

Planning and Development Committee Agenda

Date: Wednesday, 22 November, 2017

Time: 9:00 am

Location: Council Chamber
Forum North, Rust Avenue
Whangarei

Elected Members: Cr Greg Innes (Chairperson)
Her Worship the Mayor Sheryl Mai
Cr Stu Bell
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

1. Declarations of Interest	
2. Apologies	
3. Decision Reports	
3.1 Deliberations - proposed Animals Bylaw	5
3.2 Deliberations - proposed Parking and Traffic Bylaw	31
4. Public Excluded Business	
5. Closure of Meeting	

Planning and Development Committee – Terms of Reference

Membership

Chairperson: Councillor G C Innes

Members: Her Worship the Mayor Sheryl Mai
Councillors Stu Bell, Crichton Christie, Vince Cocurullo, Tricia Cutforth, Shelley Deeming, Sue Glen, Phil Halse, Cherry Hermon, Greg Martin, Sharon Morgan, Anna Murphy

Meetings: Monthly

Quorum: 7

Purpose

To oversee planning, monitoring and enforcement activities, and guide the economic and physical development and growth of Whangarei District.

Key responsibilities include:

- Regulatory / Compliance
 - Environmental health
 - General bylaw administration
 - Animal (dog and stock control)
 - Hazardous Substances and New Organisms Control
 - Parking Enforcement (vehicles registrations and warrant of fitness)
 - Noise Control
 - Food Act
 - Landuse Consents
 - Building Act
- Building Control
 - Property Information and Land Information Memoranda
 - Consents and inspections
- Resource Consents
 - Subdivision, Land Use and Development Control
 - Development Contributions
- District Plan
 - Plan Changes
 - District Plan administration

- Strategic Planning
 - Futures planning
 - Urban design
- Economic Development
 - District Marketing/Promotions
 - Developer engagement
- Commercial Property
- Shared Services – investigate opportunities for Shared Services for recommendation to council.

Delegations

- (i) All powers necessary to perform the committee's responsibilities, including, but not limited to:
 - (a) approval of expenditure of less than \$5 million plus GST.
 - (b) approval of a submission to an external body
 - (c) establishment of working parties or steering groups.
 - (d) power to establish subcommittees and to delegate their powers to that subcommittee.
 - (e) the power to adopt the Special Consultative Procedure provided for in Section 83 to 88 of the LGA in respect of matters under its jurisdiction (this allows for setting of fees and bylaw making processes up to but not including adoption).
 - (f) the power to delegate any of its powers to any joint committee established for any relevant purpose under clause 32, Schedule 7 of the Local Government Act 2002

3.1 Deliberations – proposed Animals Bylaw

Meeting: Planning and Development Committee
Date of meeting: 22 November 2017
Reporting officer: Shireen Munday – Strategic Planner

1 Purpose

To deliberate on matters raised in submissions and further matters raised by staff to make a recommendation to Council on the final form and content of the proposed Animals Bylaw.

2 Recommendations

1. That the Planning and Development Committee approves the recommendations as contained in this report and the associated attachments as follows:

A. Obligations of animal owners in general

That clause 6.1(d), as highlighted yellow in Attachment 1, is deleted from the final Animals Bylaw.

B. Cats – microchipping and de-sexing

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

C. Bees

That clause 9 and the associated definition of ‘hives’ in clause 5 as highlighted yellow in Attachment 1 are amended as per the provided track changes.

D. General matters

That all changes showing in track changes in Attachment 1 are made to the final Animals Bylaw.

2. That the Planning and Development Committee recommends to Council that it makes the final Animals Bylaw, incorporating all resolutions made at this meeting.

3 Background

At its meeting on 14 September 2017 the Planning and Development Committee adopted a Statement of Proposal to revoke and replace Council’s Keeping of Animals, Poultry and Bees Bylaw. This proposal was a result of the statutory review of the Bylaw completed in accordance with s159 of the Local Government Act 2002.

The Committee held a ‘Have Your Say’ event, which was attended by one submitter, and on 1 November heard five submitters who wished to speak to their submission in Chambers.

The activities to give effect to the Special Consultative Procedure requirements as described in the report tabled at the 14 September 2017 meeting have been completed.

The Committee can now deliberate on the submissions received to determine whether any further changes to the proposed Animals Bylaw (the Bylaw) are required and to make a recommendation to Council on the final form and content of the Bylaw.

4 Discussion

There are two distinct matters to be addressed through the deliberations process. The first is the consideration of issues raised by submitters through the consultation process. The second aspect is to consider any officer advice, which is also provided for as part of the process in section 83(3) of the Local Government Act 2002.

In some cases, proposed changes are made due to both submission feedback, as well as officer advice. Where this is the case, this is indicated.

The report is supported through an attachment showing the track changes to the Bylaw that represents the staff recommendations. Attachments 2 and 3 are the version of the Bylaw as consulted on (Attachment 2) and the version of the Bylaw including all proposed changes with the track changes removed for ease of reading (Attachment 3).

4.1 Matters raised in submissions

Matters raised in submissions were restricted to clauses 5, 6 and 9 of the Bylaw, plus two cat related matters that were not included in the proposed Bylaw.

No community feedback was received on any of the other topics of the proposed Bylaw. Therefore, there is no scope to make any changes to these areas, outside of consideration of any further officer advice as provided in section 4.2 of this report. No further deliberations are required on these matters.

A. Obligations of animal owners in general

A submitter raised concerns in relation to clause 6.1(d) of the Bylaw. The submitter's concern was specifically about cats.

Clause 6.1 requires the owner or person in charge of an animal to take measures to avoid potential nuisance and property damage issues as well as risks to public health and safety. The draft clause also included a provision to stop animals roaming off their property.

The staff review of the proposed Bylaw concurred that there may be implications for cats, but that there are also potential other unintended consequences of sub clause 6.1(d).

The requirements of the other sub clauses of 6.1 provide sufficient obligations on an owner, including if their animal causes a nuisance by straying onto another property.

Staff recommendation:

That clause 6.1(d), as highlighted yellow in Attachment 1, is deleted from the final Animals Bylaw.

B. Cats – microchipping and de-sexing

The New Zealand Animal Companion Council has requested that compulsory micro-chipping and de-sexing of cats be included in the proposed Bylaw.

The committee discussed whether to include clauses relating to cats in the proposed Bylaw during the draft development stages of the Bylaw. At that time, it was determined to not include any specific cat related clauses in the Bylaw. This decision was made in light of current LGNZ remits and potential changes to national legislation on cats. Further concerns regarding the cost to residents and ratepayers of such regulations were raised, as well as the cost and difficulties in enforcing such provisions.

Staff recommendation:

That the Planning and Development Committee notes the submission and that no associated changes to the proposed Bylaw are made.

C. Bees

Of the 16 submissions received on the proposed Bylaw, 14 focussed solely on clause 9 - 'Bees'. Submissions ranged from opposition to bees to requests for more permissive and pragmatic rules to support the keeping of bees in the urban environments. Many submitters expressed concern regarding the proposed conditions for bee keeping in the urban environment, stating they were illogical, impractical and would not achieve the desired outcome. Equally, concern was raised that the proposed Bylaw would not give Council enough power to undertake strong enforcement action in those instances where it would be appropriate.

With assistance from the Whangarei Beekeeping Club, the entire clause has been redrafted as well as the definition of a 'hive'. Some of the original draft clause re-iterated national legislative requirements; this does not provide any tools to enforcement officers dealing with complaints. The revised clause provides enforcement officers with more clearly defined powers where bees are of concern to neighbouring residents, including the ability to have hives removed, but also has simplified and expanded the conditions within which bees can be kept in our urban environments.

A large explanatory note has also been included. While this does not form part of the Bylaw, it ensures Council is contributing to the education of beekeepers and supports bees being kept in a manner that reduced potential conflict with neighbours.

Staff recommendation:

That clause 9 and the associated definition of 'hives' in clause 5 as highlighted yellow in Attachment 1 are amended as per the provided track changes.

4.2 Proposed staff amendments

Since the consultation document was adopted, further advice has been sought (legal, by-law administrators and enforcement officers, customer services) and this has been used to recommend further changes to the Bylaw.

D. General matters

The Bylaw was reviewed for technical strength, consistency of terminology and use of 'plain English'. This resulted in several proposed changes, deletion of duplications and additions that do not change the overall content or context of the bylaw, but remove potential ambiguity and/or provide more clarity, including for enforcement purposes. These changes are shown as track changes in Attachment 1.

Staff recommendation:

That all changes showing in track changes in Attachment 1 are made to the final Animals Bylaw.

5 Significance and engagement

5.1 Significance

The decisions and matters of this agenda do not trigger the significance criteria of Council's Significance and Engagement Policy.

5.2 Engagement

Council has consulted with the community on the issues of this agenda in accordance with the statutory requirements of the Local Government Act 2002. The public will be informed via agenda publication on Council's website.

6 Attachments

Attachment 1 – proposed Animals Bylaw showing markup and highlighted changes.

Attachment 2 – proposed Animals Bylaw for consultation.

Attachment 3 – proposed final Animals Bylaw.

Animals Bylaw

Table of contents

1	Title	2
2	Commencement	2
3	Application	2
4	Purpose	2
5	Interpretation	2
6	Obligations of animal owners in general	444
7	Keeping poultry in urban areas	444
8	Keeping stock in urban areas	444
9	Keeping bees in urban areas	555
10	Consequences of breach of bylaws	777
11	Penalties	777
12	Savings	777

1 Title

This Bylaw is the Animals Bylaw 2017.

2 Commencement

To be confirmed

3 Application

This Bylaw applies to the Whangarei District.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to provide for the ownership of animals (excluding dogs) in a way that protects the public from nuisance and maintains and promotes public health and safety.

Explanatory note: The Bylaw supplements, rather than duplicates other animal owner obligations, including but not limited to; the Animal Products Act 1999, Animal Welfare Act 1999, related codes of welfare and the Northland Regional Pest and Marine Pathway Management Plan 2017 – 2027. Council also has responsibilities and powers regarding animals under the Biosecurity Act 1993, Health Act 1956, Impounding Act 1955, Reserves Act 1977, Resource Management Act 1991 and the Whangarei District Plan. Matters relating to the control of dogs are addressed in the Dog Management Bylaw 2013 and the Dog Control Act 1996.

5 Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

Beehive and hive means any receptacle housing a honey bee colony for the purposes of honey production, and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes between 1 October and 31 March.

Council means the Whangarei District Council

Enforcement Officer means an enforcement officer appointed under section 177 of the Local Government Act 2002

Nuisance ~~has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person.~~ means a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person, and includes the nuisances as defined in section 29 of the Health Act 1956

Explanatory note: Circumstances that may be deemed a nuisance can include noises and odour associated with keeping animals.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who -

- (a) owns the animal; and
- (b) is a member of the parent's or guardian's household living with and dependant on the parent or guardian; -

but does not include any person who has seized or taken custody of an animal under the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Animal Welfare Act 1999.

Person has the meaning given by the Interpretation Act 1999.

Permit means a licence, permit or approval to do something under this Bylaw and includes all conditions to which the permit is subject.

Poultry means any live bird that is kept or raised to produce eggs, hatching eggs or poultry products or for rearing on behalf of any other person, and includes chickens, ducks, geese, peacocks, peahens, pheasants and roosters.

Premises means any private land that is occupied or unoccupied.

Stock means cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats, pigs and any other animal kept in captivity, or farmed, and dependant on humans for their care and sustenance.

Swarm means a cluster or flying mass of honey bees, including workers, queen and drones.

Urban area means all Environments of the Whangarei District Plan; except for the following Environments:

- (a) Countryside Environment
- (b) Coastal Countryside Environment
- (c) Rural Living Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (d) Rural Countryside Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (e) Rural 'Urban Expansion' Environment – un-serviced sites only (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)

Explanatory note: The rolling review of the Whangarei District Plan intends to change the names of the primarily rural ~~areas-environments~~ of the District as part of ~~the-that~~ review. This review has yet to be finalised and the titles provided are provisional, still subject to change until the Plan becomes operative. Any changes to the titles will be dealt with through an amendment pursuant to section 156(2) of the Local Government Act 2002 to formalise the final names of the environments.

5.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be inserted, amended or revoked without formality.

5.3 The Interpretation Act 1999 applies to this Bylaw.

Part 2 – General requirements

6 Obligations of animal owners in general

- 6.1 The owner or person in charge of any animal must always:
- (a) ensure that animal does not cause a nuisance to any other person
 - (b) ensure that animal does not cause a risk to public health and safety
 - (c) ensure that animal does not damage any property belonging to any other person
 - (d) ~~ensure that animal may not roam off the property on which it is kept.~~
- 6.2 Any owner who, in the opinion of an enforcement officer, fails to comply with these obligations, must act on any requests of the enforcement officer to comply with these obligations, including, if directed, to remove the animals from the property within a specified period.

Explanatory note: Animal owners are required under the Animal Welfare Act 1999 to provide for the physical, health and behavioural needs of their animals, including food, water, shelter and exercise.

Part 3: Specific restrictions

7 Keeping poultry in urban areas

- 7.1 No person may keep a rooster on any premises in an urban ~~environment~~area.
- 7.2 A person may keep up to six head of poultry in an urban area on premises smaller than 2000 square metres.
- 7.3 A person may keep up to 12 head of poultry in an urban area on premises of 2000 square metres or more.

8 Keeping stock in urban areas

- 8.1 A person must not keep stock in an urban area on premises smaller than 4000 square metres.
- 8.2 Council may issue permits to keep stock in an urban area on premises of 4000 square metres or more.
- 8.3 Council may issue permits to persons to keep stock whose premises, due to plan changes to the Whangarei District Plan after the date of this Bylaw coming into force, change from a rural to an urban environment.
- 8.4 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of permissible stock and time limits on permits issued.
- 8.5 Council may by resolution:
- (a) charge a fee for receiving and processing an application and issuing a permit
 - (b) prescribe any charges to be paid for the use of a permit
 - (c) determine situations when permit fees may be remitted, refunded or waived.
- 8.6 A permit may be cancelled by Council at any time.

9 Keeping bees in urban areas

9.1 No person shall keep bees in the District if in the opinion of an enforcement officer, the keeping of bees is likely to become a nuisance or potential danger to any person.

