

Keeping of Animals, Poultry and Bees Bylaw 2020

As at 03/08/2020 (Resolution by Council 2020/86)

1 Title

(1) This bylaw is the Keeping of Animals, Poultry and Bees Bylaw 2020

2 Commencement

- (1) This bylaw comes into force as follows:
 - (a) Cats Clauses 8(1), 8(2) and 8(3) 1 July 2021; and
 - (b) All other sections 31 August 2020

3 Application

(1) This bylaw applies to the Whanganui District.

Part 1

Preliminary provisions

4 Purpose

- (1) The purpose of this bylaw is to:
 - (a) Regulate the control and keeping of Animals, Poultry and Bees within the District to protect the public from nuisance, maintain and promote public health and safety;
 - (b) Control the slaughter of Animals in urban areas;
 - (c) Minimise adverse effects on roads and to road users caused by the movement of Stock and Roadside Grazing.

5 Exclusions

- (2) This bylaw does not apply to the following matters:
 - (a) any dogs; or
 - (b) any zoo or zoological gardens.

6 Interpretation

In this bylaw, unless the context otherwise requires, -

Act means the Local Government Act 2002.

Animal means any member of the animal kingdom, including any mammal, finfish, shellfish, reptile, amphibian, insect or invertebrate which is kept in a state of captivity or domesticated and includes the carcass or constituent parts of that animal but it does not include human beings or dogs.

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.

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

"Breeder" means a person who owns or keeps Animals for the purpose of, or with the intention of breeding from them.

Bylaw means the Keeping of Animals, Poultry and Bees Bylaw 2020.

Council means the Whanganui District Council or any Authorised Officer.

District Plan means the Operative Whanganui District Plan or a Proposed Whanganui District Plan or part, which is deemed to be operative for the purposed of the Resource Management Act 1991.

Keep or Keeping means in respect of all Animals, the owning, looking after, caring for, being in charge of, a custodian or in possession of any Animal and includes their young.

Homekill or Recreational Catch Service Provider has the same meaning as part 6 of the Animal Products Act 1999.

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

Pig means any of the Sus genus but excludes a Kunekune where it is maintained on grass alone without supplementary feeding.

Primary Processor has the same meaning as the Animal Products Act 1999.

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

Explanatory note: Without limiting the meaning of the term nuisance, section 29 of the Health Act 1956 states a nuisance shall be deemed to be created in any of the following cases, that is to say:

- (a) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health;
- (b) where any premises, including any accumulation or deposit thereon, are in such a state as to harbour or to be likely to harbour rats or other vermin;
- (c) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;
- (d) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;
- (e) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health;
- (f) where any noise or vibration occurs in or is emitted from any building, premises, or land (from an animal) to a degree that is likely to be injurious to health;
- (g) where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.

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

Owner means every person who:

- (a) owns the Animal or Bird; or
- (b) is the parent or guardian of a person under the age of 17 years who:
 - (i) is the owner pursuant to paragraph (a) of this definition; and
 - (ii) is a member of the parent or guardian's household living with and dependent on the parent or guardian.

Person includes a natural person, a corporation sole, and a body or persons whether incorporated or not.

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

Poultry means any live domesticated or farmed bird including, but not limited to chicken, domestic fowls of all descriptions, duck, geese, turkeys, budgerigar, canary, cockatoo, pigeon, parrot, peacock, pheasant, ostrich, emu.

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.

Stable means a building in which Stock are kept

Stock includes:

- (a) Any sheep, goat, pig, horse, cattle, deer, camelid, ostrich and emu, which are being herded, mustered or handled in the manner of farm animals or are kept within an effective fence or enclosure for domestic or farming purposes.
- (b) And any other Animal that Council by resolution from time to time determines to be Stock for the purposes of this Bylaw.

Stocking Rate means the number of animals carried or run on a defined area of land. Expressed in stock units.

Livestock Unit (LUS) means the feed requirement used as the basis of comparison for different classes and species of stock. It expresses the annual feed requirements, equivalent to one 55 kg ewe rearing a single lamb. 1 LSU requires approximately 520 kg of good quality pasture dry matter per year.

Stock Underpass means a structure allowing the passage of stock beneath a road.

