



**WHANGANUI  
DISTRICT COUNCIL**  
Te Kaunihera a Rohe o Whanganui

**Statement of Proposal:**  
Public Places Bylaw 2023

## 1. SUMMARY OF INFORMATION

Whanganui District Council ('the Council') is seeking feedback on the review of the Public Places, Parks and Reserves Bylaw 2016. Council is proposing to retain the existing bylaw with changes to the drafting to improve clarity and usability, and with amendments to definitions.

Council has completed a review of the bylaw and proposes that the amended bylaw:

- is the most appropriate way to address the problems identified,
- is the most appropriate form of bylaw, and
- does not give rise to implications under the New Zealand Bill of Rights Act.

Council is also proposing to modify the way park bookings are charged. Previously most bookings of our outdoor spaces were handled with a flat fee of \$50. Council is now proposing that the fee should be variable depending on relevant factors such as the person or group making the booking, the activity being booked for, and the park being booked.

## 2. INTRODUCTION

The Public Places, Parks and Reserves Bylaw was introduced in August 2016. Under the Local Government Act 2002, the bylaw was due to be reviewed in August 2021 but was delayed while we were waiting on a review of the overarching strategy. If it is not reviewed by August 2023, the bylaw will lapse.

Under section 145 of the Act, Council may create bylaws for the following purposes:

- Protecting the public from nuisance,
- Protecting, promoting and maintaining public health and safety, and
- Minimising the potential for offensive behaviour in public places.

The bylaw is intended to:

- Regulate activities in public places, parks and reserves,
- Protect the environment, and
- Ensure public places, parks and reserves are safe and accessible.

The Public Places, Parks and Reserves Bylaw 2016 is also the bylaw that makes it an offence to drive on reserves, parks and sand dunes in the District, except in places specified by Council for driving.

The Bylaw is applicable to the Whanganui District.

The Bylaw does not regulate freedom camping which is covered by the Freedom Camping Bylaw 2021.

## 3. REASONS FOR PROPOSAL

The Council has reviewed the existing bylaw and is proposing it be improved with various updates to clarity, definitions, and better alignment with the Open Spaces and Physical Activity Strategy adopted in 2022.

The Bylaw also provides a framework to grant permits and charge fees for bookings, which council considers to be outdated and in need of revision. The current system has been in place for several years, and it is unclear from a user perspective as to which activities need a booking, what fees will

be charged, and what users can expect from booking. Under the Local Government Act 2002, a local government must consult on any fees it charges. There are three possible charging options:

1. No fee. While community groups, private citizens and commercial groups would still be able to book parks and public spaces for functions, there would be no fee to do so. This would make it easiest for people to book parks, but prioritises events over general day-to-day users of the park. It also means that Council has no means to cover the cost of managing bookings, providing any required support before events, or doing any maintenance work after events have happened. As a result, these costs may need to come back to rates. It is also not an equitable use of park space, as private businesses who make money from the use of public spaces would be treated on equal footing as charities, community groups, and individuals holding private events (such as weddings).
2. Fixed base fee. There would be one fee starting point for everybody who books a park that is then modified by relevant factors such as length or size of booking. This puts booked events and day-to-day users on more of an equal footing, and allows some cost recovery for administration and maintenance costs. It still falls short of equity between commercial organisations, community groups, and private users.
3. Sliding fee (council's preferred option). The fee starting point would be different depending on who is making the booking. For community groups and not for profit groups we expect bookings to be free in most cases. Commercial organisations and private users will be charged. As with option 2, the fee is then modified by various factors about the booking. This balances day-to-day users and events, and is equitable between groups booking events. This option also allows for cost recovery based on how much damage is expected, however, it also costs the most in terms of administration. If this option is chosen, there is also the question of which factors to consider and what priority they are.

The proposed approach to the review and the recommended options align with the Open Spaces and Physical Activity Strategy 2022 to ensure open access and enjoyment for all users and to encourage use.

#### 4. ISSUES AND OPTIONS

##### **Bylaw**

1. Retain existing bylaw (status quo)

Under this option Council would retain the bylaw in its current form. This would involve rejecting the proposed draft and affirming the current bylaw to continue forward.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- The bylaw sets out a consolidated set of standards for regulating behaviour in public places.</li> </ul>	<ul style="list-style-type: none"> <li>- The current bylaw has definitions that are not consistent with current bylaws or acts.</li> <li>- The current bylaw has sections that are unclear and could be improved.</li> <li>- The fee system is outdated and not user-friendly.</li> </ul>

## 2. Amend the Public Places, Parks and Reserves Bylaw 2016 (recommended)

Under this option Council would amend the Public Places, Parks and Reserves Bylaw.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- The bylaw will continue to provide a consolidated set of standards for regulating behaviour in public places.</li> <li>- It will be clearer, more consistent, and more usable.</li> </ul>	<ul style="list-style-type: none"> <li>- Having a bylaw in place regulating conduct in public places can create an expectation that conduct will be actively monitored in public places.</li> </ul>

## 3. Revoke the Public Places, Parks and Reserves Bylaw 2016

Under this option Council would revoke the Public Places, Parks and Reserves Bylaw and rely on other bylaws/national legislation to manage adverse behaviour/activities in parks.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- There would be reduced expectation of Council intervention around nuisance in public spaces.</li> </ul>	<ul style="list-style-type: none"> <li>- Council would lose a consolidated form of enforceable standards of behaviour.</li> <li>- Council would lose the ability to issue permits for park/public place use.</li> <li>- Council and police will lose the ability to enforce against certain type of behaviours which are prohibited by the bylaw.</li> </ul>

