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# **Wellington City Consolidated Bylaw 2008: Part 1 Introduction**

## Proposed Amendments

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## Summary of information

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Wellington City Council is reviewing the *Wellington City Consolidated Bylaw 2008: Part 1 Introduction*, which presents provisions that are common to all parts of the Consolidated Bylaw or are not already in a component part and need to be included in a bylaw to be given effect.

As part of that review we propose to keep the bylaw with proposed amendments to remove content that is no longer required or no longer needs to be presented in a bylaw.

The review of the bylaw is a requirement under the Local Government Act 2002, and the amendments proposed do not change or alter any existing public rights and obligations.

The proposed amended bylaw is attached.

## Have your say

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The Council is undertaking consultation by this statement of proposal provided online, and will receive submissions by mail or by email.

To have your say on the proposed amendments you can:

- email any comment to:  
**policy.submission@wcc.govt.nz**
- write a submission and send it to:  
**Freepost 2199,  
Wellington City Consolidated Bylaw Review 2019,  
PO Box 2199,  
Wellington 6140.**

Please provide your contact details (name and a way of contacting you) in any submission.

Feedback is welcome on any aspect of the proposed amended bylaw. The Council does not have specific questions for the public to consider.

**Written submissions open on Friday 6 September 2019 and close at 5pm on Friday 11 October 2019.**

## Privacy Statement

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Submissions may be made available in their entirety to elected members and the submissions or a summary of submissions may be published (but not contact details). Personal information may be used for the administration of the consultation process including informing you of the outcome of the consultation. All information collected will be held by Wellington City Council, 101 Wakefield Street, Wellington, with submitters having the right to access and correct personal information.

## Next steps

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Please submit your feedback by **5pm on Friday 11 October 2019**.

A report on any feedback will be considered by the Council's City Strategy Committee in November, and the Council will make a final decision by December 2019.

# Statement of Proposal

## Proposed amendments to the Wellington City Consolidated Bylaw 2008: Part 1 Introduction

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Wellington City Council is reviewing the *Wellington City Consolidated Bylaw 2008: Part 1 Introduction* (the bylaw), which presents provisions that are common to all part of the Consolidated Bylaw or are not already in a component part and need to be included in a bylaw to be given effect.

The Local Government Act 2002 requires bylaws to be reviewed at least every 10 years. Council officers consider the amendments proposed are of a technical nature and do not change or alter any existing public rights and obligations.

### Current framework

- The current bylaw has clauses on:
- Commencement
- Bylaws revoked
- Documents
- Licences, authority and permission
- Fees
- Refunds and Waivers
- Notices
- Service of notices
- Removal of works in breach of bylaws and recovery of costs
- Compliance waiver
- Discretionary Powers
- Interpretation
- General offences, and
- Continuing offences.

### Description of proposed amendments

The Council review and proposed amendments have sought to make the bylaw clearer, simpler, and only to contain those provisions which are intended to have legal effect.

Several of the clauses in the current bylaw were found to be redundant because they are either covered by legislation or state the obvious. The following clauses are proposed to be deleted:

- Notices. This clause is about writing to people and issuing notices and does not need to be in a bylaw.
- Service of notices. This clause is about how notices may be sent. This is covered in subject specific legislation, including the Companies Act 1993, Building Act 2004, and Dog Control Act 1996.
- Discretionary powers. This is about the Council being able to exercise a power that it has delegated to another party. The clauses represent the case as a matter of law under the Local Government Act 2002.
- General offences: Most of the offences are proposed to be deleted as they duplicate parts of the Local Government Act 2002 sections 229 and 239. Another clause is deleted because it appears to set up a separate offence of not complying with a notice, which is not necessary to add to the original bylaw offence. The offence of damaging Council property is retained.

## **Drafting improvements**

The remaining content has been moved and renumbered to improve clarity. Clauses in relation to; documents, fees, waivers, and licences, authority and permissions have been condensed. Some definitions from the 'Interpretation' clause have been removed, and a reference to the Interpretation Act 1999 (the Act) has been added. The Act defines terms like 'person'. The Act applies to all legislation, and may apply to a bylaw if it is cited in the bylaw.

It is proposed to remove the date from the title of the Consolidated Bylaw. The component parts of the bylaw are on different review timeframes, so changing the date to 2019 could be confusing as it would imply all the component parts date to 2019. The date of most recent review will be published in the introductory text. This is the approach used in the other component parts of the Consolidated Bylaw. In the Council's stand-alone bylaws, the date of most recent review is noted in the title (e.g. Public Health Bylaw 2019) and in the text.

A copy of the proposed amended bylaw is provided below. Notes have been added for clarity, these are not a formal part of the bylaw.

## **Reasons for continuing to have Part 1 of the Consolidated Bylaw**

The Council considers it is appropriate to continue to have a bylaw that provides for common administration aspects of the Consolidated Bylaw. Specifically, amended clauses; three to six must be in a bylaw to be given effect, but are not in all component parts of the bylaw. If the bylaw were allowed to lapse or be revoked, the Council may be unable, for example, to set fees and waiver fees for some activities under the component parts (e.g. Part 2: Animals). The 'bylaws revoked' clause, amended clause seven is retained for avoidance of doubt about matters considered under revoked bylaws.

