



Street Infrastructure Bylaw 2015

As at 15/09/2020 (Resolution CNCL/2020/1)

- 1 **Title**
(1) This **Bylaw** is the Street Infrastructure Bylaw 2015.

- 2 **Application**
(1) This **Bylaw** applies to the Whanganui District.

Part 1

Preliminary provisions

- 3 **Purpose**
(1) The purpose of this **Bylaw** is to protect the public from nuisance and to promote and maintain public health and safety by:
 (a) managing and protecting Council **Street Infrastructure**;
 (b) managing construction in **Public Places**; and
 (c) controlling overhanging trees, property numbering, the erection of barbed wire, razor wire and electric fences.

4 **Interpretation**

- (1) In this **Bylaw**, unless the context otherwise requires, -

Act means the Local Government Act 2002.

Approval means a licence, permit or other form of written approval granted under this **Bylaw**, and includes all conditions to which the approval is subject.

Approved Vehicle Crossing Installer means a person who has met the requirements of Council and who is listed as an approved installer.

Authorised Officer means any **Person** appointed by Council to act on its behalf and with its authority, and may include a police officer.

Bylaw means the Street Infrastructure Bylaw 2015.

Council means the Whanganui District Council or any **Authorised Officer**.

District means the area within the territorial boundary of the Whanganui District Council.

Engineering Standards means the standards for design and construction of **Council** assets adopted by **Council** and published on **Council's** website.

Motor Vehicle has the meaning given by s2 of Land Transport Act 1998:

- “(a) means a vehicle drawn or propelled by mechanical power; and*
- (b) includes a trailer; but*
- (c) does not include—*
 - (i) a vehicle running on rails; or*
 - (ii)[Repealed]*
 - (iii) a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; or*
 - (iv) a trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or*
 - (v) a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or*
 - (vi) a pedestrian-controlled machine; or*
 - (vii) a vehicle that the Agency has declared under section 168A is not a motor vehicle; or*
 - (viii) a mobility device”*

Person includes a corporation sole, a body corporate, and an unincorporated body.

Premises means all land and buildings within a single rating unit.

Public Place means a place that, at any material time, is under the control of **Council** and is open to or being used by the public, whether free or on payment of a charge, and includes any **Road** whether or not it is under the control of **Council**.

Road has the meaning given by s2 of Land Transport Act 1998

- “includes—*
 - (a) a street; and*
 - (b) a motorway; and*
 - (c) a beach; and*
 - (d) a place to which the public have access, whether as of right or not; and*
 - (e) all bridges, culverts, ferries, and fords forming part of a road or street or*
 - (f) motorway, or a place referred to in paragraph (d); and*
 - (g) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment”*

Street Damage means damage to any **Street Infrastructure**, or other **Council** property sustained during building or land development operations and includes the undermining of any **Road** due to excavation on adjacent property and collapse of any adjacent property onto a **Road**.

Street Infrastructure means any **Road** carriageway, planted or sealed berm, cycle path, footpath, lighting standard, street furniture or reticulated infrastructure.

Urban Area means any area of the **District** zoned residential, commercial or manufacturing in the Whanganui District Plan.

Vehicle has the meaning given by s 2(1) of the Land Transport Act 1998

“*vehicle*—

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*
- (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
- (c) *does not include—*
 - (i) *a perambulator or pushchair:*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power:*
 - (iii) *a wheelbarrow or hand-trolley:*
 - (iv) *[Repealed]*
 - (v) *a pedestrian-controlled lawnmower:*
 - (vi) *a pedestrian-controlled agricultural machine not propelled by mechanical power:*
 - (vii) *an article of furniture:*
 - (viii) *a wheelchair not propelled by mechanical power:*
 - (ix) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:*
 - (x) *any rail vehicle “*

Vehicle Crossing means a vehicular entrance providing access between any **Premises** and the carriageway of the **Road** fronting those **Premises**, constructed over a footpath, kerb, berm, water channel or drain.

Vehicle Crossing Construction Standard means the standard for **Vehicle Crossings** adopted by **Council** and published on **Council**'s website.

- (2) Any undefined words, phrases or expressions used in this **Bylaw** have the same meaning as in the Act unless the context plainly requires a different meaning.
- (3) Explanatory notes and additional information attached at the end of this **Bylaw** are for information purposes only, do not form part of this **Bylaw**, and may be made, amended, revoked or replaced by the **Council** at any time.
- (4) The Interpretation Act 1999 applies to this **Bylaw** as if it were an enactment.