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"

Temporary Electric Fence means an adequate, electric, Stock proof fence, erected on the Road verge for grazing purposes, which is constructed of:

- (a) Multi-wire tread-in standards; or
- (b) Pigtail standards.

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 "
- (1) 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.
- (2) 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.
- (3) The Interpretation Act 1999 applies to this bylaw as if it were an enactment.

Part 1

General

7 Nuisance

- (1) No person shall:
 - (a) Keep, feed or harbour any Animal which is causing, or is likely to cause a Nuisance, or a threat to public health or safety of people in the vicinity; or
 - (b) Keep, feed or harbour any Animal in such a manner or in such conditions that it is causing, or is likely to cause a Nuisance, or a threat to public health or safety of people in the vicinity; or
 - (c) Keep, feed or allow any Animal in a Public Place in a manner which is causing, or is likely to cause a Nuisance or a threat to public health or safety of people in the vicinity.
 - (d) Keep any stallion, bull, uncastrated male goat, pig or rooster in the Urban Area.
- (2) Any Animal (excluding bees, cats and pigeons) kept on any Premises within the District shall be effectively contained or restrained within the property of the owner or occupier by fence, tether, pen, run or cage so as to prevent the Animal from straying onto any neighbouring property, Road or Public Place.
- (3) Any person keeping or having control of any Animal on any Premises within the District shall ensure that any building or other structure or yard in which they are kept is maintained in a clean and sanitary condition, and that the noise and odour associated with the Animal is as far as practicable confined within the Premises concerned.
- (4) Dead Animals or any part thereof must be removed immediately from any Premises where it is likely to cause a Nuisance.

Explanatory note: Failure to do so may result in an Authorised Officer arranging removal of the dead Animal with costs incurred being charged to the landowner or occupier.

8 Cats

- (1) Except with the approval of Council, no person shall keep more than three (3) cats over the age of three months on a premises within an urban area.
- (2) Any cat over four (4) months must be:
 - (a) microchipped and the cat's microchip registered with New Zealand Companion Animal Register;

and

- (b) de-sexed unless:
 - the cat is kept for breeding purposes; and registered with a nationally recognised cat breeders body;
 or
 - (ii) the owner provides a certificate from a veterinarian stating that the de-sexing of the cat will adversely affect its health and/or welfare.

- (3) Clause 8(1) and (2) do not apply to lawfully established:
 - (a) vets; or
 - (b) SPCA or similar charity; or
 - (c) cat boarding premises.

Explanatory note: The boarding of cats require resource consent under the Whanganui District Plan

- (4) If, in the opinion of Council, the keeping of cats on a premises is or is likely to cause or become a Nuisance, Council may in writing require all or any of the following:
 - (a) reduce the number of cats kept on the premises; or
 - (b) take other such precautions as may be considered by Council to reduce the Nuisance effects.

9 Pigs

- (1) No person shall keep any pig in the Urban Area.
- (2) Except with the approval of Council, no person shall keep a pig in such a manner that at any time the pig can come:
 - (a) Within 50 metres of an occupied dwelling or any wholly or partly occupied building on an adjacent premises; or
 - (b) Within 50 metres of a Public Place or any place used for the preparation, storage or sale of food for human consumption.
- (3) Within 50 metres of an adjoining Premises boundary.
- (4) No person shall site or store or place a building housing pigs, pig swill or manure within 50 metres of an adjoining Premises boundary.
- (5) No person shall keep any pig, that in the opinion of Council, is or is likely to be a Nuisance or create a danger to public health.

Maintenance of Pigsties

(6) The owner of any pig must keep the pigsty and all drains, tanks and other areas associated with the pigsty in a clean condition;

Storage of Pig Food

(7) All food intended for any pig shall be contained in an impervious container with a close fitting cover sufficient to prevent access by flies or the escape of offensive odours.

Explanatory note: It is an offence under the Biosecurity (Meat and Food Waste for Pigs) Regulations 2005 to feed pigs untreated meat or untreated food waste.