## **More information**

A copy of the current bylaw is available on the Council's website. [https://wellington.govt.nz/your-council/plans-policies-and-bylaws/bylaws/wellington-consolidated-bylaw-2008/part-1\\_-introduction](https://wellington.govt.nz/your-council/plans-policies-and-bylaws/bylaws/wellington-consolidated-bylaw-2008/part-1_-introduction)

A detailed description of all changes was considered by the Council City Strategy Committee on 22 August 2019. This description can be accessed in the meeting agenda <https://wellington.govt.nz/your-council/meetings/committees/city-strategy-committee/2019/08/22> or Council officers can send you a copy, contact: [policy.submission@wcc.govt.nz](mailto:policy.submission@wcc.govt.nz).

# Proposed Amended Wellington City Consolidated Bylaw: Part 1 Introduction

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This part of the Wellington City Consolidated Bylaw is made pursuant to Part 8 of the Local Government Act 2002. This part was adopted and came into force on 1 July 2008 and amended on [TBC].

## 1. Purpose

The purpose of this part of the Wellington City Consolidated Bylaw is to present provisions that are common to all parts of the Consolidated Bylaw or are not already in a component part and need to be included in a bylaw to be given effect.

## 2. Interpretation

2.1 The title of this Bylaw is 'Wellington City Consolidated Bylaw'.

*Note: The term 'this Bylaw' is used to refer to all component parts of the Wellington City Consolidated Bylaw, Parts 1 to 10.*

2.2 The Interpretation Act 1999 applies to this Bylaw.

2.3 In this Bylaw, unless the context otherwise requires:

**Council** means the Wellington City Council.

**District** means the City of Wellington as defined from time to time under the procedures set out in the Local Government Act 2002.

**Owner** has the meaning given by the Local Government Act 1974.

**Person** has the meaning given by the Interpretation Act 1999 and may refer to an individual or a business.

**Public place** means any place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge; and whether an owner or occupier

of the place is lawfully entitled to exclude or eject any person from that place, and includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

**Rates Records** means the rates records of the Council kept pursuant to the Local Government (Rating) Act 2002.

**Road** has the meaning given by the Local Government Act 1974.

## 3. Fees, waivers, forms and processes

3.1 The Council may by resolution prescribe or vary, any fee in respect of any matter provided for in this Bylaw.

3.2 The Council may refund, remit or waive any fee prescribed by this Bylaw or charge payable for a certificate, authority, permit or consent, or inspection by, the Council, for any reason it thinks fit.

3.3 The Council may prescribe the form of, and process to be followed for, any application, certificate, licence permit or other document, which is required under this Bylaw. These forms and processes may be altered or amended at any time.

3.4 An application to the Council can be made to waive full compliance with any provision of this Bylaw on the basis that it would needlessly injure or affect any person, the operation of any business, or cause loss or inconvenience to any person, without any corresponding benefit to the community.

3.5 On receipt of an application under clause 3.4, the Council may waive the strict observance or performance of any provision of this Bylaw and impose such other terms or conditions consistent with the intention and purpose of the Bylaw as the Council may think fit.

#### **4. Removal of works in breach of bylaws and recovery of costs**

- 4.1 The Council may remove or alter any work or thing constructed in contravention of any provision of this Bylaw.
- 4.2 The Council may recover from any person responsible for the construction, or permitting the continued existence of any such work or thing, all costs incurred in connection with any removal or alteration.
- 4.3 The exercise of clause 4.1 shall not relieve any person from liability for constructing or permitting the continued existence of any such work or thing.

*Note: Local Government Act 2002 enforcement powers include: court injunction (section 162), seizure and disposal of property (sections 154, 165, 168), powers of entry (sections 171, 172, 173) and power to request name and address (section 178).*

#### **5. Offences**

- 5.1 Every person commits an offence against this bylaw who damages, destroys or defaces (or has in his or her possession without authority from the Council) any property, article or thing belonging to the Council or under its control.

#### **6. Continuing offences**

- 6.1 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw shall be deemed to be a continuing offence under this Bylaw.

#### **7. Bylaws revoked**

- 7.1 Any resolution made under the Wellington Consolidated Bylaw 1991, before this Bylaw came into force, continues in force under this Bylaw until altered or revoked by further resolution.
- 7.2 The Wellington Consolidated Bylaw 1991 was revoked at the time of the Wellington Consolidated Bylaw 2008 coming into force.
- 7.3 The revocation of existing Bylaws does not extinguish any existing cause of action.
- 7.4 All Bylaws revoked shall remain in force and effect so far as they relate to anything done or any offence committed, penalty incurred, prosecution or proceeding commenced, right or liability accrued, licence issued, notice given, or order made, under or against any of the provisions of that Bylaw before the coming into force of this Bylaw.
- 7.5 All licences issued under any revoked Bylaw shall, after the coming into force of this Bylaw, be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.
- 7.6 All Council officers appointed under or for the purpose of any revoked Bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.
- 7.7 All fees and charges fixed by resolution of the Council in regard to any goods, services, inspections or licences provided for in any revoked Bylaw shall apply under the corresponding provisions of this Bylaw until altered by further resolution of Council.