></p> <ul style="list-style-type: none"> <i>a) pierces the skin (including but not limited to tattooing, body piercing, electrolysis, red vein therapy, dermal rolling or stamping, extractions); or</i> <i>b) risks breaking the skin (including but not limited to hair removal e.g. waxing and electrolysis, manicure, pedicure); or</i> <i>c) risks burning the skin (including but not limited to pulsed light, laser treatments, solariums).</i> 	For clarity and to ensure that any new treatments that pierce, burn or risk breaking the skin are covered under the bylaw, without requiring an amendment.	If new processes begin to be practiced in the Wairarapa, the bylaw may need to be amended in order to provide adequate regulation.
	<p>Section 2: Add new definition:</p> <p><i>Commercial service:</i> <i>A service (whether from permanent, temporary or mobile premises or by a mobile operator) provided by one or more persons for another person for monetary payment or any other consideration.</i></p>	To provide clarification required given the amendment above, which refers to a commercial service.	It may be unclear what is meant by 'commercial service'.
	<p>Add new Clause 4.12 that states:</p> <p><i>"The operator is required to specifically request the information needed under Clause 4.11."</i></p>	To be clear that operators also have a responsibility to seek information from clients on any potential health risks.	Operators would not have a responsibility to seek important health information from clients, increasing the risk of negative health affects.

Part	Proposed Change	Reason for Proposal	Implications of Not Changing
	<p>Amend Clause 8.3(a) to say: <i>No operator shall, in tattooing a client, use any dye, pigment or solution, unless the dye, pigment or solution:</i></p> <p>a) <i>has been decanted into a sterile container (as per Section 11) holding a sufficient amount of the liquid for carrying out the tattoo on that client only; and...</i></p>	<p>To provide clarity that all equipment, including containers, must be sterilised.</p>	<p>Operators may be unclear that all equipment that containers must be sterilised.</p>
	<p>Amend Clause 8.5 to say: <i>The operator is responsible for ensuring all dyes, inks, pigments, or solutions used for tattooing shall be obtained from approved sources and are:</i></p> <p>a) <i>approved under the New Zealand Environmental Protection Agency's Tattoo and Permanent Makeup Substances Group Standard 2011 or meet the relevant standards that apply under legislation from the territory or country from which they are imported; and</i></p> <p>b) <i>prepared, stored and dispensed...</i></p>	<p>To provide clarity on the standards for tattooing dyes, inks pigments or solutions.</p>	<p>There may be uncertainty and inconsistency regarding approved sources for dyes etc.</p>
	<p>Amend Clause 10.1 to say: <i>No equipment used for any prescribed process, such as needles and similar equipment that pierces or risks cutting the skin (including pedicure, manicure or waxing equipment) shall be reused unless it has been sterilised in one of the following ways...</i></p>	<p>For clarity on the broad range of equipment that must be sterilised.</p>	<p>Operators may be unclear that all equipment that pierces or risks cutting the skin must be sterilised.</p>
	<p>Amend Clause 10.4 to say: <i>All materials containing body fluids and blood (including follicles) must be disposed of as medical waste in an approved manner...</i></p>	<p>For clarity. Follicles will contain a small amount of body fluid and should be treated as medical waste.</p>	<p>Operators may not be aware that follicles are to be treated as medical waste.</p>

Part	Proposed Change	Reason for Proposal	Implications of Not Changing
	Add Clause 14.2 that states: <i>A breach of this Part of the bylaw may result in a Certificate of Registration being revoked.</i>	To clarify that a breach of this Part may result in the Certificate of Registration being revoked.	Operators may not be fully aware of the consequences of breaching the bylaw.