

## Statement of Proposal

### **HURUNUI DISTRICT COUNCIL KEEPING OF ANIMALS, POULTRY AND BEES IN URBAN AREAS BYLAW 2009**

This statement is made for the purposes of sections 83 and 86 of the Local Government Act 2002 and includes the full draft of the proposed Keeping of Animals, Poultry and Bees in Urban Areas Bylaw.

#### **Reasons for the Proposal**

Section 145(a) of the Local Government Act (LGA) empowers the Council to make a bylaw for the District for the purpose of protecting the public from nuisance. The assessment shown below includes the reasons for each section within the bylaw in accordance with section 155 of the LGA.

#### **Reasons for the Proposal**

##### **What is the perceived problem(s)?**

A small, but regular, number of service requests are received in respect of nuisance from noise, odour, and browsing caused by animals kept in urban areas. The Council consider that the current mechanisms for managing nuisances associated with such animals are inadequate.

##### **What are the options for addressing the problem(s)?**

The Council could:

- Do Nothing; or
- Have a Bylaw; or
- Rely on public education
- Control animals through the District Plan

##### **Assessment of the options (including why a bylaw is the most appropriate way to address these problems):**

Do Nothing – If nothing is done then the Council's ability to protect the public from nuisance caused by the keeping of animals in urban areas will continue to be limited.

Bylaw – Section 146(a)(v) of the LGA gives Council specific powers to make a bylaw for the purpose of regulating "keeping of animals, bees and poultry". A bylaw allows the Council to regulate and manage the keeping animals in urban areas to protect the public from nuisance.

Public education – The Council could develop a public education programme targeted to the owners of animals kept in urban areas. This would raise awareness of the issues involved and some improvement may result. However, it would not provide for the enforcement of standards on recalcitrant owners so the ability of Council to protect the public from nuisance will continue to be limited.

District Plan – Any proposed District Plan change would need to address existing issues with the keeping of animals in urban areas and have the flexibility to provide for other associated issues that may not have emerged yet ie other types of animals. District Plan changes are costly and the use of resource management rules would be a clumsy mechanism to control the effects of animals in urban areas.

##### **Is the proposed bylaw the most appropriate form of bylaw?**

Is the bylaw authorised by statutory authority? – Yes, both by section 146(a)(v) of the Local Government Act 2002, and by section 64(1)(m) of the Health Act 1956.

Is the bylaw repugnant to the general laws of New Zealand? – No.

Is the bylaw certain? – Yes, the bylaw is consistent and provides clear direction.

Is the bylaw reasonable? – Yes, the bylaw is not overly restrictive, onerous on any person, or impractical. In addition the bylaw provides for exceptions where it can be shown that the animal is not causing a nuisance.

As well as the above, in order to determine if the proposed bylaw is the most appropriate form of bylaw the assessment shown below has been undertaken on the appropriateness of each section.

Fees – It is fair and reasonable that the Council charge a fee to recover costs for its services. Including these in the Fees and Charges Manual (rather than in the bylaw) allows them to be reviewed annually and therefore amended if necessary, without requiring an amendment to the bylaw.

Penalties and Offences – This section is necessary to give the Council the ability to enforce the bylaw through abatement notices and summary convictions.

Written Consent – This section provides for exceptions where it can be shown that the animal is not causing a nuisance.

Keeping of Animals Not to Cause Nuisance – This section contains general provisions to protect the public from nuisance or threats to public health and safety from any animals in urban areas.

Keeping of Pigs – This section prohibits the keeping of pigs in urban areas as these animals are perceived to be the most problematic in terms of nuisance from odour and threat to public health.

Keeping of Poultry – This section limits the number of poultry that can be kept and determines setbacks from dwellings and buildings relating to food sale or storage, and site boundaries to ensure that nuisance from noise, odour, and threats to public health are minimised.

Keeping of Bees – This section ensures that bees are kept in accordance with industry standards so as not to cause a threat to public safety.

Keeping of Horses/Donkeys/Mules – This section provides setbacks from dwellings on adjoining sites to prevent nuisance from manure and browsing.

### **Does the proposed bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA)?**

Part 2 of the NZBORA sets out 20 rights that are affirmed and protected under the NZBORA, subject to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” (section 5 of the NZBORA). None of the rights appear to be relevant to the matters proposed to be regulated by the bylaw proposed.