### Fees – options being consulted on

#### 1. No fee

Under this option, Council would charge no fee to any group or person who wants to book a public space.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- There are no cost barriers to booking.</li> <li>- Booking administration is minimised.</li> </ul>	<ul style="list-style-type: none"> <li>- Bookings are prioritised over day-to-day users.</li> <li>- There is no cost recovery for administration work or maintenance.</li> <li>- All booking types are treated equally irrespective of whether they are commercial users or community groups.</li> </ul>

#### 2. Fixed base fee

Under this option, Council would charge the same base fee to anybody who wants to book a public space, with the total fee being impacted by circumstances related to the booking.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- Booking administration is low.</li> <li>- Day-to-day users are balanced with booked events.</li> <li>- There is some cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>- All booking types are treated equally irrespective of whether they are commercial users or community groups.</li> <li>- Equity for users as some groups may cause more damage.</li> <li>- Limited ability to cost recover for work or maintenance.</li> </ul>

### 3. Sliding fee (recommended)

Under this option, the base booking fee as well as the total will change based on a number of different factors. Starting points would be along the lines of:

- Free for community groups,
- \$75 for a private booking (e.g. a wedding),
- Minimum \$100 fee and \$50 per selling unit per day for commercial events,
- \$30 per day for an independent commercial trader.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>- Day-to-day users are balanced with booked events.</li> <li>- The cost recovery is closest to expected need.</li> <li>- Bookings are treated differently based on their own differences (i.e. commercial groups vs community groups).</li> <li>- Greater ability to cost recover for any work or maintenance required.</li> </ul>	<ul style="list-style-type: none"> <li>- Admin cost is highest.</li> </ul>

### If you prefer option 2 or 3...

Which factors do you consider important, and what priority should they be?

- Commercial groups versus community groups,
- Free events versus paid events,
- Individuals versus organisations,
- Long bookings versus short bookings,
- More popular spaces versus less popular spaces,
- Expected high damage to parks versus expected low damage,
- Expected high nuisance to other users versus expected low nuisance to other users,
- Sale of alcohol versus no sale of alcohol.

There are other possible options we could consider in relation to our bookings. Which of these do you support and why?

- Certain groups should always have free bookings (i.e. community groups and not-for profit groups),
- The option to waive fee in some circumstances,
- Taking a deposit for some (or all) bookings.

## 5. CONSULTATION AND SUBMISSIONS

Consultation will run from 2 June to 2 July 2023. Submissions will be accepted both online and in paper copy. Hearings and deliberations will follow later in the year.

## 6. DETERMINATION OF APPROPRIATENESS

In reviewing the bylaw Council must determine (s160(2) and s155) whether a bylaw is:

- The most appropriate method of addressing the perceived problem;
- The most appropriate form of a bylaw; and
- Not inconsistent with the New Zealand Bill of Rights 1990.

Following the review of the bylaw Council must consult using the special consultative procedure and decide to either retain, amend or revoke the bylaw.

### Appropriateness

The problem needs to be defined before determining whether a bylaw is the most appropriate method of addressing the perceived problem. The purpose of this bylaw is to:

- Regulate activities that take place in public places, parks and reserves;
- Manage the effects of potentially damaging activities in public places, parks and reserves;
- Set enforceable standards of behaviour in public places, parks and reserves;
- Protect the public from potentially harmful activities and behaviour in public places, parks and reserves;
- Ensure parks, public places and reserves are accessible and safe for all.

Council has determined that a bylaw is the most appropriate way to regulate the activities that take place in public places, parks and reserves.

The purpose of the bylaw can be divided into three broad categories: safety, usability, and the environment.

The bylaw prohibits/restricts a specified list of activities in order to promote amenity and safety in public places. It provides a basis for police to issue enforcement action against users of public spaces who are engaging in potentially harmful behaviour. It can also be used as a reference in signage that attempts to prohibit violation of a bylaw.

The bylaw is also the most appropriate method of providing a regime for the public to book public places for private events. The bylaw provides a process for the public to inform Council when undertaking potential nuisance activities such as busking and fairs, and allows Council to manage any adverse effects arising from such events. It enables Council to provide clarity to the community when booking activities in Council-run public places.

Finally, the bylaw helps protect the environment by placing limits on human use and banning disposal of waste and killing animals amongst others.

### Form of the bylaw

The 'form of the bylaw' refers to the structure of the bylaw and the drafting of the individual clauses.

Council has reviewed the Public Places, Parks and Reserves Bylaw 2016 and considers that while the rules applying to activities in public places, parks and reserves are working, the bylaw should be updated for clarity.

The proposed amended Public Places Bylaw 2023 is attached as Attachment 1.

Consistency with the New Zealand Bill of Rights Act 1990

The New Zealand Bill of Rights Act 1990 guarantees a number of rights and freedoms including freedom from unreasonable search and seizure and discrimination, and freedom of expression, association, peaceful assembly and movement.

Council considers the provisions as drafted are consistent with the New Zealand Bill of Rights Act 1990.

Following the prescribed special consultative procedure set out in section 83 of the Local Government Act 2002, the Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights 1990 implications, if any.