9.2 Council may prescribe conditions relating to the location and number of hives able to be kept on any premises in an urban area.

9.3 Where an enforcement officer considers a hive or hives is likely to become a nuisance or potential danger to any person, it may require removal of such hive(s).

9.4 A person may keep bees in the urban areas as follows:

Property area	Maximum number of hives
700 square metres or less	2
701-4000 square metres	4
4001 square metres or greater	6

9.5 Council may issue permits to persons to keep additional hives to those permitted under clause 9.4.

9.6 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of hives and time limits on permits issued.

9.7 Council may by resolution:

- (a) charge a fee for receiving and processing an application and issuing a permit
- (b) prescribe any charges to be paid for the use of a permit
- (c) determine situations when permit fees may be remitted, refunded or waived.

9.8 A permit may be cancelled by Council at any time.

, subject to the following conditions:

hives must be registered in accordance with the provisions of the Biosecurity (national American Foulbrood Pest Management Plan) Order 1998

registration codes must be displayed in a visible manner on the apiary or hive

the owner of the beehives must provide evidence, on request of the completion of an American Foul Brood (AFB) course

hives must be kept a minimum distance of 10 metres from any adjoining property
a suitable flyway barrier must be installed within a maximum of two metres from the hives.

In an urban area on a site of 4000 square metres or more, Council may issue permits for exemptions from the conditions provided in 9.1.

Any swarms occurring from a beekeeping activities in an urban area must be removed by the owner as soon as possible.

Any swarms notified to Council that are not removed within 24 hours of notification, will be removed by Council and Council may recover the cost incurred in the removal activity from the owner of the hive from which the swarm occurred

Explanatory note:

Beekeepers have a legal obligation to register their apiary under the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Registration of apiaries is intended to protect honey bees

from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honey bees and respond to an incursion. Registrations are processed byASUREQuality Ltd and registration codes are required to be displayed in a visible manner in each apiary, usually on a beehive. Further information on American foulbrood disease can be found at www.afb.org.nz. In addition to the registration of hives, beekeepers are also required to comply with the ongoing management requirements as provided in the AFB Pest Management Plan and are required to provide evidence of this compliance where required. Honey and bee products that are produced for commercial purposes are also subject to additional legal requirements, such as the Food Act 2014. Information on these requirements is available on the Ministry for Primary Industries website.

Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.

In cases where enforcement officers respond to complaints about bees, the initial assessment will include determining whether the bees are being kept in accordance with national regulations as well as the Apiculture NZ Code of Conduct.

Additional Guidelines

Compliance with the following guidelines is also recommended to minimise potential nuisances arising from urban beekeeping activities. Whangarei District Council also advises every person wishing to keep bees in an urban area to participate in a beekeeping course.

Flight path management

Honey bees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honey bees can be encouraged to fly above head height if a flyway barrier, two or more metres tall, is placed 1-2 metres out from the front of the hive entrance. It is important that flightpaths are not directed across public pathways on private and public land. Barriers that can be used include shrubs or trees, a wall, a hedge or a fence. Beehives can be placed on top of sheds or buildings but it may be more difficult to work with the bees in these restricted locations.

Swarming/seasonal build up

Swarming is the natural means of dispersal of honey bee colonies. However, beekeepers can undertake responsible bee management practices to minimise the occurrence of swarms in urban areas. These practices can include re-queening on an annual basis, taking a nucleus colony out of populous hives (artificial swarming) and re-queening colonies that have been started from swarms.

Honey bee colonies are more likely to swarm if there are limited cells in the hive for the worker bees to store honey and pollen. Responsible bee management practices include providing plenty of room for the queen to lay eggs and for the bees to store honey.

Water provision

Providing a source of clean water may reduce the number of bees foraging elsewhere for water and creating a nuisance to neighbours, especially if they own a swimming pool.

Bee excrement management

Like other animals, bees excrete waste products. Honey bees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of coloured bee excrement within a 500 metre radius of the hive and can cause a nuisance to neighbours. The colour of the excrement is typically yellow to brown. The excrement may be hard to remove from clothing, vehicles and buildings.

Hives can be re-positioned on the property or rotated so that flight paths can be encouraged in a direction away from neighbouring properties.

Part 4: Enforcement Powers

910 Consequences of breach of bylaws

~~9.1~~ In addition to the powers conferred on it by any other enactment, an enforcement officer may enter land or premises and inspect the land or premises for compliance with this Bylaw.

~~9.2~~10.1

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ouncil may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.

10.2 Council may recover the costs of removal or alteration from the person who committed the breach.

10.3 If an enforcement officer is issued with a warrant under the Search and Surveillance Act 2012 the enforcement officer may enter private property in an urban area pursuant to section 165 of the Local Government Act 2002 and:

- (a) seize stock, poultry and bees that are on the premises in breach of this Bylaw,
- ~~(a)~~(b) seize property other than stock, poultry and bees that is materially involved in the commission of an offence under this Bylaw.

Part 5: Offences and Penalties

4011 Penalties

~~40.1~~11.1

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It is an offence to breach this Bylaw with a penalty, on conviction, of a fine not exceeding \$20,000 under the Local Government Act 2002.

Part 7: Savings

4112 Savings

~~41.1~~12.1

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ny permissions, approvals or other authorisations given under the Keeping of Animals Poultry and Bees Bylaw 2007 continue in force in accordance with their terms, unless cancelled by Council.

Attachment 2

Animals Bylaw

Table of contents

1	Title	2
2	Commencement	2
3	Application	2
4	Purpose	2
5	Interpretation	2
6	Obligations of animal owners in general	4
7	Keeping poultry in urban areas	4
8	Keeping stock in urban areas	4
9	Keeping bees in urban areas	4
10	Consequences of breach of bylaws	5
11	Penalties	5
12	Savings	5

Attachment 2

1 Title

This Bylaw is the Animals Bylaw

2 Commencement

To be confirmed

3 Application

This Bylaw applies to the Whangarei District.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to provide for the ownership of animals (excluding dogs) in a way that protects the public from nuisance and maintains and promotes public health and safety.

Explanatory note: The Bylaw supplements, rather than duplicate other animal owner obligations, including but not limited to; the Animal Products Act 1999, Animal Welfare Act 1999, related codes of welfare and the Northland Regional Pest and Marine Pathway Management Plan 2017 – 2027. Council also has responsibilities and powers regarding animals under the Biosecurity Act 1993, Health Act 1956, Impounding Act 1955, Reserves Act 1977, Resource Management Act 1991 and the Whangarei District Plan

5 Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

Beehive and hive means any receptacle housing a honey bee colony.

Council means the Whangarei District Council

Enforcement Officer means an enforcement officer appointed under section 177 of the Local Government Act 2002

Nuisance has the same meaning as Section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person.

Explanatory note: Circumstances that may be deemed a nuisance can include noises and odour associated with keeping animals.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who -

- (a) owns the animal; and
- (b) is a member of the parent's or guardian's household living with and dependant on the parent or guardian; -

but does not include any person who has seized or taken custody of an animal under the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Animal Welfare Act 1999.

Person has the meaning given by the Interpretation Act 1999.

Attachment 2

Permit means a licence, permit or approval to do something under this Bylaw and includes all conditions to which the permit is subject.

Poultry means any live bird that is kept or raised to produce eggs, hatching eggs or poultry products or for rearing on behalf of any other person, and includes chickens, ducks, geese, peacocks, peahens, pheasants and roosters.

Premises means any private land that is occupied or unoccupied.

Stock means cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats, pigs and any other animal kept in captivity, or farmed, and dependant on humans for their care and sustenance.

Swarm means a cluster or flying mass of honey bees, including workers, queen and drones.

Urban area means all Environments of the Whangarei District Plan; except for the following Environments:

- (a) Countryside Environment
- (b) Coastal Countryside Environment
- (c) Rural Living Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (d) Rural Countryside Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (e) Rural 'Urban Expansion' Environment – un-serviced sites only (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)

Explanatory note: The rolling review of the Whangarei District Plan intends to change the names of the primarily rural areas of the District as part of the review. This review has yet to be finalised and the titles provide are still subject to change until the Plan becomes operative.

- 5.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be inserted, amended or revoked without formality.
- 5.3 The Interpretation Act 1999 applies to this Bylaw.

Attachment 2

Part 2 – General requirements

6 Obligations of animal owners in general

- 6.1 The owner or person in charge of any animal must always:
- (a) Ensure that animal does not cause a nuisance to any other person
 - (b) ensure that animal does not cause a risk to public health and safety
 - (c) ensure that animal does not damage any property belonging to any other person
 - (d) ensure that animal may not roam off the property on which it is kept.
- 6.2 Any owner who, in the opinion of an enforcement officer, fails to comply with these obligations, must act on any requests of the enforcement officer to comply with these obligations, including, if directed, to remove the animals from the property within a specified period.

Explanatory note: Animal owners are required under the Animal Welfare Act 1999 to provide for the physical, health and behavioural needs of their animals, including food, water, shelter and exercise.

Part 3: Specific restrictions

7 Keeping poultry in urban areas

- 7.1 No person may keep a rooster on any premises in an urban environment.
- 7.2 A person may keep up to six head of poultry in an urban area on premises smaller than 2000 square metres.
- 7.3 A person may keep up to 12 head of poultry in an urban area on premises of 2000 square metres or more.

8 Keeping stock in urban areas

- 8.1 A person must not keep stock in an urban area on premises smaller than 4000 square metres.
- 8.2 Council may issue permits to keep stock in an urban area on premises of 4000 square metres or more.
- 8.3 Council may issue permits to persons to keep stock whose premises, due to plan changes to the Whangarei District Plan after the date of this Bylaw coming into force, change from a rural to an urban environment.
- 8.4 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of permissible stock and time limits on permits issued.
- 8.5 Council may by resolution:
- (a) charge a fee for receiving and processing an application and issuing a permit
 - (b) prescribe any charges to be paid for the use of a permit
 - (c) determine situations when permit fees may be remitted, refunded or waived.
- 8.6 A permit may be cancelled by Council at any time.

9 Keeping bees in urban areas

- 9.1 No person shall keep more than two beehives on premises in an urban area, subject to the following conditions:
- (a) hives must be registered in accordance with the provisions of the Biosecurity (national American Foulbrood Pest Management Plan) Order 1998

Attachment 2

- (b) registration codes must be displayed in a visible manner on the apiary or hive
 - (c) the owner of the beehives must provide evidence on request of the completion of an American Foul Brood (AFB) course
 - (d) hives must be kept a minimum distance of 10 metres from any adjoining property
 - (e) a suitable flyway barrier must be installed within a maximum of two metres from the hives.
- 9.2 In an urban area on a site of 4000 square metres or more, Council may issue permits for exemptions from the conditions provided in 9.1.
- 9.3 Any swarms occurring from a beekeeping activities in an urban area must be removed by the owner as soon as possible.
- 9.4 Any swarms notified to Council that are not removed within 24 hours of notification, will be removed by Council and Council may recover the cost incurred in the removal activity from the owner of the hive from which the swarm occurred.

Part 4: Enforcement Powers

10 Consequences of breach of bylaws

- 10.1 In addition to the powers conferred on it by any other enactment, an enforcement officer may enter land or premises and inspect the land or premises for compliance with this Bylaw.
- 10.2 Council may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.
- 10.3 Council may recover the costs of removal or alteration from the person who committed the breach.

Part 5: Offences and Penalties

11 Penalties

- 11.1 It is an offence to breach this Bylaw with a penalty, on conviction, of a fine not exceeding \$20,000 under the Local Government Act 2002.

Part 7: Savings

12 Savings

- 12.1 Any permissions, approvals or other authorisations given under the Keeping of Animals Poultry and Bees Bylaw 2007 continue in force in accordance with their terms, unless cancelled by Council.

Attachment 3

Animals Bylaw

Table of contents

1	Title	2
2	Commencement	2
3	Application	2
4	Purpose	2
5	Interpretation	2
6	Obligations of animal owners in general	4
7	Keeping poultry in urban areas	4
8	Keeping stock in urban areas	4
9	Keeping bees in urban areas	5
10	Consequences of breach of bylaws	7
11	Penalties	7
12	Savings	7

Attachment 3

1 Title

This Bylaw is the Animals Bylaw 2017.

2 Commencement

To be confirmed

3 Application

This Bylaw applies to the Whangarei District.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to provide for the ownership of animals (excluding dogs) in a way that protects the public from nuisance and maintains and promotes public health and safety.

Explanatory note: The Bylaw supplements, rather than duplicates other animal owner obligations, including but not limited to; the Animal Products Act 1999, Animal Welfare Act 1999, related codes of welfare and the Northland Regional Pest and Marine Pathway Management Plan 2017 – 2027. Council also has responsibilities and powers regarding animals under the Biosecurity Act 1993, Health Act 1956, Impounding Act 1955, Reserves Act 1977, Resource Management Act 1991 and the Whangarei District Plan. Matters relating to the control of dogs are addressed in the Dog Management Bylaw 2013 and the Dog Control Act 1996.

5 Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

Beehive and hive means any receptacle housing a honey bee colony for the purposes of honey production, and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes between 1 October and 31 March.

Council means the Whangarei District Council

Enforcement Officer means an enforcement officer appointed under section 177 of the Local Government Act 2002

Nuisance means a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person, and includes the nuisances as defined in section 29 of the Health Act 1956

Explanatory note: Circumstances that may be deemed a nuisance can include noises and odour associated with keeping animals.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who -

- (a) owns the animal; and
- (b) is a member of the parent's or guardian's household living with and dependant on the parent or guardian; -

Attachment 3

but does not include any person who has seized or taken custody of an animal under the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under the Animal Welfare Act 1999.

Person has the meaning given by the Interpretation Act 1999.

Permit means a licence, permit or approval to do something under this Bylaw and includes all conditions to which the permit is subject.

Poultry means any live bird that is kept or raised to produce eggs, hatching eggs or poultry products or for rearing on behalf of any other person, and includes chickens, ducks, geese, peacocks, peahens, pheasants and roosters.

Premises means any private land that is occupied or unoccupied.

Stock means cattle, deer, llamas, alpacas, donkeys, mules, horses, sheep, goats, pigs and any other animal kept in captivity, or farmed, and dependant on humans for their care and sustenance.