Part 1

Vehicle Crossings

5 Vehicle Crossing

- (1) No **Person** shall:
 - (a) drive or propel any **Motor Vehicle** along or across any kerb, footpath, grass plot, flower bed, access way, walkway or cycle track except over a **Vehicle Crossing** constructed in accordance with this **Bylaw** or a **Vehicle Crossing** installed prior to this **Bylaw**.
 - (b) damage or interfere with a **Vehicle Crossing** without the **Approval** of **Council**.
- (2) No **Person** shall, except with the **Approval** of **Council**, construct, repair, remove or widen any **Vehicle Crossing**.
- (3) **Council** may require a **Person** who undertakes building or development work on **Premises** to install a **Vehicle Crossing**.
- (4) If, in the opinion of **Council**, a **Vehicle Crossing** is unsafe, or in a state of disrepair, or fails to meet **Council's Vehicle Crossing Construction Standard**, **Council** may require the owner or occupier of the **Premises** to which the **Vehicle Crossing** provides access:
 - (a) to repair the **Vehicle Crossing**; or
 - (b) to remove and reconstruct the **Vehicle Crossing**.
- (5) All works associated with the construction, repair, removal or widening of any **Vehicle Crossing** shall be undertaken by an **Approved Vehicle Crossing Installer**.

6 **Infrastructure Bond**

- (1) Except with the **Approval** of **Council**, no **Person** shall undertake any building or development work which will or is likely to cause **Street Damage** without having first paid to the **Council**:
 - (a) an Infrastructure Bond; and
 - (b) a pre-work Infrastructure Inspection Fee; and
 - (c) a post-work Infrastructure Inspection Fee.
- (2) Following the completion of works under clause 6(1) that **Person**:
 - (a) must repair any **Street Damage** or damage to **Council** property resulting from or ancillary to the works and reinstate the asset in accordance with the **Council's Engineering Standards**;
 - (b) may then apply for the return of outstanding bond monies.
- (3) **Council** may repair any **Street Damage** or damage to **Council** property arising from any building or development work and may deduct from the Infrastructure Bond unpaid inspection fees and costs incurred by **Council**, including any reasonable administrative costs.
- (4) For the purposes of determining any damage resulting from works under clause 6(2), **Council's** Street Infrastructure is deemed to meet **Council's Engineering Standards** unless the **Person** referred to under clause 6(1) has provided evidence to the contrary prior to the commencement of building or development work.

Part 2

Street Numbering

7 **Street Numbering**

- (1) **Council** may allocate a street number to any area of land or building or part of a building within the **District** and may change the street number allocated to any such area of land or building for electoral, postal, and other purposes.
- (2) The owner or occupier of every property which has been allocated a number under clause 7(1) shall display that street number so that it is clearly visible from the carriageway of the **Road** fronting those **Premises**.

Part 3

Public Places

8 Overhanging Tree

- (1) No owner or occupier of any land shall allow trees, shrubs or vegetation growing thereon to overhang or encroach by their roots or branches onto any public area where it is likely to impede, obstruct, or endanger pedestrians or traffic; or cause **Street Damage** or impair views from a **Public Place**.
- (2) **Council** may partly or fully remove or trim back to the property boundary all trees or shrubs overhanging or encroaching.

9 Barbed / Razor wire / Electric Fence Projections

- (1) Within an **Urban Area**, no **Person** shall erect or maintain any fence:
 - (a) composed wholly or partly of barbed or razor wire or any similar wire where the fence fronts or abuts any **Road**, footpath, right-of-way, accessway, whether public or private, unless the barbed or razor wire is attached greater than two (2) metres above ground level.
 - (b) containing any electrified component as a boundary fence unless the electrified component is attached greater than 2 metres above ground level and the electrified component is at least 600mm inside the boundary fence.
- (2) No **Person** shall attach to any building or property any object or material which could cause injury to persons in a **Public Place**.

10 Construction in a Public Place

- (1) No **Person** shall, without the **Approval** of **Council**:
 - (a) place or leave, or cause or permit to be placed or left in, on or under a **Public Place** any building material, rubbish, debris, soil or other thing associated with or arising from any building activity;
 - (b) make or dig, or cause or permit to be made or dug, in a **Public Place** any hole or excavation; or
 - (c) blast any rock, stone, earth, timber, or other such material in, on, or near a **Public Place**.