## **PROPOSED HURUNUI DISTRICT COUNCIL KEEPING OF ANIMALS, POULTRY AND BEES IN URBAN AREAS BYLAW 2009**

### **1 SHORT TITLE AND COMMENCEMENT**

- 1.1 This bylaw is made pursuant to sections 145 and 146(a)(v) of the Local Government Act 2002, and section 64 of the Health Act 1956.
- 1.2 This bylaw is the Hurunui District Council Keeping of Animals, Poultry and Bees in Urban Areas Bylaw.
- 1.3 This bylaw comes into force on DD MM YYYY.

### **2 OBJECTIVES**

- 2.1 The objectives of this bylaw are:
- to enable Council to control and set standards for the keeping of animals, poultry and bees in urban areas;
  - to protect the public from nuisance; and
  - to protect, promote, and maintain public health and safety.

### **3 DEFINITIONS AND INTERPRETATION**

- 3.1 In this bylaw, except where inconsistent with the context:

***Animal*** has the meaning given to it by section 2 of the Animal Welfare Act 1999.

***Authorised Officer*** means any person appointed by the Council to carry out duties and exercise powers under this bylaw.

***Council*** means the Hurunui District Council.

***Poultry*** means any chickens, geese, ducks, pigeons, turkeys, guinea-fowl, peafowl, game birds, and domestic fowls of all descriptions.

***Urban Areas*** has the meaning given to it by the Hurunui District Plan.

### **4 FEES**

- 4.1 Actual and reasonable fees for inspections and written consent will be charged and included in Council's Fees and Charges manual.

### **5 PENALTIES AND OFFENCES**

- 5.1 Every person commits a breach of this bylaw who:
- (a) Commits, or causes to be committed, any act contrary to this bylaw, or
  - (b) Omits, or knowingly permits to remain undone, any act required by this bylaw, or
  - (c) Refuses or neglects to comply with any notice, or any condition in any such notice, whether public or private, given pursuant to this bylaw, or
  - (d) Obstructs or hinders any officer of the Council in the performance of any power, or duty conferred upon him or her by this bylaw.

5.2 The maximum penalty on summary conviction is \$20,000.

## **6 WRITTEN CONSENT**

6.1 Any written consent granted by an Authorised Officer under this Bylaw may be given subject to any conditions the Authorised Officer considers necessary to avoid any nuisance or threat to public health or safety.

6.2 Any written consent given under this Bylaw may be revoked or amended at any time by written notice given by an Authorised Officer.

6.3 Where consent under this Bylaw is refused the Authorised Officer will provide written reasons for the refusal.

## **7 KEEPING OF ANIMALS NOT TO CAUSE NUISANCE**

7.1 Subject to clauses 8, 9, 10 and 11 of this Bylaw no person shall within an urban area:

- (a) Keep on any property owned or occupied by that person any animal that is or is likely to be a nuisance or a threat to public health or safety;
- (b) Keep on any property owned or occupied by that person any animal in conditions that are or are likely to be a nuisance or a threat to public health or safety; or
- (c) Keep or allow in a public place any animal in a manner that is or is likely to be a nuisance or a threat to public health or safety.
- (d) An Authorised Officer has power to determine for the purposes of this Bylaw whether there is a threat to public health or safety or a nuisance is being caused by any situation.

## **8 KEEPING OF PIGS PROHIBITED**

8.1 No person shall within an urban area keep any pig, or allow any pig to remain on any property, except with the written consent of an Authorised Officer of the Council.

## **9 KEEPING OF POULTRY**

9.1 No person shall within an urban area:

- (a) Keep more than 12 head of poultry;
- (b) Keep any rooster; or
- (c) Site a building housing poultry closer than 10 metres from any dwelling or building for the storage or sale of food for human consumption, and closer than 3 metres from a site boundary,

except with the written consent of an Authorised Officer of the Council.

**10 KEEPING OF BEES**

- 10.1 No person shall within an urban area keep bees unless the hive owners can show that the bees are being kept in accordance with National Beekeeper Association guidelines and principles and are not causing a nuisance.

**11 KEEPING OF HORSES/DONKEYS/MULES**

- 11.1 No person shall within an urban area within 20 metres of any residential dwelling on an adjoining site keep any horse or donkey or mule, except with the written consent of an Authorised Officer of the Council.

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