Swarm means a cluster or flying mass of honey bees, including workers, queen and drones.

Urban area means all Environments of the Whangarei District Plan; except for the following Environments:

- (a) Countryside Environment
- (b) Coastal Countryside Environment
- (c) Rural Living Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (d) Rural Countryside Environment (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)
- (e) Rural 'Urban Expansion' Environment – un-serviced sites only (or any alternative final title for this Environment as an outcome of the Whangarei District Plan review)

Explanatory note: The rolling review of the Whangarei District Plan intends to change the names of the primarily rural environments of the District as part of that review. This review has yet to be finalised and the titles provided are provisional. Any changes to the titles will be dealt with through an amendment pursuant to section 156(2) of the Local Government Act 2002 to formalise the final names of the environments.

5.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be inserted, amended or revoked without formality.

5.3 The Interpretation Act 1999 applies to this Bylaw.

Attachment 3

Part 2 – General requirements

6 Obligations of animal owners in general

- 6.1 The owner or person in charge of any animal must always:
- (a) ensure that animal does not cause a nuisance to any other person
 - (b) ensure that animal does not cause a risk to public health and safety
 - (c) ensure that animal does not damage any property belonging to any other person.
- 6.2 Any owner who, in the opinion of an enforcement officer, fails to comply with these obligations, must act on any requests of the enforcement officer to comply with these obligations, including, if directed, to remove the animals from the property within a specified period.

Explanatory note: Animal owners are required under the Animal Welfare Act 1999 to provide for the physical, health and behavioural needs of their animals, including food, water, shelter and exercise.

Part 3: Specific restrictions

7 Keeping poultry in urban areas

- 7.1 No person may keep a rooster on any premises in an urban area.
- 7.2 A person may keep up to six head of poultry in an urban area on premises smaller than 2000 square metres.
- 7.3 A person may keep up to 12 head of poultry in an urban area on premises of 2000 square metres or more.

8 Keeping stock in urban areas

- 8.1 A person must not keep stock in an urban area on premises smaller than 4000 square metres.
- 8.2 Council may issue permits to keep stock in an urban area on premises of 4000 square metres or more.
- 8.3 Council may issue permits to persons to keep stock whose premises, due to plan changes to the Whangarei District Plan after the date of this Bylaw coming into force, change from a rural to an urban environment.
- 8.4 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of permissible stock and time limits on permits issued.
- 8.5 Council may by resolution:
- (a) charge a fee for receiving and processing an application and issuing a permit
 - (b) prescribe any charges to be paid for the use of a permit
 - (c) determine situations when permit fees may be remitted, refunded or waived.
- 8.6 A permit may be cancelled by Council at any time.

Attachment 3

9 Keeping bees in urban areas

- 9.1 No person shall keep bees in the District if in the opinion of an enforcement officer, the keeping of bees is likely to become a nuisance or potential danger to any person.
- 9.2 Council may prescribe conditions relating to the location and number of hives able to be kept on any premises in an urban area.
- 9.3 Where an enforcement officer considers a hive or hives is likely to become a nuisance or potential danger to any person, it may require removal of such hive(s).
- 9.4 A person may keep bees in the urban areas as follows:

Property area	Maximum number of hives
700 square metres or less	2
701-4000 square metres	4
4001 square metres or greater	6

- 9.5 Council may issue permits to persons to keep additional hives to those permitted under clause 9.4.
- 9.6 Council may prescribe any conditions, including specifying distances from boundaries, maximum number of hives and time limits on permits issued.
- 9.7 Council may by resolution:
- (a) charge a fee for receiving and processing an application and issuing a permit
 - (b) prescribe any charges to be paid for the use of a permit
 - (c) determine situations when permit fees may be remitted, refunded or waived.
- 9.8 A permit may be cancelled by Council at any time.

Explanatory note:

Beekeepers have a legal obligation to register their apiary under the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Registration of apiaries is intended to protect honey bees from American foulbrood disease. The register also allows the Ministry for Primary Industries to carry out surveillance for exotic pests and diseases of honey bees and respond to an incursion. Registrations are processed byASUREQuality Ltd and registration codes are required to be displayed in a visible manner in each apiary, usually on a beehive. Further information on American foulbrood disease can be found at www.afb.org.nz. In addition to the registration of hives, beekeepers are also required to comply with the ongoing management requirements as provided in the AFB Pest Management Plan and are required to provide evidence of this compliance where required. Honey and bee products that are produced for commercial purposes are also subject to additional legal requirements, such as the Food Act 2014. Information on these requirements is available on the Ministry for Primary Industries website.

Apiculture New Zealand Incorporated provides a Code of Conduct for beekeepers.

In cases where enforcement officers respond to complaints about bees, the initial assessment will include determining whether the bees are being kept in accordance with national regulations as well as the Apiculture NZ Code of Conduct.

Additional Guidelines

Compliance with the following guidelines is also recommended to minimise potential nuisances arising from urban beekeeping activities. Whangarei District Council also advises every person wishing to keep bees in an urban area to participate in a beekeeping course.

Attachment 3

Flight path management

Honey bees will fly at head height for some distance from their hives unless their surrounding environment directs their flight path upwards. Honey bees can be encouraged to fly above head height if a flyway barrier, two or more metres tall, is placed 1-2 metres out from the front of the hive entrance. It is important that flightpaths are not directed across public pathways on private and public land. Barriers that can be used include shrubs or trees, a wall, a hedge or a fence. Beehives can be placed on top of sheds or buildings but it may be more difficult to work with the bees in these restricted locations.

Swarming/seasonal build up

Swarming is the natural means of dispersal of honey bee colonies. However, beekeepers can undertake responsible bee management practices to minimise the occurrence of swarms in urban areas. These practices can include re-queening on an annual basis, taking a nucleus colony out of populous hives (artificial swarming) and re-queening colonies that have been started from swarms.

Honey bee colonies are more likely to swarm if there are limited cells in the hive for the worker bees to store honey and pollen. Responsible bee management practices include providing plenty of room for the queen to lay eggs and for the bees to store honey.

Water provision

Providing a source of clean water may reduce the number of bees foraging elsewhere for water and creating a nuisance to neighbours, especially if they own a swimming pool.

Bee excrement management

Like other animals, bees excrete waste products. Honey bees going on orientation, foraging or cleaning flights often excrete after exiting the hive. This can leave distinct trails of coloured bee excrement within a 500 metre radius of the hive and can cause a nuisance to neighbours. The colour of the excrement is typically yellow to brown. The excrement may be hard to remove from clothing, vehicles and buildings.

Hives can be re-positioned on the property or rotated so that flight paths can be encouraged in a direction away from neighbouring properties.

Attachment 3

Part 4: Enforcement Powers

10 Consequences of breach of bylaws

- 10.1 Council may remove or alter a work or thing that is, or has been, constructed in breach of this Bylaw.
- 10.2 Council may recover the costs of removal or alteration from the person who committed the breach.
- 10.3 If an enforcement officer is issued with a warrant under the Search and Surveillance Act 2012 the enforcement officer may enter private property in an urban area pursuant to section 165 of the Local Government Act 2002 and:
 - (a) seize stock, poultry and bees that are on the premises in breach of this Bylaw
 - (b) seize property other than stock, poultry and bees that is materially involved in the commission of an offence under this Bylaw.

Part 5: Offences and Penalties

11 Penalties

- 11.1 It is an offence to breach this Bylaw with a penalty, on conviction, of a fine not exceeding \$20,000 under the Local Government Act 2002.

Part 7: Savings

12 Savings

- 12.1 Any permissions, approvals or other authorisations given under the Keeping of Animals Poultry and Bees Bylaw 2007 continue in force in accordance with their terms, unless cancelled by Council.

3.2 Deliberations – proposed Parking and Traffic Bylaw

Meeting: Planning and Development Committee
Date of meeting: 22 November 2017
Reporting officer: Shireen Munday – Strategic Planner

1 Purpose

To deliberate on matters raised in submissions and further matters raised by staff to make a recommendation to Council on the final form and content of the proposed Parking and Traffic Bylaw.

2 Recommendations

1. That the Planning and Development Committee approves the recommendations as contained in this report and the associated attachments as follows:

A. Mobility parking

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

B. Electric vehicle parking

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

C. Technical/wording issues

That the Planning and Development Committee notes the submissions and that the proposed changes provided in section 4.2 F, G, H and I of this report, appropriately address the matters raised by submitters.

D. Heavy motor vehicle parking

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

E. Heavy motor vehicle restrictions

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

F. General matters

That all changes showing in track changes in Attachment 1 are made to the final Parking and Traffic Bylaw.

G. Clause 15 – parking places

That clause 15.4, as highlighted yellow in Attachment 1 is included in the final Parking and Traffic Bylaw.

H. Clause 24 – reserved parking

That clause 24, as highlighted yellow in Attachment 1 is deleted from the final Parking and Traffic Bylaw.

I. Clause 25 – parking off a roadway

That clause 25.2(2) as highlighted yellow in Attachment 1 is deleted from the final Parking and Traffic Bylaw.

J. Clause 26 – machinery or equipment on a road

That clause 26 as highlighted yellow in Attachment 1 is amended as per the provided track changes.

2. That the Planning and Development Committee recommends to Council that it makes the final Parking and Traffic Bylaw, incorporating all resolutions made at this meeting.

3 Background

At its meeting on 14 September 2017 the Planning and Development Committee adopted a Statement of Proposal to revoke and replace Council's Parking and Traffic Bylaw. This proposal was a result of the statutory review of the Bylaw, completed in accordance with s159 of the Local Government Act 2002.

The Committee held a 'Have Your Say' event, which was attended by two submitters and on 1 November heard one submitter who wished to speak to their submission in Chambers.

The activities to give effect to the Special Consultative Procedure requirements as described in the report tabled at the 14 September 2017 meeting have been completed.

The Committee can now deliberate on the submissions received to determine whether any further changes to the proposed Parking and Traffic Bylaw (the Bylaw) are required and to make a recommendation to Council on the final form and content of the Bylaw.

4 Discussion

There are two distinct matters to be addressed through the deliberations process. The first is the consideration of issues raised by submitters through the consultation process. The second aspect is to consider any officer advice, which is also provided for as part of the process in section 83(3) of the Local Government Act 2002.

In some cases, proposed changes are made due to both submission feedback, as well as officer advice. Where this is the case, this is indicated.

The report is supported through an attachment showing the track changes to the Bylaw that represents the staff recommendations. Attachments 2 and 3 are the version of the Bylaw as consulted on (Attachment 2) and the version of the Bylaw including all proposed changes with the track changes removed for ease of reading (Attachment 3).

4.1 Matters raised in submissions

Matters raised in submissions were restricted to clauses 5,8,13,15,16, 24 and 25 of the Bylaw, plus one matter that was not included in the proposed Bylaw (heavy motor vehicle restrictions).

No community feedback was received on any of the other topics of the proposed Bylaw. Therefore, there is no scope to make any changes to these areas, outside of consideration of any further officer advice as provided in section 4.2 of this report. No further deliberations are required on these matters.

A. Mobility parking

Two submitters commented on the proposed clauses on mobility parking. Both submitters mentioned an annual fee. Whangarei District Council does not charge any annual fees. The submitters are likely referring to the national Mobility Parking Permits issued by CCS Disability Action, which are required to be able to parking in mobility parking spaces. Long term permits cost \$50 and must be re-applied for every 5 years, thus the annual cost for these permits is \$10.

One submitter also commented on the issue of other vehicles unlawfully parking in mobility parking spaces. This issue is of an enforcement nature rather than being able to be addressed through the bylaw itself. The second submitter raised the issue of the location of parking meters close to mobility parking spaces. While this is a valid concern for people with

mobility issues, Council does provide other mechanisms for payment, such as the mPark application available on all smartphones. Mobility parking permit holders also can have drivers or are otherwise accompanied by people who can access parking meters. An education programme, led by the Community Development Department, is planned to assist mobility parking permit holders to understand the new final Parking and Traffic Bylaw.

Staff recommendation:

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

B. Electric vehicle (EV) parking

The submitter wishes to see Council support electric vehicles through the provision of subsidised parking charges. The submitter also provided further comments on the enforcement of vehicles parking unlawfully in EV parking spaces and makes further suggestions around the promotion of EV vehicles.

The bylaw as proposed allows Council by resolution to determine that specified parking spaces are only for EV vehicles. The other matters raised by the submitter are not matters that can be addressed through the Bylaw.

Staff recommendation:

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

C. Technical/wording issues

Two submitters commented on some of the technical aspects of the proposed Bylaw, specifically clauses 5, 8, 13, 15, 24 and 25. The recommended changes in section 4.2 of this report include changes to clauses 13, 24 and 25 of the Bylaw. These changes also address the submission issues raised. No changes were deemed necessary for the feedback received on clauses 5, 8 and 15.

Staff recommendation:

That the Planning and Development Committee notes the submissions, and that the proposed changes provided in section 4.2 F, G, H and I appropriately address the matters raised by submitters.

D. Heavy motor vehicle parking

The submitter wishes to see Council include a provision in the Bylaw that prohibits the parking of heavy motor vehicles in all residential zoned land within the District. This request is based on this type of clause in the Tauranga District Council Traffic and Parking Bylaw.

The draft Bylaw has a provision that allows Council to prohibit parking on certain roads by resolution. In both instances, such prohibitions would require appropriate signage under the relevant transport related rules to be enforceable.

When the number of complaints logged about heavy motor vehicles in the District was analysed, there are a small number of areas that appear to have reoccurring problems with this issue but it does not appear significant and district-wide. Using a blanket approach as requested by the submitter may have unintended consequences.

By using a case by case approach, problems can be reviewed and work done with communities and the drivers or owners of heavy motor vehicles to provide an acceptable solution. This may in some instances result in a specific restriction but also provides for alternative solutions to be found.

The Roding Department is supportive of the inclusion of this draft clause as a general policy tool. The work required of the Roding Department to review such requests and develop an associated recommendation to Council for resolution includes further analysis of the stated problem, as well as consultation with affected residents and stakeholders prior to developing a potential solution for Council's consideration.

Such a programme of work typically takes 3-6 months and is additional to the existing workload of the Department. The Roding Department has confirmed that it can commence a review the specific request of the submitter in its 2018/2019 work programme, with a final recommendation to Council in 2019. Any requests for heavy vehicle parking restrictions in other locations would be similarly scheduled into future work programmes as and when they arise, and as resources become available within the wider work programme.