Part 4

Administration and Enforcement

11 Approvals

- (1) The **Council** may grant, (with or without conditions) or refuse any application for **Approval**, at its discretion.
- (2) In deciding to grant or decline an application for **Approval** the **Council** will consider the following general matters for all applications:
 - (a) compliance with the relevant standards;
 - (b) reasonableness or practicality of compliance with the general and specific conditions;
 - (c) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard;
 - (d) impacts on stormwater;
 - (e) traffic safety and the efficient operation of the traffic network;
 - (f) appropriate traffic management plans;
 - (g) ongoing maintenance costs to utility network providers;
 - (h) site reinstatement;
 - (i) whether the **Person** to undertake the works is an **Approved Vehicle Crossing Installer**;
 - (j) payment of prescribed fees, charges or bonds;
 - (k) public liability insurance;
 - (l) whether the activity is consistent with **Council** policies and plans; and
 - (m) any other matters **Council** considers necessary.
- (3) In deciding to grant or decline an application to waive the requirement for the payment of an Infrastructure Bond for **Street Damage Council** will consider the following additional matters:
 - (a) whether or not the building work, site work or excavation work proposed is likely to cause damage to the **Road** reserve.
 - (b) the suitability of a **Person** to hold an **Approval** taking into account any known past operational issues and the applicant's experience and track record.
- (4) Any **Person** who has an application declined or revoked by the **Council** may apply in writing for a review of the decision and the **Council** may review it accordingly.

12 **Approved installers**

- (1) The **Council** may grant, (with or without conditions) or refuse any application for approval for a **Person** to become an approved installer and will consider the following matters:
 - (a) ability to continuously demonstrate the following competencies:
 - (i) producing and implementing TMP's, including the availability of TC and STMS qualified individuals;
 - (ii) the ability to apply for and comply with Corridor Access Requests by electronic submission;
 - (iii) sustainable ongoing workload;
 - (iv) physical works skill for the required activities;
 - (v) management of the crossing site and construction related activities;
 - (vi) knowledge of and compliance with relevant standards and specifications;
 - (vii) the ability to work collaboratively with other contractors, utility network operators and **Council** officers;
 - (viii) the ability to comply with relevant health and safety requirements; and
 - (ix) required insurance cover.
 - (b) the suitability of a **Person** to hold an **Approval** taking into account any known past operational issues and the applicant's experience and track record.
 - (c) any other matters **Council** considers necessary.
- (2) **Council** shall maintain a list of **Approved Vehicle Crossing Installers** and may, at its discretion, review and remove installers.

13 **Non-compliance with this Bylaw**

- (1) The **Council** may use its powers under the **Act** to enforce this **Bylaw**.
- (2) A **Person** who fails to comply with any control, restriction, limitation or prohibitions made pursuant to this **Bylaw** commits an offence under the **Act** and is liable to the penalties set out in that **Act**.
- (3) Every **Person** commits an offence under this **Bylaw** who:
 - (a) Obstructs or hinders an Authorised **Council** Officer in the performance of any duty or power conferred by this **Bylaw**; or
 - (b) Fails to comply with a written instruction issued by an Authorised **Council** Officer in the performance of any duty or power conferred by this **Bylaw**; or
 - (c) Damages, destroys or defaces (or has in his or her possession, without authority from the **Council**) any property, article or thing belonging to **Council** or under **Council**'s control.

14 **Removal of works**

- (1) The **Council** may:
- (a) remove or alter any work or thing that is, or has been, constructed in breach of this **Bylaw**;
 - (b) may seize and impound property if it is materially involved in the commission of an offence; and
 - (c) recover on demand the full costs of removal or alteration from the **Person** who committed the breach.

15 **Recovery in the event of damage or other loss**

- (1) Where any breach of this **Bylaw** destroys, damages, stops, obstructs, or otherwise interferes with any works or property owned, constructed, acquired, or used by **Council**, the **Council** may recover the cost of repairing the damage and/or the full extent of its loss from the **Person** responsible for the breach.

16 **Exceptions**

- (1) A **Person** is not in breach of this **Bylaw** if that **Person** proves that the act or omission took place in compliance with the directions of an **Authorised Officer**.

17 **Savings**

- (1) Any **Approvals** or controls in force at the commencement of this **Bylaw** remains in force until revoked or replaced by an equivalent resolution, **Approval** or decision made by the **Council** under this **Bylaw**.