10 **Poultry**

- (1) No person shall:
 - (a) Keep a rooster or allow a rooster to be kept in an Urban Area.
 - (b) Within and Urban Area to keep more than 12 Poultry.
 - (c) Keep Poultry that by noise, odour, flies, insects, or vermin causes or is likely to cause a Nuisance or create a danger to public health.
- (2) Any poultry house, aviary, coop or poultry run shall be erected and maintained a minimum of:
 - (a) 10 metres of any neighbour's principal building; and
 - (b) 2 metres of the boundary of adjoining premises.

11 Horses

- (1) No person shall:
 - (a) keep a horse in an Urban Area except with the Approval of Council.
 - (b) shall drive, lead, ride or exercise any horse along a footpath or on any lawn, garden, or other cultivation adjacent to or forming part of a Road
 - (c) tether or otherwise leave out any horse for the purpose of depasturing or grazing on a Public Place.
- (2) Within an urban area, the owner, rider or person responsible for any horse that defecates in a Public Place, or Premises, or land other than that owned or occupied by the owner, rider or person responsible for the horse shall, as soon a reasonably practical, remove and dispose of such excrement.

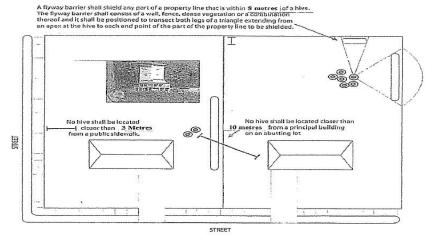
Explanatory note: Within an urban area, the use of a temporary electric fence alone is not considered to meet clause 7(2) above.

12 Keeping of Bees

- (1) Any person keeping bees or permitting bees to be kept on their Premises shall ensure that no Nuisance is caused to other persons by those bees.
- (2) Notwithstanding clause (4) and (5), where Council considers a hive to be dangerous, offensive or likely to be injurious to people the Authorised Council Officer may require the removal of such a hive.
- (3) Any person keeping bees or permitting bees to be kept on their Premises shall ensure that a suitable water source is provided for the bees.
- (4) Except with the approval of Council, On Premises within the Urban Area:
 - (a) The maximum number of hives shall be two (2);
 - (b) All hives shall be registered with Council;

Explanatory note: Registration can be completed through Council's website: https://www.whanganui.govt.nz

- (c) No hives shall be located within three (3) metres from any footpath or the boundary of a Premises:
- (d) No hives shall be located within ten (10) metres of dwelling not located on the Premises.
- (e) Hives shall be located to ensure that the bee's flight path is made to go a minimum height of 1.8 metres above the Premises boundary.
- (f) Where a hive is located within eight (8) metres of a Premises boundary, a flyway barrier shall be in place to ensure that the bee's flight path is made to go a minimum height of 1.8 metres above the Premises boundary.
- (g) The flyway barrier under clause 3 (f) shall:
 - (iii) consisting of either a wall, fence, dense vegetation or combination of the three;
 - (iv) be a minimum of 1.8 metres in height;
 - (v) shall extend a minimum distance either side of the hive equivalent to the distance from the hive to the barrier.



Explanatory note: Resource consent must be obtained from Council for any fence over 1.8 metres high.

- (5) Except with the approval of Council, on a premises outside of an Urban Area:
 - (a) No hive shall be kept less than 40 metres from any boundary of a Premises, roadside, Public Place or right of way unless Council has provided its written approval.
 - (b) Hives shall be located to ensure that the bee's flight path is made to go a height of 1.8 metres above the Premises boundary.

Explanatory note: In addition to the above, all hives are required to be registered under the Biosecurity Regulations. Registration can be completed through the National AFB Pest Management Agency website: www.afb.org.nz

13 Grazing of Stock in Urban Areas

(1) No person shall, except with the written approval of Council, keep stock at a stocking rate of greater than 1 livestock unit per 1000m² of grazeable pasture within an urban area

14 Slaughter of Animals

- (1) No person shall, or permit someone else to, slaughter Animals or dismember, handle, process, hang or otherwise store or dispose of the carcass or remains of Animals on any Premises so as to cause or be likely to cause:
 - (a) A Nuisance; or
 - (b) Produce odour; or
 - (c) Be a threat to public health and safety; or
 - (d) Be offensive.
- (2) Within an Urban Area, all waste associated with the slaughter of Animals must be removed from the Premises immediately.
- (3) Clause 14(2) does not apply to the registered Premises of a Primary Processor under the Animal Products Act 1999 unless it is Homekill or Recreational Catch Service Provider operating from a mobile site.
- (4) Any activity undertaken under clause 14(1) shall be undertaken in such a manner as to screened from view of any person nearby other than the contractor or owner or occupier on whose land the activity is carried out. The screen must be of a sufficient height and size so as to cut out the line of site by any such person so as to prevent the slaughtering or processing operation from being seen.