Staff recommendation:

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

E. Heavy motor vehicle restrictions

The submitter has expressed concerns about the use of Marsden Point Road by heavy motor vehicles and wishes to see Council control this through the Bylaw. The details of the request, such a lowering speed limits and/or installing traffic calming measures are not achievable through the Bylaw.

Like point D above, the Roding Department has indicated it can undertake a review of the solutions sought within its 2018/2019 work programme. If, following the review, a change to the Speed Limits Bylaw is recommended to Council, then the associated statutory amendment processes will be required to achieve the desired outcome. Such a process generally takes 6 months to be completed. Any physical works required, if part of an overall solution, would also have to be budgeted for and scheduled into future work programmes. As such, any final outcome would not be expected to be finalised before the 2019/2020 year.

Staff recommendation:

That the Planning and Development Committee notes the submissions and that no associated changes to the proposed Bylaw are made.

4.2 Proposed staff amendments

Since the consultation document was adopted, further advice has been sought (legal, engineering and administering officers) and used as input to the Bylaw. This has informed recommended changes to the Bylaw.

F. General matters

The Bylaw was reviewed for technical strength, consistency of terminology and use of 'plain English'. This resulted in several proposed changes that do not change the overall content or context of the bylaw, but remove potential ambiguity and/or provide more clarity. These changes are shown as track changes in Attachment 1. This includes a correction to clause 13 as requested by a submitter.

Staff recommendation:

That all changes showing in track changes in Attachment 1 are made to the final Parking and Traffic Bylaw.

G. Clause 15 – parking places

Council's power to establish parking places can come both through the Bylaw as well as section 591 of the Local Government Act 1974.

Council may from time to time wish to establish parking places under section 591 of the Local Government Act 1974, rather than the Bylaw. Clause 15.4 is proposed to provide clarity on these other powers of Council for completeness.

Staff recommendation:

That clause 15.4, as highlighted yellow in Attachment 1 is included in the final Parking and Traffic Bylaw.

H. Clause 24 – reserved parking

Council has no general power to declare a parking place that is on a road to be a reserved parking space. The general intent of clause 24 related to parking spaces in a building or off-street. While Council may still choose to provide parking spaces to lease or reserve in a building or off-street parking, this can be established under Council's power of general competence, e.g. as the entity owning or controlling the land, rather than through a Bylaw provision. Any reserved or leased parking spaces provided by Council are not subject to the provisions of the Bylaw; parking wardens are not able to issue infringement notices for any incorrect parking activities. The inclusion of this clause is therefore unnecessary. This proposed change also addresses the issue raised by the submitter on this clause.

Staff recommendation:

That clause 24, as highlighted yellow in Attachment 1 is deleted from the final Parking and Traffic Bylaw.

I. Clause 25 – parking vehicles off a roadway

Clause 25 is designed to stop vehicles being parked on grass verges and berms in urban areas, to protect any grass area or flowerbeds or similar. The draft clause included the ability to provide exemptions from this prohibition. Further analysis has identified that the exceptions provided for in clause 32 of the Bylaw will sufficiently provide for any situations where Council may consider it appropriate to allow parking in such places. As such, clause 25.2(2) is considered superfluous. This proposed change also addresses the issue raised by the submitter on this clause.

Staff recommendation:

That clause 25.2(2) as highlighted yellow in Attachment 1 is deleted from the final Parking and Traffic Bylaw.

J. Clause 26 – machinery or equipment on roads

Clause 26 is designed to support traffic safety and flow issues. However, the wording of the clause as proposed is considered too vague to be useful in certain situations. There are also potential unintended consequences for situations that are otherwise lawful, such as depositing groceries next to a vehicle before loading them. It is considered appropriate to retain the clause but to amend it to provide more clarity and certainty about its purpose and scope.

Staff recommendation:

That clause 26 as highlighted yellow in Attachment 1 is amended as per the provided track changes.

5 Significance and engagement

5.1 Significance

The decisions and matters of this agenda do not trigger the significance criteria of Council's Significance and Engagement Policy.

5.2 Engagement

Council has consulted with the community on the issues of this agenda in accordance with the statutory requirements of the Local Government Act 2002. The public will be informed via agenda publication on Council's website.

6 Attachments

Attachment 1 – proposed Parking and Traffic Bylaw showing markup track changes and highlighted changes.

Attachment 2 – proposed Parking and Traffic Bylaw for consultation.

Attachment 3 – proposed final Parking and Traffic Bylaw.

Parking and Traffic Bylaw 2017

Table of contents

1	Title	2
2	Commencement	2
3	Application	2
4	Purpose	2
5	Interpretation	2
6	Resolutions made under this Bylaw	4
7	One-way roads	4
8	Left or right turns and U-turns.....	4
9	Shared paths	4
10	Special vehicle lanes	5
11	Shared zones	5
12	Unformed legal roads	5
13	Livestock movement.....	5
14	Stopping, standing and parking	6
15	Parking places	6
16	Mobility parking	7
17	Motorcycle parking	7
18	Clearways, passenger service vehicles and transport stations	8
19	Loading zone	8
20	Heavy motor vehicle parking	8
21	General restrictions.....	9
22	Community concession parking permits.....	9
23	Parking permits	10
24	Parking vehicles off a roadway	10
25	Machinery or equipment on roads	11
26	Repairs on vehicles.....	11
27	Broken down vehicles	11
28	Removal of vehicles and things	11
29	Removal of construction	11
30	Bylaw breaches.....	11
31	Exceptions	12
32	Savings.....	12

1 Title

This Bylaw is the Parking and Traffic Bylaw 2017.

2 Commencement

~~To be confirmed~~

14 December 2017.

3 Application

This bylaw applies ~~to all roads, including public places, under the care, control or management throughout the District of the~~ Whangarei District Council ~~except to roads which are not under the control of the Council.~~

Explanatory note: This Bylaw does not apply to landroads under the ~~care, control or management~~ of the New Zealand Transport Agency, ~~unless the Council and the Agency have entered an agreement to apply this Bylaw.~~

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to set the requirements for parking and control of vehicular or other traffic on ~~any road under the care, control or management of~~ roads, parking places and transport stations owned or controlled by Whangarei District Council.

5 Interpretation

5.1 Any word used in this Bylaw that is defined in section 2 of the Act, has, for the purposes of this Bylaw, the same meaning as in section 2, unless otherwise provided for in this ~~section~~clause.

5.2 Any word used in this Bylaw that is defined in rule 1.6 of the Rules, has, for the purposes of this Bylaw, the same meaning as in rule 1.6, unless otherwise provided for in this ~~section~~clause.

5.3 In this Bylaw, unless the context otherwise requires -

Act means the Land Transport Act 1998 and any regulations or rules made under that Act

Approved disabled person's parking permit means a disabled person's parking permit or mobility parking permit:

- (a) issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated, or
- (b) approved by Whangarei District Council

Class of vehicle means ~~groupings~~a category of vehicles defined by reference to any common feature and includes:

- (a) vehicles by type, description, weight, size or dimension
- (b) vehicles carrying specified classes of load by the mass, size or nature of such loads
- (c) vehicles carrying no fewer ~~or less~~ than a specified number of occupants
- (d) vehicles used for specified purposes
- (e) vehicles driven by specified classes of persons
- (f) carpool and shared ~~vehicle~~vehicles
- (g) vehicles displaying a specified permit authorised by Whangarei District Council.

Clearway means a length of roadway over which a no-stopping parking restriction applies for the purpose of increasing the number of through traffic lanes or providing increased space to allow for the free movement of traffic during the period for which the clearway restriction applies.

Council means the Whangarei District Council

Emergency vehicle means a vehicle used for attendance at emergencies and operated—;

- (a) by an enforcement officer
- (b) by an ambulance service
- (c) as a fire service vehicle
- (d) as a civil defence emergency vehicle
- (e) as a defence force emergency vehicle.

Livestock means any horse, cattle, sheep, pig, goat, mule, ass, llama or deer and includes any other animal farmed for profit

Mobility parking permit means ~~ana current~~ approved disabled person's parking permit

Mobility parking space means a space reserved by Council for vehicles lawfully displaying a mobility parking permit

Motorcycle includes a moped

Paid parking space means a parking space for which ~~by resolution~~ Council has determined a charge ~~for parking~~ is to be paid

Parking machine means a parking meter or other device that is used to ~~collect~~ facilitate the payment ~~of charges in exchange~~ for parking a vehicle in a paid parking space ~~for a limited time~~

Parking place ~~means a~~ has the same meaning as in section 591(6) of the Local Government Act 1974

Explanatory note: The main part of this definition is 'a place (including a building or a road) where vehicles, or any class of vehicles, may stop, stand, park wait'. A parking place, which may be on a road, also includes the means of egress and ingress from the parking place and any facilities associated with it.

Parking space means a parking place or part of a parking place identified by sign, marking or notice for the use of a single vehicle or a specified number of motorcycles ~~and includes time limited parking spaces.~~

~~Rule~~**Rules** means the Land Transport (Road User) Rules 2004

Shared path means an area of road, separated from a roadway, that may be used by some or all of the following:

- (a) pedestrians
- (b) cyclists
- (c) riders of mobility devices
- (d) riders of wheeled recreational devices.

at the same time, and includes a cycle path.

Transport station ~~means~~ has the same meaning as in section 591(6) of the Local Government Act 1974.

Explanatory note: The main part of this definition is 'a place where passenger transport-service vehicles, or any class of transport-service vehicles may wait between trips'. It also includes the means of egress and ingress from the transport station and any facilities associated with it.

5.4 Any explanatory notes and attachments are for information purposes; only and do not form part of this Bylaw, ~~and may be inserted, amended or revoked without formality.~~

5.5 The Interpretation Act 1999 applies to this Bylaw.

6 Resolutions made under this Bylaw

6.1 ~~A~~ The power to make a resolution ~~may be made~~ under this Bylaw includes the power:

- (1) to regulate, control or prohibit ~~any~~the matter or thing generally, or for any ~~specified~~specified classes of case, or in a particular case, ~~or~~;
- ~~(2) that applies to apply the regulation~~ to all vehicles or traffic or to any specified class of vehicles or traffic using a;
- ~~(2) to apply the regulation to any specified road~~, or
- (3) ~~that applies to any road~~ roads or part of a road or roads under the ~~care~~, control, ~~or~~ management of Council, ~~or~~;
- (4) ~~that applies to apply the regulation~~ at any specified time or period of time.

6.2 A power for the Council to make a resolution includes the power to amend or revoke the resolution or to revoke it and replace it with another or to reinstate an earlier resolution. In the event of any conflict between resolutions the most recent resolution shall prevail.

Part 2 – Vehicles and Road Use

7 One-way roads

- 7.1 Council may by resolution requirespecify roads where vehicles ~~on roads to~~must travel in one specified direction only.
- 7.2 ~~Every~~A driver of a vehicle on a one-way road must travel only in the direction specified ~~on a one-way road~~under clause 7.1.
- 7.3 Despite clause 7.1, Council may ~~specify~~ by resolution specify that cycles may travel in the opposite direction to other vehicles on a one-way road.

8 Left or right turns and U-turns

8.1 Council may by resolution prohibit ~~vehicles or~~ classes of ~~restrict~~:

- (1) vehicles on any road from turning to the right or to the left or from proceeding in any other direction;
- (2) vehicles on any road turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turn) ~~on specified roads~~.

~~8.18.2~~ A person must not ~~turn~~drive a vehicle contrary to the left, any turning prohibition or to the right, or perform a U-turn, or proceed in any other direction on any road where Council has prohibited or restricted such movements restriction made under clause 8.1.

9 Shared paths

9.1 Council may by resolution:

- (1) fix the length, route and location of a shared path;
- (2) ~~determine priority for users of~~ specify that a shared path ~~on a shared path that~~ may be used by persons in some or all of the following ~~persons at~~categories, and specify the ~~same time~~priority between such users:
 - (a) pedestrians
 - (b) cyclists
 - (c) riders of mobility devices
 - (d) riders of wheeled recreational devices.

9.2 A person must not use a shared path in a manner contrary to any restriction made ~~by Council~~under clause 9.1.

10 Special vehicle lanes

- 10.1 Council may by resolution ~~prescribe~~specify a road, or a part of a road, as a special vehicle lane ~~that may only be used by, use of which is restricted to~~ a specified class or classes of vehicle.
- 10.2 A person must not use a special vehicle lane contrary to any restriction made ~~by Council under clause 10.1.~~

11 Shared zones

- 11.1 Council may by resolution specify any road to be a shared zone, intended to be used by pedestrians and vehicles.
- 11.2 Except where Council has by resolution specified otherwise, no person may stand or park a vehicle in a road specified as a shared zone.
- 11.3 A person must not use a shared zone in a manner contrary to any restriction made ~~by Council under clause 11.2.~~

12 Unformed legal roads

- 12.1 Council may by resolution restrict the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users.
- 12.2 A person must not use a motor vehicle on ~~an unformed~~a road contrary to a restriction made ~~by Council under clause 12.1.~~

13 Livestock movement

- 13.1 No person shall ~~move~~drive livestock along or across any road, unless the livestock is confined within a motor vehicle:
- (1) during the hours of darkness; ~~or~~
 - (2) at any time when there is ~~not sufficient~~insufficient visibility to clearly see a person, a vehicle or livestock ~~at no less than that is~~ 170 metres away; ~~or~~
 - (3) on any road with an average daily traffic count of 2500 vehicles a day or more; ~~or~~
 - (4) ~~Where in the case of~~ dairy cattle, where the cattle can be moved using a cattle race on private land or a cattle underpass; ~~unless the animal(s) is confined within a vehicle.~~
- ~~13.2 A person may move livestock along any road with an annual average traffic volume of less than 2500 vehicles per day, subject to the following conditions:~~
- 13.2 In any case where livestock may be driven along a road:
- (1) the number of livestock in any one mob shall not exceed 600 head, or 3,000 head in the case of sheep
 - (2) each mob shall be accompanied by one ~~experienced~~ drover per 300 head of cattle ~~and/or~~ per 1500 head of sheep
 - (3) each mob shall be accompanied by pilot vehicles in front ~~of~~ and behind ~~of~~ the mob. ~~All Such~~ vehicles shall maintain a distance of no less than 200 metres from the mob.
- 13.3 Dairy cattle may be moved regularly across a road, ~~subject to the correct construction, installation and usage of where, as well as complying with clause 13.1,~~ the following facilities have been installed and are in use at all crossing points:
- (1) entranceways, including additional adjacent shoulders, that are constructed to Council's requirements for Vehicle Entrance Crossings
 - (2) warning signs that meet the requirements of the ~~Transit New Zealand~~ Manual of Transport Agency Traffic Signs and Markings Control Devices Manual

- (3) an amber flashing light operating for the period the dairy cattle are on the road
- (4) at least one person in charge of the herd being present for the period the dairy cattle are on the road.

- 13.4 Council may recover the costs incurred in repairing any damage to a road or private property, or cleaning up any animal excreta on the road, caused by the movement of livestock from the person in charge of the livestock.

Explanatory note: The purpose of controlling the movement of livestock on roads is to support the safety of, and minimise inconvenience to, road users, to protect Council roads and any utilities within the roads, and to prevent roads being used as stock races.

Part 3: Parking

14 Stopping, standing and parking

- 14.1 Council may by resolution:

- (1) prohibit or restrict the stopping, standing or parking of vehicles on any ~~roads; or road~~
- (2) limit the stopping, standing or parking of vehicles on any road ~~and to~~ vehicles of any specified class or description.

- 14.2 A person must not stop, stand or park a vehicle on any road in contravention of a prohibition, restriction or limitation made ~~by Council under clause 14.1.~~

15 Parking places

- 15.1 Council may by resolution:

- (1) reserve any area of land or any road or any part of a road or any building or any part of a building owned or under the care, management or control of Council to be a parking place
- (2) specify the vehicles or classes of vehicle that may or must not use a parking place
- (3) prescribe the times, manner and conditions for the parking of vehicles or classes of vehicles in a parking place
- (4) prescribe:
 - (a) any charges to be paid for the use of a parking place
 - (b) how parking charges may be paid; including by the use of parking machines or any other specified manner
 - (c) the manner of displaying proof of payment if necessary
 - (d) opening and closing times for off-street parking places.

- 15.2 ~~Any~~ Restrictions that apply generally to a parking place, ~~do not apply in parking spaces within that parking place where other are subject to any~~ specific stopping, standing or parking restrictions apply which apply to particular parking spaces within that parking place.

- 15.3 A person must not park a vehicle in a parking place in contravention of a prohibition or restriction made ~~by Council under clause 15.1.~~

- 15.4 To avoid doubt, clause 15.1(1) does not limit Council's power to provide parking places under section 591 of the Local Government Act 1974.

Explanatory note: This clause allows Council to designate parking spaces or prohibit parking for specific types of vehicles, including, but not limited to, electric vehicles and heavy vehicles.

16 Mobility parking

16.1 Council may by resolution ~~reserves~~specify any parking space ~~and as a mobility parking space,~~
and may prescribe any time limits and parking charges for vehicles parking in the mobility
parking space.

16.2 A person must not park a vehicle in a mobility parking space unless:

- (1) the vehicle is lawfully displaying a mobility parking permit-; and
- (2) the vehicle is being used to convey a disabled person or to pick up or drop off a disabled
person.

16.116.3

vehicle-Where a vehicle is lawfully displaying a mobility parking permit may park-parked in a
mobility parking space for which payment is required, subject to the following condition and
concession:-

- (1) payment is required for up to the first hour of parking, or the applicable part payment for a
period shorter than an hour-
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the
maximum time indicated.

Explanatory note: Mobility parking spaces generally have a maximum time limit of P180/P240 to ensure turnover of access for other users. Clause 16.23 provides that payment is required for up to the first hour of parking only. If a user wishes to use the parking space for less than an hour, then full payment for the elected parking period is required. Example: If a vehicle parks in a mobility parking space where \$1 per hour payment is required and the user wishes to park for 30 minutes, then a payment of 50 cents is required. If the user pays \$1 then the vehicle may remain in the parking space up to the maximum time limit.

16.216.4

here a vehicle lawfully displaying a mobility parking permit may parkis parked in a time limited
parking space for which payment is required, subject to the following condition and
concession:-

- (1) payment is required for up to the first hour of parking, or the applicable part payment for a
period shorter than an hour.
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the
maximum time indicated.

Explanatory note: Most time limited paid parking spaces have at least a two-hour (120 minute) parking limit. Clause 16.34 provides the same concession as for mobility parking spaces, but ensures turnover of parking spaces by applying the same maximum parking period for all users.

16.316.5

vehicle lawfully displaying a ~~current approved~~ mobility parking permit may park in any time
unlimited paid parking space for double the length of time paid for.

Explanatory note: Clause 16.45 provides that in an unlimited paid parking ~~placespace~~, payment is required for the first half of the ~~intended~~ parking period. Example: If a mobility parking permitted vehicle is parked in an unlimited paid parking space which attracts a charge of \$1 per hour and the user intends to use the space for 4 hours, then a payment of \$2 is required.

16.416.6

vehicle lawfully displaying a mobility parking permit may park in any time limited parking space
for double the length of the indicated time limit for that parking space, but only where the
space displays a time limit effor that space is 120 minutes or less.

Explanatory note: To support the turnover of available parking spaces, Clause 16.56 limits this concession for parking spaces with a time limit of 120 minutes or less. This means that for parking spaces with a 180 or 240 minute maximum time limit there is no concession and the indicated time limit applies for all vehicles. Example: A mobility parking permitted vehicle may park in a 60 minute parking space for 120 minutes, but may only park for 180 minutes in a 180 minute parking space.

- (2)(1) A person must not park a vehicle displaying a mobility parking permit unless the vehicle is
being used to convey a disabled person or to pick up or drop off a disabled person.

~~16.5 A person must not park a vehicle which is not displaying a mobility parking permit in a mobility parking space.~~

17 Motorcycle parking

- 17.1 Council may by resolution determine any parking place to be reserved for the sole use of motorcycles and prescribe the maximum number of motorcycles that can park in the parking place.
- 17.2 No person may park a vehicle that is not a motorcycle in a parking place reserved for motorcycles.
- 17.3 No person may park a motorcycle in a parking space reserved for motorcycles other than at right angles to the road way.
- 17.4 Where more than one motorcycle occupies a standard paid parking space, only one parking fee shall be required for that space.
- 17.5 No motorcycle may remain parked in the parking space if the payment for ~~a standard paid parking~~that space has expired.

Explanatory note: If two motorcycles share a standard paid parking space, then a valid payment for one of the motorcycles must be in place for the entire duration of the parking time for both motorcycles. Motorcycles must park in accordance with the general restrictions of clause 21 of this Bylaw.

18 Clearways, passenger service vehicles and transport stations

- 18.1 Council may ~~beby~~ resolution:
 - (1) determine any road, part of a road or any parking space to be a clearway, a stand or stop for specified classes of passenger service vehicle, or a transport station
 - (2) specify the vehicles or classes of vehicles that may or must not use a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station
 - (3) prescribe the times, manner and conditions for the parking of vehicles in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station.
- 18.2 A person must not park a vehicle in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station in contravention of a prohibition or restriction made ~~by Council~~under clause 18.1.

19 Loading zone

- 19.1 Council may by resolution:
 - (1) determine any road or part of a road or any parking space to be a loading zone
 - (2) specify the class(es) of vehicle that may use the loading zone
 - (3) prescribe the maximum length of time any vehicle or class of vehicle may park in a loading zone.

19.2 A person must not use a loading zone in contravention of a prohibition or restriction made under clause 19.1

20 Heavy motor vehicle parking

- 20.1 Council may by resolution determine any road or part of a road, or any parking space, to be an area where the parking of heavy motor vehicles or any specified class of heavy motor vehicles is prohibited or restricted.

~~20.2 No person may park any heavy vehicle on any road or in any parking space where the parking of heavy vehicles has been prohibited.~~

~~20.3~~20.2

o person may park any heavy motor vehicle on any road or in any parking space where the

N

~~parking of heavy vehicles has been restricted other than in accordance with these restrictions in contravention of a prohibition or restriction made under clause 20.1.~~

Explanatory note: Heavy motor vehicles are vehicles with a gross vehicle mass of more than 3500 kg. Restrictions may apply during specified hours or for specified periods of time that are different from general parking restrictions in that area.

21 General restrictions

- 21.1 No person may park a vehicle in a parking space—:
 - (1) so that any part of the vehicle extends beyond the marked space or is not entirely within the space; or
 - (2) that is already occupied by another vehicle unless the vehicles are motorcycles.
- 21.2 Notwithstanding ~~sub clause 21.1 of this Bylaw~~, if, because of its size, it is necessary for a vehicle to ~~extend onto an~~ occupy more than one adjoining ~~and unoccupied~~ parking space, it may do so. If the parking spaces are paid parking spaces, then the fee for each occupied space must be paid.
- 21.3 No person shall park any vehicle in a parking space:
 - (1) beyond the expiry of the time paid for in a paid parking space
 - (2) beyond the maximum period for parking in that parking space.
- 21.4 No person may park in any paid parking space without paying the required parking fee by correctly activating any parking meter controlling the space or making payment in compliance with any instructions on any signs or machines located at the parking place.
- 21.5 A person parking in a paid parking space using a pay and display receipt must display that receipt in or on the vehicle in a place so that it can be easily read by a parking warden.
- 21.6 No person may park in a parking space where parking is temporarily discontinued by Council using signs or cones.

22 Community concession parking permits

- 22.1 Council may issue concession parking permits to persons in community groups or sectors, or volunteer organisations, that allow permit holders to park in parking places free of charge and/or without being restricted to any maximum time limits.
- 22.2 ~~Permits to~~ The groups in respect of which such concession parking permits may be issued include, but are not limited to, ~~the following groups of applicants:~~
 - (1) Drivers over 70 years of age
 - (2) Disabled person working parking permits
 - (3) Volunteer community organisations
- 22.3 Council may ~~prescribe any~~ impose conditions on the use of the permit, including by specifying parking areas or ~~identified~~ parking spaces, ~~for where~~ the ~~use of permits issued~~ permit applies.
- 22.4 Council may by resolution -
 - (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 22.5 AA community concession parking permit may be cancelled by Council at any time.

Explanatory note: All permits and associated application processes, forms and conditions under clause 22 of this Bylaw are managed under Council's ~~adopted~~ Grants, Concessions and Loans Policy.

23 Parking permits

- 23.1 Council may issue parking permits that allow permit holders to park in parking places without requiring the charges for the parking space to be paid and/or without being restricted to any maximum time limits.
- 23.2 Council may ~~prescribe any~~impose conditions on the use of the permit, including by specifying parking areas or ~~identified~~ parking spaces, ~~for where the use of permits issued~~permit applies.
- 23.3 Council may by resolution—:
- (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 23.4 A permit under this clause may be cancelled by Council at any time.

24 ~~Reserved or leased parking places~~

- ~~24.1 Council may by resolution declare a parking place or part of a parking place to be a reserved parking area or a leased parking area.~~
- ~~24.2 Council may set the fees payable for the parking of vehicles in a reserved parking area or leased area and prescribe the method of payment of those fees.~~
- ~~24.3 No person may park a vehicle in a reserved parking space or leased parking space other than in accordance with a current written agreement with Council for the use of that parking space.~~

25 Parking vehicles off a roadway

- 25.1 A person must not stop, stand or park a motor vehicle ~~on that part of the road~~ in an area for which the speed limit is 50km/h or less, on any part of a road or land owned or controlled by the Council which is laid out as a lawn or cultivated area, including a grass plot, a flower bed or shrubbery.
- ~~25.2 A person may stop, stand or park a motor vehicle in contravention of this clause~~Clause 25.1 does not apply if -
- ~~(1) that~~the part of the road is designed and constructed to accommodate a parked vehicle
- ~~25.3~~25.2 Council has given written permission to stop, stand or park a vehicle in that part of the road.

26 Machinery or equipment on roads

- 26.1 A person must not leave any ~~machinery, equipment, materials or waste-taker bins, cranes, freight containers or large machinery~~ on any road unless that person has the written permission of Council ~~or by or under the authority of any Act~~. This clause does not apply to containers that are used solely for kerbside collection of waste or diverted material authorised by Council and placed off the roadway, if such containers are not left on any road for a period ~~not~~ exceeding 24 hours.

27 Repairs on vehicles

- 27.1 A person must not carry out repairs or modifications to a vehicle on a road unless those repairs or modifications are of a minor nature and do not impede the flow of traffic or are necessary to enable the vehicle to be moved.

28 Broken down vehicles

- 28.1 A person must not leave a vehicle on any road for a continuous period exceeding seven days if that vehicle does not have effective motive power or is in such a state that it cannot be safely driven.

Part 4: Enforcement Powers

29 Removal of vehicles and things

- 29.1 In addition to the powers conferred on it by any other enactment, Council may remove or cause to be removed from any parking place, transport station or road any vehicle or thing ~~using those places stations or roads~~ that is parked or present in breach of the Bylaw.
- 29.2 Council may recover from the person who committed the breach of this Bylaw the ~~appropriate~~ reasonable costs in connection with the removal of the vehicle or thing.

30 Removal of construction

- 30.1 Council may remove or alter a work or thing that has been constructed in breach of this Bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 5: Offences and Penalties

31 Bylaw breaches

- 31.1 A person who fails to comply with any control, restriction, limitation or prohibition in, or made pursuant to this Bylaw, commits an offence under the Act and is liable to the penalties set out in the Act.

Part 6: Exceptions

32 Exceptions

Exceptions

32.1 A person is not in breach of this Bylaw if that person proves that:

- (1) the act or omission complained of took place in response to a situation on a road; and
- (2) the situation was not of the person's own making; and
- (3) the act or omission was taken:

(a) to avoid the death or injury of a person, or

(b) if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.

32.2 Clause ~~33~~ (32.1) does not apply if a court is considering, in proceedings for an offence specified in the Act, whether or not a person had complied with this Bylaw.