Part 2

Movement of Stock

15 Movement of Stock

- (1) Council may, by resolution made in accordance with clause 18:
 - (a) designate specific urban roads as stock routes; or
 - (b) designate specific roads where the movement of Stock is prohibited or restricted.
- (2) Where, in the opinion of Council, the movement of Stock by any person along a Road is likely to cause damage to the Road or to an adjoining property, or is likely to be a danger to road uses, Council may:
 - (a) Prohibit the movement of Stock by that person along the Road or part thereof; or
 - (b) Allow the movement of Stock by that person along the Road or part thereof, subject to conditions, and
 - (c) Without limiting the conditions which the Council may impose, the conditions may include the construction and use of a stock race, stock crossing and/or Stock Underpass by that person, the erection of signs, and/or the payment of appropriate costs.
- (3) Except in accordance with clause 16(1), no person shall move any Stock, excluding a horse, across or along any road in an Urban Area, except in an emergency.
- (4) No movement of Stock shall commence or continue outside the hours of daylight.
- (5) All crossing or moving Stock must be under the proper guidance and control of an experienced stock person at all times.
- (6) Where there is impeded vision for road traffic, two people are required to safely control the site. One person must be in front of the Stock and one person must be at the rear of the Stock.
- (7) The drover must keep the Stock moving towards the destination at all times.
- (8) Road Crossings for Stock shall be classified as either 'Permitted', 'Conditional' or 'Restricted', according to the following factors:

(a) Permitted

- (i) The number of Stock being moved is not to exceed the permitted maximum appropriate to the average daily traffic volumes at the site of the movement as indicated in Appendix 1 - Chart 1 – Requirements for Dairy Stock Movement Permits;
- (ii) The number of Stock movements shall not exceed 15 in any one calendar month;
- (iii) A minimum of 250 metres of unimpeded visibility is required between any approaching Motor Vehicle or Vehicle on the open Road and any potential hazard or obstruction posed by the movement of stock.

(b) Conditional

- (i) Where at least one permitted factor under Appendix 1 is exceeded, or where the specific characteristics of the location require conditional classification; but where no restricted classification factor is exceeded.
- (ii) Conditions include the following:
 - (1) Washing or sweeping the road after each Stock movement;
 - (2) The placement of an approved Stock/Road protective mat across the Road
 - surface before the stock cross;
 - (3) A reduction of the minimum length of unimpeded visibility, subject to specific; and
 - (4) Road safety precautions being implemented.

(c) Restricted

- (i) Stock movement shall be via an approved Stock Underpass, if:
- (ii) The number of Stock being moved exceeds the maximum allowed in relation to average daily traffic volumes at the site of the crossing, as indicated by Appendix 1 Chart 1 Requirements for Dairy Stock Movement Permits; or
- (iii) The number of Stock movements exceeds 60 in any calendar month.

16 Grazing of Road Reserve

- (1) Subject to holding valid and adequate public liability insurance, a person may apply to Council to obtain a Permit for the temporary grazing of Council's road reserve.
- (2) Subject to clause 15(1) above Stock must be contained within a Temporary Electric Fence and be electric fence trained.
- (3) The Temporary Electric Fence shall be at least:
 - (a) 1.0 metre from any water table; and
 - (b) 2.0 metres from the edge of any Road.
- (4) The Temporary Electric Fence shall be erected only on the road reserve directly adjacent to the licensee's property, unless written permission is gained from the licensee's neighbour to graze that neighbour's road reserve frontage.
- (5) Safety reflectors visible from the left hand approach shall be fitted to both ends of the Temporary Electric Fence, and at not more than 50 metre intervals along the length of the temporary electric fence.
- (6) A Temporary Electric Fence is to be used during daylight hours only. Stock must be removed for the duration of the hours of darkness.
- (7) Council may specify Roads where a Temporary Electric Fence must be removed for the duration of the hours of darkness.
- (8) The Stock owners are responsible for the security of all Stock grazing the road reserve, at all times.
- (9) The Stock owners are liable for all Stock grazing the road reserve at all times.