32.3 Any restrictions made under Parts 2 and 3 of this Bylaw do not apply to -

- (1) a vehicle that is engaged in urgent repair work to a public utility service
- (2) a vehicle that is being used as an emergency vehicle in transit to or attendance at an emergency
- (3) a branded Whangarei District Council vehicle used by any officer or contractor engaged in work for the Council-
- (4) a vehicle that is being used by a contractor engaged in work for Council and which displays evidence of this on the vehicle.

32.4 A person is not in breach of this Bylaw if that person proves that the act or omission:

- (1) took place in compliance with the directions of an enforcement officer or a parking warden; or
- (2) in the case of an act or omission done by an enforcement officer or a parking warden, was necessary in the execution of the person's duty.

Part 7: Savings

33 Savings

33.1 Any ~~resolutions, approvals, permits~~ resolution, approval, permit or other ~~acts~~ act of authority made under the Whangarei District Council Parking and Traffic Bylaw 2005, which is current at the time of revocation of ~~those bylaws, remain~~ that bylaw remains in force on ~~their~~ its terms until amended, replaced or revoked by Council.

Attachment 2

Parking and Traffic Bylaw 2017

Table of contents

1	Title	1
2	Commencement.....	2
3	Application	2
4	Purpose.....	2
5	Interpretation	2
6	Resolutions made under this Bylaw	4
7	One-way roads.....	4
8	Left or right turns and U-turns	4
9	Shared paths.....	4
10	Special vehicle lanes.....	4
11	Shared zones.....	5
12	Unformed legal roads.....	5
13	Livestock movement	5
14	Stopping, standing and parking.....	6
15	Parking places.....	6
16	Mobility parking	6
17	Motorcycle parking	7
18	Clearways, passenger service vehicles and transport stations.....	8
19	Loading zone.....	8
20	Heavy vehicle parking	8
21	General restrictions	8
22	Community concession parking permits	9
23	Parking permits	9
24	Reserved or leased parking places	10
25	Parking vehicles off a roadway.....	10
26	Machinery or equipment on roads	10
27	Repairs on vehicles.....	10
28	Broken down vehicles	10
29	Removal of vehicles and things.....	10
30	Removal of construction.....	11
31	Bylaw breaches.....	11
32	Exceptions	11
33	Savings	11

1 Title

This Bylaw is the Parking and Traffic Bylaw 2017

Attachment 2

2 Commencement

To be confirmed

3 Application

This bylaw applies to all roads, including public places, under the care, control or management of Whangarei District Council.

Explanatory note: This Bylaw does not apply to land under the care, control or management of the New Zealand Transport Agency, unless the Council and the Agency have entered an agreement to apply this Bylaw.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to set the requirements for parking and control of vehicular or other traffic on any road under the care, control or management of Whangarei District Council.

5 Interpretation

5.1 Any word used in this Bylaw that is defined in section 2 of the Act, has, for the purposes of this Bylaw, the same meaning as in section 2, unless otherwise provided for in this section.

5.2 Any word used in this Bylaw that is defined in rule 1.6 of the Rules, has, for the purposes of this Bylaw, the same meaning as in rule 1.6, unless otherwise provided for in this section.

5.3 In this Bylaw, unless the context otherwise requires -

Act means the Land Transport Act 1998 and any regulations or rules made under that Act

Approved disabled person's parking permit means a disabled person's parking permit or mobility parking permit:

- (a) issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated, or
- (b) approved by Whangarei District Council

Class of vehicle means groupings of vehicles defined by reference to any common feature and includes:

- (a) vehicles by type, description, weight, size or dimension
- (b) vehicles carrying specified classes of load by the mass, size or nature of such loads
- (c) vehicles carrying no fewer or less than a specified number of occupants
- (d) vehicles used for specified purposes
- (e) vehicles driven by specified classes of persons
- (f) carpool and shared vehicle
- (g) vehicles displaying a permit authorised by Whangarei District Council.

Clearway means a length of roadway over which a no-stopping parking restriction applies for the purpose of increasing the number of through traffic lanes or providing increased space to allow for the free movement of traffic during the period for which the clearway restriction applies.

Council means the Whangarei District Council

Emergency vehicle means a vehicle used for attendance at emergencies and operated -

- (a) by an enforcement officer
- (b) by an ambulance service

Attachment 2

- (c) as a fire service vehicle
- (d) as a civil defence emergency vehicle
- (e) as a defence force emergency vehicle.

Livestock means any horse, cattle, sheep, pig, goat, mule, ass, llama or deer and includes any other animal farmed for profit

Mobility parking permit means an approved disabled person's parking permit

Mobility parking space means a space reserved by Council for vehicles lawfully displaying a mobility parking permit

Motorcycle includes a moped

Parking place means a place (including a building or a road) where vehicles, or any class of vehicles, may stop, stand, park.

Parking space means a parking place or part of a parking place identified by sign, marking or notice for the use of a single vehicle or a specified number of motorcycles and includes time limited parking spaces.

Paid parking space means a parking space for which by resolution Council has determined a charge is to be paid.

Parking machine means a parking meter or other device that is used to collect payment in exchange for parking a vehicle in a paid parking space for a limited time.

Rule means the Land Transport (Road User) Rules 2004

Shared path means an area of road, separated from a roadway, that may be used by some or all of the following -

- (a) pedestrians
- (b) cyclists
- (c) mobility devices
- (d) wheeled recreational devices,

at the same time, and includes a cycle path.

Transport station means a place where passenger service vehicles may wait between trips

- 5.4 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be inserted, amended or revoked without formality.
- 5.5 The Interpretation Act 1999 applies to this Bylaw.

Attachment 2

6 Resolutions made under this Bylaw

6.1 A resolution may be made under this Bylaw:

- (1) to regulate, control or prohibit any matter or thing generally, or for any specific classes of case, or in a particular case, or
- (2) that applies to all vehicles or traffic or to any specified class of vehicles or traffic using a road, or
- (3) that applies to any road or part of a road under the care, control, or management of Council, or
- (4) that applies at any specified time or period of time.

Part 2 – Vehicles and Road Use

7 One-way roads

- 7.1 Council may by resolution require vehicles on roads to travel in one specified direction only.
- 7.2 Every driver of a vehicle must travel only in the direction specified on a one-way road.
- 7.3 Council may specify by resolution that cycles may travel in the opposite direction on a one-way road.

8 Left or right turns and U-turns

8.1 Council may by resolution prohibit -

- (1) vehicles or classes of vehicles on any road from turning to the right or to the left or from proceeding in any other direction;
- (2) vehicles turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turn) on specified roads.

8.2 A person must not turn a vehicle to the left, or to the right, or perform a U-turn, or proceed in any other direction on any road where Council has prohibited or restricted such movements.

9 Shared paths

9.1 Council may by resolution -

- (1) fix the length, route and location of a shared path;
- (2) determine priority for users of a shared path on a shared path that may be used by some or all of the following persons at the same time:
 - (a) pedestrians
 - (b) cyclists
 - (c) riders of mobility devices
 - (d) riders of wheeled recreational devices.

9.2 A person must not use a shared path in a manner contrary to any restriction made by Council.

10 Special vehicle lanes

- 10.1 Council may by resolution prescribe a road, or a part of a road, as a special vehicle lane that may only be used by a specified class or classes of vehicle.
- 10.2 A person must not use a special vehicle lane contrary to any restriction made by Council.

Attachment 2

11 Shared zones

- 11.1 Council may by resolution specify any road to be a shared zone.
- 11.2 Except where Council has by resolution specified otherwise, no person may stand or park a vehicle in a road specified as a shared zone.
- 11.3 A person must not use a shared zone in a manner contrary to any restriction made by Council.

12 Unformed legal roads

- 12.1 Council may by resolution restrict the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users.
- 12.2 A person must not use a motor vehicle on an unformed road contrary to a restriction made by Council.

13 Livestock movement

- 13.1 No person shall move livestock along or across any road:
 - (1) during the hours of darkness
 - (2) at any time when there is not sufficient visibility to clearly see a person, a vehicle or livestock at no less than 170 metres away
 - (3) on any road with an average daily traffic count of 2500 vehicles a day or more
 - (4) Where dairy cattle can be moved using a cattle race on private land or a cattle underpass;
 unless the animal(s) is confined within a vehicle.
- 13.2 A person may move livestock along any road with an annual average traffic volume of less than 2500 vehicles per day, subject to the following conditions:
 - (1) The number of livestock in any one mob shall not exceed 600 head, or 3,000 head in the case of sheep
 - (2) each mob shall be accompanied by one experienced drover per 300 head of cattle and per 1500 head of sheep
 - (3) each mob shall be accompanied by pilot vehicles in front and behind of the mob. All vehicles shall maintain a distance of no less than 200 metres from the mob.
- 13.3 Dairy cattle may be moved regularly across a road, subject to the correct construction, installation and usage of the following facilities at all crossing points:
 - (1) Entranceways, including additional adjacent shoulders, that are constructed to Council's requirements for Vehicle Entrance Crossings
 - (2) warning signs that meet the requirements of the Transit New Zealand Manual of Traffic Signs and Markings
 - (3) an amber flashing light operating for the period the dairy cattle are on the road
 - (4) at least one person in charge of the herd being present for the period the dairy cattle are on the road.
- 13.4 Council may recover the costs incurred in repairing any damage to a road or private property, or cleaning up any animal excreta on the road, caused by the movement of livestock from the person in charge of the livestock.

Explanatory note: The purpose of controlling the movement of livestock on roads is to support the safety of, and minimise inconvenience to, road users, to protect Councils' roads and any utilities within the roads, and to prevent roads being used as stock races.

Attachment 2

Part 3: Parking

14 Stopping, standing and parking

14.1 Council may by resolution:

- (1) prohibit or restrict the stopping, standing or parking of vehicles on any roads; or
- (2) limit the stopping, standing or parking of vehicles on any road and vehicles of any specified class or description.

14.2 A person must not stop, stand or park a vehicle on any road in contravention of a prohibition, restriction or limitation made by Council.

15 Parking places

15.1 Council may by resolution:

- (1) reserve any area of land or any road or any part of a road or any building or any part of a building owned or under the care, management or control of Council to be a parking place
- (2) specify the vehicles or classes of vehicle that may or must not use a parking place
- (3) prescribe the times, manner and conditions for the parking of vehicles or classes of vehicles in a parking place
- (4) prescribe:
 - (a) any charges to be paid for the use of a parking place
 - (b) how parking charges may be paid; including parking machines or any other specified manner
 - (c) the manner of displaying proof of payment if necessary
 - (d) opening and closing times for off-street parking places.

15.2 Any restrictions that apply to a parking place, do not apply in parking spaces within that parking place where other specific stopping, standing or parking restrictions apply.

15.3 A person must not park a vehicle in a parking place in contravention of a prohibition or restriction made by Council.

Explanatory note: This clause allows Council to designate parking spaces or prohibit parking for specific types of vehicles, including, but not limited to, electric vehicles and heavy vehicles.

16 Mobility parking

16.1 Council may by resolution reserve any parking space and prescribe any time limits and parking charges for vehicles lawfully displaying a mobility parking permit.

16.2 A vehicle lawfully displaying a mobility parking permit may park in a mobility parking space for which payment is required, subject to the following condition and concession:

- (1) Payment is required for up to the first hour of parking, or the applicable part payment for a period shorter than an hour.
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the maximum time indicated.

Explanatory note: Mobility parking spaces generally have a maximum time limit of P180/P240 to ensure turnover of access for other users. Clause 16.2 provides that payment is required for up to the first hour of parking only. If a user wishes to use the parking space for less than an hour, then full payment for the elected parking period is required. Example: If a vehicle parks in a mobility parking space where \$1 per hour payment is required and the user wishes to park for 30 minutes, then a payment of 50 cents is required. If the user pays \$1 then the vehicle may remain in the parking space up to the maximum time limit.

Attachment 2

- 16.3 A vehicle lawfully displaying a mobility parking permit may park in a time limited parking space for which payment is required, subject to the following condition and concession:

- (1) Payment is required for up to the first hour of parking, or the applicable part payment for a period shorter than an hour.
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the maximum time indicated.

Explanatory note: Most time limited paid parking spaces have at least a two-hour (120 minute) parking limit. Clause 16.3 provides the same concession as for mobility parking spaces, but ensures turnover of parking spaces by applying the same maximum parking period for all users.

- 16.4 A vehicle lawfully displaying a current approved mobility parking permit may park in any time unlimited paid parking space for double the length of time paid for.

Explanatory note: Clause 16.4 provides that in an unlimited paid parking place, payment is required for the first half of the intended parking period. Example: If a mobility parking permitted vehicle is parked in an unlimited paid parking space which attracts a charge of \$1 per hour and the user intends to use the space for 4 hours, then a payment of \$2 is required.

- 16.5 A vehicle lawfully displaying a mobility parking permit may park in any time limited parking space for double the length of the indicated time limit for that parking space, but only where the space displays a time limit of 120 minutes or less.

Explanatory note: To support the turnover of available parking spaces, Clause 16.5 limits this concession for parking spaces with a time limit of 120 minutes or less. This means that for parking spaces with a 180 or 240 minute maximum time limit there is no concession and the indicated time limit applies for all vehicles. Example: A mobility parking permitted vehicle may park in a 60 minute parking space for 120 minutes, but may only park for 180 minutes in a 180 minute parking space.

- 16.6 A person must not park a vehicle displaying a mobility parking permit unless the vehicle is being used to convey a disabled person or to pick up or drop off a disabled person.

- 16.7 A person must not park a vehicle which is not displaying a mobility parking permit in a mobility parking space.

17 Motorcycle parking

- 17.1 Council may by resolution determine any parking place to be reserved for the sole use of motorcycles and prescribe the maximum number of motorcycles that can park in the parking place.

- 17.2 No person may park a vehicle that is not a motorcycle in a parking place reserved for motorcycles.

- 17.3 No person may park a motorcycle in a parking space reserved for motorcycles other than at right angles to the road way.

- 17.4 Where more than one motorcycle occupies a standard paid parking space, only one parking fee shall be required.

- 17.5 No motorcycle may remain parked if the payment for a standard paid parking space has expired.

Explanatory note: If two motorcycles share a standard paid parking space, then a valid payment for one of the motorcycles must be in place for the entire duration of the parking time for both motorcycles. Motorcycles must park in accordance with the general restrictions of clause 21 of this Bylaw.

Attachment 2

18 Clearways, passenger service vehicles and transport stations

- 18.1 Council may by resolution -
- (1) determine any road, part of a road or any parking space to be a clearway, a stand or stop for specified classes of passenger service vehicle, or a transport station
 - (2) specify the vehicles or classes of vehicles that may or must not use a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station
 - (3) prescribe the times, manner and conditions for the parking of vehicles in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station.
- 18.2 A person must not park a vehicle in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station in contravention of a prohibition or restriction made by Council.

19 Loading zone

- 19.1 Council may by resolution -
- (1) determine any road or part of a road or any parking space to be a loading zone
 - (2) specify the class(es) of vehicle that may use the loading zone
 - (3) prescribe the maximum length of time any vehicle or class of vehicle may park in a loading zone.

20 Heavy vehicle parking

- 20.1 Council may by resolution determine any road or part of a road, or any parking space, to be an area where the parking of heavy vehicles is prohibited or restricted.
- 20.2 No person may park any heavy vehicle on any road or in any parking space where the parking of heavy vehicles has been prohibited.
- 20.3 No person may park any heavy motor vehicle on any road or in any parking space where the parking of heavy vehicles has been restricted other than in accordance with those restrictions.

Explanatory note: Restrictions may apply during specified hours or for specified periods of time that are different from general parking restrictions in that area.

21 General restrictions

- 21.1 No person may park a vehicle in a parking space -
- (4) so that any part of the vehicle extends beyond the marked space or is not entirely within the space; or
 - (5) that is already occupied by another vehicle unless the vehicles are motorcycles.
- 21.2 Notwithstanding sub clause 21.1 of this Bylaw, if, because of its size, it is necessary for a vehicle to extend onto an adjoining and unoccupied parking space, it may do so. If the parking spaces are paid parking spaces, then the fee for each occupied space must be paid.
- 21.3 No person shall park any vehicle in a parking space
- (1) Beyond the expiry of the time paid for in a paid parking space
 - (2) Beyond the maximum period for parking in that parking space

Attachment 2

- 21.4 No person may park in any paid parking space without paying the required parking fee by correctly activating any parking meter controlling the space or making payment in compliance with any instructions on any signs or machines located at the parking place.
- 21.5 A person parking in a paid parking space using a pay and display receipt must display that receipt in or on the vehicle in a place so that it can be easily read by a parking warden.
- 21.6 No person may park in a parking space where parking is temporarily discontinued by Council using signs or cones.

22 Community concession parking permits

- 22.1 Council may issue concession parking permits to community groups or sectors, or volunteer organisations that allow permit holders to park in parking places free of charge and/or without being restricted to any maximum time limits.
- 22.2 Permits to be issued include, but are not limited to, the following groups of applicants:
 - (1) Drivers over 70 years of age
 - (2) Disabled person working parking permits
 - (3) Volunteer community organisations
- 22.3 Council may prescribe any conditions, including specifying parking areas or identified parking spaces, for the use of permits issued.
- 22.4 Council may by resolution -
 - (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 22.5 A permit may be cancelled by Council at any time.

Explanatory note: All permits and associated application processes, forms and conditions under clause 22 of this Bylaw are managed under Council's adopted Grants, Concessions and Loans Policy.

23 Parking permits

- 23.1 Council may issue parking permits that allow permit holders to park in parking places without requiring the charges for the parking space to be paid and/or without being restricted to any maximum time limits.
- 23.2 Council may prescribe any conditions, including specifying parking areas or identified parking spaces, for the use of permits issued.
- 23.3 Council may by resolution -
 - (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 23.4 A permit may be cancelled by Council at any time.

Attachment 2

24 Reserved or leased parking places

- 24.1 Council may by resolution declare a parking place or part of a parking place to be a reserved parking area or a leased parking area.
- 24.2 Council may set the fees payable for the parking of vehicles in a reserved parking area or leased area and prescribe the method of payment of those fees.
- 24.3 No person may park a vehicle in a reserved parking space or leased parking space other than in accordance with a current written agreement with Council for the use of that parking space.

25 Parking vehicles off a roadway

A person must not stop, stand or park a motor vehicle on that part of the road in an area for which the speed limit is 50km/h or less, which is laid out as a lawn or cultivated area, including a grass plot, a flower bed or shrubbery.

- 25.1 A person may stop, stand or park a motor vehicle in contravention of this clause if -
 - (1) that part of the road is designed and constructed to accommodate a parked vehicle
 - (2) Council has given written permission to stop, stand or park a vehicle in that part of the road.

26 Machinery or equipment on roads

- 26.1 A person must not leave any machinery, equipment, materials or freight containers on any road unless that person has the written permission of Council. This clause does not apply to containers that are used solely for kerbside collection of waste or diverted material authorised by Council and placed off the roadway, if such containers are not left on any road for a period not exceeding 24 hours.

27 Repairs on vehicles

- 27.1 A person must not carry out repairs or modifications to a vehicle on a road unless those repairs or modifications are of a minor nature and do not impede the flow of traffic or are necessary to enable the vehicle to be moved.

28 Broken down vehicles

- 28.1 A person must not leave a vehicle on any road for a continuous period exceeding seven days if that vehicle does not have effective motive power or is in such a state that it cannot be safely driven.

Part 4: Enforcement Powers

29 Removal of vehicles and things

- 29.1 In addition to the powers conferred on it by any other enactment, Council may remove or cause to be removed from any parking place, transport station or road any vehicle or thing using those places stations or roads in breach of the Bylaw.
- 29.2 Council may recover from the person who committed the breach of this Bylaw the appropriate costs in connection with the removal of the vehicle or thing.

Attachment 2

30 Removal of construction

- 30.1 Council may remove or alter a work or thing that has been constructed in breach of this Bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 5: Offences and Penalties

31 Bylaw breaches

- 31.1 A person who fails to comply with any control, restriction, limitation or prohibition made pursuant to this Bylaw commits an offence under the Act and is liable to the penalties set out in the Act.

Part 6: Exceptions

32 Exceptions

- 32.1 Exceptions

- (1) A person is not in breach of this Bylaw if that person proves that:
 - (a) the act or omission complained of took place in response to a situation on a road; and
 - (b) the situation was not of the person's own making; and
 - (c) the act or omission was taken:
 - i. to avoid the death or injury of a person
 - ii. if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.
- (2) Clause 33 (1) does not apply if a court is considering, in proceedings for an offence specified in the Act, whether or not a person had complied with this Bylaw.
- (3) Any restrictions made under Parts 2 and 3 of this Bylaw do not apply to -
 - (a) a vehicle that is engaged in urgent repair work to a public utility service
 - (b) a vehicle that is being used as an emergency vehicle in transit to or attendance at an emergency
 - (c) A branded Whangarei District Council vehicle used by any officer or contractor engaged in work for the Council.
- (4) A person is not in breach of this Bylaw if that person proves that the act or omission -
 - (a) took place in compliance with the directions of an enforcement officer or a parking warden; or
 - (b) in the case of an act or omission done by an enforcement officer or a parking warden, was necessary in the execution of the person's duty.

Part 7: Savings

33 Savings

- 33.1 Any resolutions, approvals, permits or other acts of authority made under the Whangarei District Council Parking and Traffic Bylaw 2005, current at the time of revocation of those bylaws, remain in force on their terms until amended, replaced or revoked by Council.

Parking and Traffic Bylaw 2017

Table of contents

1	Title	2
2	Commencement	2
3	Application.....	2
4	Purpose	2
5	Interpretation	2
6	Resolutions made under this Bylaw	4
7	One-way roads	4
8	Left or right turns and U-turns.....	4
9	Shared paths	4
10	Special vehicle lanes	5
11	Shared zones.....	5
12	Unformed legal roads.....	5
13	Livestock movement	5
14	Stopping, standing and parking	6
15	Parking places	6
16	Mobility parking.....	6
17	Motorcycle parking.....	8
18	Clearways, passenger service vehicles and transport stations	8
19	Loading zone	8
20	Heavy motor vehicle parking.....	8
21	General restrictions	9
22	Community concession parking permits.....	9
23	Parking permits	10
24	Parking vehicles off a roadway	10
25	Machinery or equipment on roads	10
26	Repairs on vehicles	10
27	Broken down vehicles	10
28	Removal of vehicles and things.....	11
29	Removal of construction.....	11
30	Bylaw breaches	11
31	Exceptions	11
32	Savings.....	12

1 Title

This Bylaw is the Parking and Traffic Bylaw 2017.

2 Commencement

14 December 2017.

3 Application

This bylaw applies throughout the District of the Whangarei District Council except to roads which are not under the control of the Council.

Explanatory note: This Bylaw does not apply to roads under the control of the New Zealand Transport Agency.

Part 1 – Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to set the requirements for parking and control of vehicular or other traffic on roads, parking places and transport stations owned or controlled by Whangarei District Council.

5 Interpretation

5.1 Any word used in this Bylaw that is defined in section 2 of the Act, has, for the purposes of this Bylaw, the same meaning as in section 2, unless otherwise provided for in this clause.

5.2 Any word used in this Bylaw that is defined in rule 1.6 of the Rules, has, for the purposes of this Bylaw, the same meaning as in rule 1.6, unless otherwise provided for in this clause.

5.3 In this Bylaw, unless the context otherwise requires -

Act means the Land Transport Act 1998 and any regulations or rules made under that Act

Approved disabled person's parking permit means a disabled person's parking permit or mobility parking permit:

- (a) issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated, or
- (b) approved by Whangarei District Council

Class of vehicle means a category of vehicles defined by reference to any common feature and includes:

- (a) vehicles by type, description, weight, size or dimension
- (b) vehicles carrying specified classes of load by the mass, size or nature of such loads
- (c) vehicles carrying no fewer than a specified number of occupants
- (d) vehicles used for specified purposes
- (e) vehicles driven by specified classes of persons
- (f) carpool and shared vehicles
- (g) vehicles displaying a specified permit authorised by Whangarei District Council.

Clearway means a length of roadway over which a no-stopping parking restriction applies for the purpose of increasing the number of through traffic lanes or providing increased space to allow for the free movement of traffic during the period for which the clearway restriction applies.

Council means the Whangarei District Council

Emergency vehicle means a vehicle used for attendance at emergencies and operated:

- (a) by an enforcement officer
- (b) by an ambulance service
- (c) as a fire service vehicle
- (d) as a civil defence emergency vehicle
- (e) as a defence force emergency vehicle.

Livestock means any horse, cattle, sheep, pig, goat, mule, ass, llama or deer and includes any other animal farmed for profit

Mobility parking permit means a current approved disabled person's parking permit

Mobility parking space means a space reserved by Council for vehicles lawfully displaying a mobility parking permit

Motorcycle includes a moped

Paid parking space means a parking space for which Council has determined a charge for parking is to be paid

Parking machine means a parking meter or other device that is used to facilitate the payment of charges for parking a vehicle in a paid parking space

Parking place has the same meaning as in section 591(6) of the Local Government Act 1974

Explanatory note: The main part of this definition is 'a place (including a building) where vehicles, or any class of vehicles, may wait'. A parking place, which may be on a road, also includes the means of egress and ingress from the parking place and any facilities associated with it.

Parking space means a parking place or part of a parking place identified by sign, marking or notice for the use of a single vehicle or a specified number of motorcycles

Rules means the Land Transport (Road User) Rules 2004

Shared path means an area of road, separated from a roadway, that may be used by some or all of the following:

- (a) pedestrians
- (b) cyclists
- (c) riders of mobility devices
- (d) riders of wheeled recreational devices

at the same time, and includes a cycle path

Transport station has the same meaning as in section 591(6) of the Local Government Act 1974.

Explanatory note: The main part of this definition is 'a place where transport-service vehicles, or any class of transport-service vehicles may wait between trips'. It also includes the means of egress and ingress from the transport station and any facilities associated with it.

5.4 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

5.5 The Interpretation Act 1999 applies to this Bylaw.

6 Resolutions made under this Bylaw

- 6.1 The power to make a resolution under this Bylaw includes the power:
- (1) to regulate, control or prohibit the matter or thing generally, or for any specified classes of case, or in a particular case;
 - (2) to apply the regulation to all vehicles or traffic or to any specified class of vehicles or traffic;
 - (3) to apply the regulation to any specified road or roads or part of a road or roads under the control of Council;
 - (4) to apply the regulation at any specified time or period of time.
- 6.2 A power for the Council to make a resolution includes the power to amend or revoke the resolution or to revoke it and replace it with another or to reinstate an earlier resolution. In the event of any conflict between resolutions the most recent resolution shall prevail.

Part 2 – Vehicles and Road Use

7 One-way roads

- 7.1 Council may by resolution specify roads where vehicles must travel in one specified direction only.
- 7.2 A driver of a vehicle on a one-way road must travel only in the direction specified under clause 7.1.
- 7.3 Despite clause 7.1, Council may by resolution specify that cycles may travel in the opposite direction to other vehicles on a one-way road.

8 Left or right turns and U-turns

- 8.1 Council may by resolution prohibit or restrict:
- (1) vehicles on any road from turning to the right or to the left or from proceeding in any other direction;
 - (2) vehicles on any road turning from facing or travelling in one direction to facing or travelling in the opposite direction (performing a U-turn).
- 8.2 A person must not drive a vehicle contrary to any turning prohibition or restriction made under clause 8.1.

9 Shared paths

- 9.1 Council may by resolution:
- (1) fix the length, route and location of a shared path;
 - (2) specify that a shared path may be used by persons in some or all of the following categories, and specify the priority between such users:
 - (a) pedestrians
 - (b) cyclists
 - (c) riders of mobility devices
 - (d) riders of wheeled recreational devices.
- 9.2 A person must not use a shared path in a manner contrary to any restriction made under clause 9.1.

10 Special vehicle lanes

- 10.1 Council may by resolution specify a road, or a part of a road, as a special vehicle lane, use of which is restricted to a specified class or classes of vehicle.
- 10.2 A person must not use a special vehicle lane contrary to any restriction made under clause 10.1.

11 Shared zones

- 11.1 Council may by resolution specify any road to be a shared zone, intended to be used by pedestrians and vehicles.
- 11.2 Except where Council has by resolution specified otherwise, no person may stand or park a vehicle in a road specified as a shared zone.
- 11.3 A person must not use a shared zone in a manner contrary to any restriction made under clause 11.2.