17 Gates and Cattle Stops Across Roads

- (1) Council may, in writing, permit the erection of a swing gate or a cattle stop, or both, across any Road, where:
 - (a) In Council's opinion it is not practicable or reasonable to fence the Road; or
 - (b) By agreement the Road has been taken, or may be constructed, through private lands, and the landowner requests that a cattle stop be erected on the outer boundary.
- (2) Where a swing gate or cattle stop is erected across a Road under clause 17(1), a sign with the words "Public Road" legibly printed in letters not less than 75 mm in height, must be fixed on each side of the swing gate or cattle stop, and maintained at all times by the person holding the permit for the swing gate or cattle stop.
- (3) Where a swing gate or cattle stop across any Road is considered redundant or an inconvenience, either by Council or by a petition supported by 20 or more residents of the district, Council may serve notice on the person authorised to erect the swing gate or cattle stop, of Council's intention to revoke the permit and have the swing gate or cattle stop removed.
- (4) Where a swing gate or cattle stop is erected across a road for the purpose of confining or grazing Stock, Council may impose conditions regarding the maintenance of that Road.
- (5) Council may require a landowner to fence the roadside frontage where it is considered public safety or convenience renders it expedient.

Part 3

Administration and Enforcement

18 Resolutions

- (1) A resolution made under this bylaw may-
 - (a) regulate, control or prohibit any matter or thing generally, or for any specific classes of case, or in a particular case; or
 - (b) apply to any specified time or period of time.
- (2) A resolution under clause 18(1) shall be public notified
- (3) Clause 18(2) does not apply to any proposal, which will consolidate resolutions previously made under this part or has the same effect as a resolution made under a bylaw revoked by this part.

19 **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 Bylaw 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) 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;
 - (e) whether the activity is consistent with Council policies and plans.
- (3) In deciding to grant or decline an application for approval the Council will consider the following addition matter for the following applications:
 - (a) Bees:
 - (i) Suitability of the water source;
 - (ii) Availability of a suitable food source; and
 - (iii) Density of hives within the surrounding area.
 - (b) Pigs
 - (i) Written approval of the adjacent neighbour
- (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.

20 Review of an approval

- (1) The Council may cancel, amend or initiate a review of an approval issued under this Policy if:
 - (a) change of circumstances relating to the:
 - (i) Premises; or
 - (ii) Owner or occupier of the Premises; or
 - (iii) Animals kept or remaining on the Premises; or
 - (iv) Neighbouring approval.

or

- (b) if urgent action is required to protect the public from unsafe or hazardous conditions; or
- (c) the activity authorised in the approval is likely to
 - (i) Impact on public health and safety; or
 - (ii) Cause a nuisance; or
 - (v) Cause an unreasonable obstruction; or
 - (vi) Cause the potential for offensive behaviour in a public place.

or

- (d) a person has failed to meet the conditions of their approval or any other requirements of any relevant criteria, policy or guidelines approved by the Council; or
- (e) a person that holds an approval fails to meet any written instructions within the specified timeframes.
- (2) A review of an approval, may result in:
 - (a) Amendment of the approval; or
 - (b) Suspension of the approval; or
 - (c) Withdrawal of the approval; or
 - (d) No further action.

21 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 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.

22 Impounding

- (1) Council has the ability to impound, without warning, any Animal which is found wandering;
- (2) Council has the ability to impound Animals in breach of this Bylaw.
- (3) Any Animal impounded will be kept for the required period as determined by the relevant statute.
- (4) Council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Act.

23 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; and
 - (b) recover on demand the full costs of removal or alteration from the person who committed the breach.

24 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.

25 Exceptions

- (1) 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 authorised officer; or
 - (b) in the case of an act or omission done by an authorised officer, was necessary in the execution of the person's duty.

26 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.

Appendix 1

Stock Movements