12 Unformed legal roads

- 12.1 Council may by resolution restrict the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users.
- 12.2 A person must not use a motor vehicle on a road contrary to a restriction made under clause 12.1.

13 Livestock movement

- 13.1 No person shall drive livestock along or across any road, unless the livestock is confined within a motor vehicle:
 - (1) during the hours of darkness; or
 - (2) at any time when there is insufficient visibility to clearly see a person, a vehicle or livestock that is 170 metres away; or
 - (3) on any road with an average daily traffic count of 2500 vehicles a day or more; or
 - (4) in the case of dairy cattle, where the cattle can be moved using a cattle race on private land or a cattle underpass.
- 13.2 In any case where livestock may be driven along a road:
 - (1) the number of livestock in any one mob shall not exceed 600 head, or 3,000 head in the case of sheep
 - (2) each mob shall be accompanied by one drover per 300 head of cattle or per 1500 head of sheep
 - (3) each mob shall be accompanied by pilot vehicles in front of and behind the mob. Such vehicles shall maintain a distance of no less than 200 metres from the mob.
- 13.3 Dairy cattle may be moved regularly across a road, where, as well as complying with clause 13.1, the following facilities have been installed and are in use at all crossing points:
 - (1) entranceways, including additional adjacent shoulders, that are constructed to Council's requirements for Vehicle Entrance Crossings
 - (2) warning signs that meet the requirements of the New Zealand Transport Agency Traffic Control Devices Manual
 - (3) an amber flashing light operating for the period the dairy cattle are on the road
 - (4) at least one person in charge of the herd being present for the period the dairy cattle are on the road.

- 13.4 Council may recover the costs incurred in repairing any damage to a road or private property, or cleaning up any animal excreta on the road, caused by the movement of livestock from the person in charge of the livestock.

Explanatory note: The purpose of controlling the movement of livestock on roads is to support the safety of, and minimise inconvenience to, road users, to protect Council roads and any utilities within the roads, and to prevent roads being used as stock races.

Part 3: Parking

14 Stopping, standing and parking

- 14.1 Council may by resolution:
- (1) prohibit or restrict the stopping, standing or parking of vehicles on any road
 - (2) limit the stopping, standing or parking of vehicles on any road to vehicles of any specified class or description.
- 14.2 A person must not stop, stand or park a vehicle on any road in contravention of a prohibition, restriction or limitation made under clause 14.1.

15 Parking places

- 15.1 Council may by resolution:
- (1) reserve any area of land or any road or any part of a road or any building or any part of a building owned or under the care, management or control of Council to be a parking place
 - (2) specify the vehicles or classes of vehicle that may or must not use a parking place
 - (3) prescribe the times, manner and conditions for the parking of vehicles or classes of vehicles in a parking place
 - (4) prescribe:
 - (a) any charges to be paid for the use of a parking place
 - (b) how parking charges may be paid; including by the use of parking machines or any other specified manner
 - (c) the manner of displaying proof of payment if necessary
 - (d) opening and closing times for off-street parking places.
- 15.2 Restrictions that apply generally to a parking place are subject to any specific stopping, standing or parking restrictions which apply to particular parking spaces within that parking place.
- 15.3 A person must not park a vehicle in a parking place in contravention of a prohibition or restriction made under clause 15.1.
- 15.4 To avoid doubt, clause 15.1(1) does not limit Council's power to provide parking places under section 591 of the Local Government Act 1974.

Explanatory note: This clause allows Council to designate parking spaces or prohibit parking for specific types of vehicles, including, but not limited to, electric vehicles and heavy vehicles.

16 Mobility parking

- 16.1 Council may by resolution specify any parking space as a mobility parking space, and may prescribe any time limits and parking charges for vehicles parking in the mobility parking space.
- 16.2 A person must not park a vehicle in a mobility parking space unless:
- (1) the vehicle is lawfully displaying a mobility parking permit; and

- (2) the vehicle is being used to convey a disabled person or to pick up or drop off a disabled person.

16.3 Where a vehicle is lawfully parked in a mobility parking space for which payment is required:

- (1) payment is required for up to the first hour of parking, or the applicable part payment for a period shorter than an hour
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the maximum time indicated.

Explanatory note: Mobility parking spaces generally have a maximum time limit of P180/P240 to ensure turnover of access for other users. Clause 16.3 provides that payment is required for up to the first hour of parking only. If a user wishes to use the parking space for less than an hour, then full payment for the elected parking period is required. Example: If a vehicle parks in a mobility parking space where \$1 per hour payment is required and the user wishes to park for 30 minutes, then a payment of 50 cents is required. If the user pays \$1 then the vehicle may remain in the parking space up to the maximum time limit.

16.4 Where a vehicle lawfully displaying a mobility parking permit is parked in a time limited parking space for which payment is required:

- (1) payment is required for up to the first hour of parking, or the applicable part payment for a period shorter than an hour.
- (2) a payment for the first hour allows that vehicle to remain in the parking space for up to the maximum time indicated.

Explanatory note: Most time limited paid parking spaces have at least a two-hour (120 minute) parking limit. Clause 16.4 provides the same concession as for mobility parking spaces, but ensures turnover of parking spaces by applying the same maximum parking period for all users.

16.5 A vehicle lawfully displaying a mobility parking permit may park in any time unlimited paid parking space for double the length of time paid for.

Explanatory note: Clause 16.5 provides that in an unlimited paid parking space, payment is required for the first half of the parking period. Example: If a mobility parking permitted vehicle is parked in an unlimited paid parking space which attracts a charge of \$1 per hour and the user intends to use the space for 4 hours, then a payment of \$2 is required.

16.6 A vehicle lawfully displaying a mobility parking permit may park in any time limited parking space for double the length of the indicated time limit for that parking space, but only where the time limit for that space is 120 minutes or less.

Explanatory note: To support the turnover of available parking spaces, Clause 16.6 limits this concession for parking spaces with a time limit of 120 minutes or less. This means that for parking spaces with a 180 or 240 minute maximum time limit there is no concession and the indicated time limit applies for all vehicles. Example: A mobility parking permitted vehicle may park in a 60 minute parking space for 120 minutes, but may only park for 180 minutes in a 180 minute parking space.

17 Motorcycle parking

- 17.1 Council may by resolution determine any parking place to be reserved for the sole use of motorcycles and prescribe the maximum number of motorcycles that can park in the parking place.
- 17.2 No person may park a vehicle that is not a motorcycle in a parking place reserved for motorcycles.
- 17.3 No person may park a motorcycle in a parking space reserved for motorcycles other than at right angles to the road way.
- 17.4 Where more than one motorcycle occupies a standard paid parking space, only one parking fee shall be required for that space.
- 17.5 No motorcycle may remain parked in the parking space if the payment for that space has expired.

Explanatory note: If two motorcycles share a standard paid parking space, then a valid payment for one of the motorcycles must be in place for the entire duration of the parking time for both motorcycles. Motorcycles must park in accordance with the general restrictions of clause 21 of this Bylaw.

18 Clearways, passenger service vehicles and transport stations

- 18.1 Council may by resolution:
 - (1) determine any road, part of a road or any parking space to be a clearway, a stand or stop for specified classes of passenger service vehicle, or a transport station
 - (2) specify the vehicles or classes of vehicles that may or must not use a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station
 - (3) prescribe the times, manner and conditions for the parking of vehicles in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station.
- 18.2 A person must not park a vehicle in a clearway, a stand or stop for specified classes of passenger service vehicle, or transport station in contravention of a prohibition or restriction made under clause 18.1.

19 Loading zone

- 19.1 Council may by resolution;
 - (1) determine any road or part of a road or any parking space to be a loading zone
 - (2) specify the class(es) of vehicle that may use the loading zone
 - (3) prescribe the maximum length of time any vehicle or class of vehicle may park in a loading zone.
- 19.2 A person must not use a loading zone in contravention of a prohibition or restriction made under clause 19.1

20 Heavy motor vehicle parking

- 20.1 Council may by resolution determine any road or part of a road, or any parking space, to be an area where the parking of heavy motor vehicles or any specified class of heavy motor vehicles is prohibited or restricted.
- 20.2 No person may park any heavy motor vehicle in contravention of a prohibition or restriction made under clause 20.1.

Explanatory note: Heavy motor vehicles are vehicles with a gross vehicle mass of more than 3500 kg. Restrictions may apply during specified hours or for specified periods of time that are different from general parking restrictions in that area.

21 General restrictions

- 21.1 No person may park a vehicle in a parking space:
- (1) so that any part of the vehicle extends beyond the marked space or is not entirely within the space; or
 - (2) that is already occupied by another vehicle unless the vehicles are motorcycles.
- 21.2 Notwithstanding clause 21.1, if, because of its size, it is necessary for a vehicle to occupy more than one adjoining parking space, it may do so. If the parking spaces are paid parking spaces, then the fee for each occupied space must be paid.
- 21.3 No person shall park any vehicle in a parking space:
- (1) beyond the expiry of the time paid for in a paid parking space
 - (2) beyond the maximum period for parking in that parking space.
- 21.4 No person may park in any paid parking space without paying the required parking fee by correctly activating any parking meter controlling the space or making payment in compliance with any instructions on any signs or machines located at the parking place.
- 21.5 A person parking in a paid parking space using a pay and display receipt must display that receipt in or on the vehicle in a place so that it can be easily read by a parking warden.
- 21.6 No person may park in a parking space where parking is temporarily discontinued by Council using signs or cones.

22 Community concession parking permits

- 22.1 Council may issue concession parking permits to persons in community groups or sectors, or volunteer organisations, that allow permit holders to park in parking places free of charge and/or without being restricted to any maximum time limits.
- 22.2 The groups in respect of which such concession parking permits may be issued include, but are not limited to:
- (1) Drivers over 70 years of age
 - (2) Disabled person working parking permits
 - (3) Volunteer community organisations
- 22.3 Council may impose conditions on the use of the permit, including by specifying parking areas or parking spaces where the permit applies.
- 22.4 Council may by resolution -
- (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 22.5 A community concession parking permit may be cancelled by Council at any time.

Explanatory note: All permits and associated application processes, forms and conditions under clause 22 of this Bylaw are managed under Council's Grants, Concessions and Loans Policy.

23 Parking permits

- 23.1 Council may issue parking permits that allow permit holders to park in parking places without requiring the charges for the parking space to be paid and/or without being restricted to any maximum time limits.
- 23.2 Council may impose conditions on the use of the permit, including by specifying parking areas or parking spaces where the permit applies.
- 23.3 Council may by resolution:
- (1) charge a fee for receiving and processing an application and issuing a permit
 - (2) prescribe any charges to be paid for the use of a permit
 - (3) determine situations when permit fees may be remitted, refunded or waived.
- 23.4 A permit under this clause may be cancelled by Council at any time.

24 Parking vehicles off a roadway

- 24.1 A person must not stop, stand or park a motor vehicle in an area for which the speed limit is 50km/h or less on any part of a road or land owned or controlled by the Council which is laid out as a lawn or cultivated area, including a grass plot, a flower bed or shrubbery.
- 24.2 Clause 25.1 does not apply if the part of the road is designed and constructed to accommodate a parked vehicle.

25 Machinery or equipment on roads

- 25.1 A person must not leave any waste-taker bins, cranes, freight containers or large machinery on any road unless that person has the written permission of Council, or by or under the authority of any Act. This clause does not apply to containers that are used solely for kerbside collection of waste or diverted material authorised by Council and placed off the roadway, if such containers are not left on any road for a period exceeding 24 hours.

26 Repairs on vehicles

- 26.1 A person must not carry out repairs or modifications to a vehicle on a road unless those repairs or modifications are of a minor nature and do not impede the flow of traffic or are necessary to enable the vehicle to be moved.

27 Broken down vehicles

- 27.1 A person must not leave a vehicle on any road for a continuous period exceeding seven days if that vehicle does not have effective motive power or is in such a state that it cannot be safely driven.

Part 4: Enforcement Powers

28 Removal of vehicles and things

- 28.1 In addition to the powers conferred on it by any other enactment, Council may remove or cause to be removed from any parking place, transport station or road any vehicle or thing that is parked or present in breach of the Bylaw.
- 28.2 Council may recover from the person who committed the breach of this Bylaw the reasonable costs in connection with the removal of the vehicle or thing.

29 Removal of construction

- 29.1 Council may remove or alter a work or thing that has been constructed in breach of this Bylaw and may recover any costs of removal or alteration from the person who committed the breach.

Part 5: Offences and Penalties

30 Bylaw breaches

- 30.1 A person who fails to comply with any control, restriction, limitation or prohibition in, or made pursuant to this Bylaw, commits an offence under the Act and is liable to the penalties set out in the Act.

Part 6: Exceptions

31 Exceptions

- 31.1 A person is not in breach of this Bylaw if that person proves that:
- (1) the act or omission complained of took place in response to a situation on a road; and
 - (2) the situation was not of the person's own making; and
 - (3) the act or omission was taken:
 - (a) to avoid the death or injury of a person, or
 - (b) if the act or omission did not create a risk of death or injury or greater damage to any property, to avoid damage to any property.
- 31.2 Clause 32.1 does not apply if a court is considering, in proceedings for an offence specified in the Act, whether or not a person had complied with this Bylaw.
- 31.3 Any restrictions made under Parts 2 and 3 of this Bylaw do not apply to -
- (1) a vehicle that is engaged in urgent repair work to a public utility service
 - (2) a vehicle that is being used as an emergency vehicle in transit to or attendance at an emergency
 - (3) a branded Whangarei District Council vehicle used by any officer or contractor engaged in work for the Council

- (4) a vehicle that is being used by a contractor engaged in work for Council and which displays evidence of this on the vehicle.

31.4 A person is not in breach of this Bylaw if that person proves that the act or omission -

- (1) took place in compliance with the directions of an enforcement officer or a parking warden;
or
- (2) in the case of an act or omission done by an enforcement officer or a parking warden, was necessary in the execution of the person's duty.

Part 7: Savings

32 Savings

- 32.1 Any resolution, approval, permit or other act of authority made under the Whangarei District Council Parking and Traffic Bylaw 2005 which is current at the time of revocation of that bylaw remains in force on its terms until amended, replaced or revoked by Council.

RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of _____

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.