

Kaikoura District Council

Statement of Proposal

**Proposed Making of Structures,
Works and Items in Public Places Bylaw**

1. Introduction

Kaikōura District Council is proposing the making of a Structures, Works and Items in Public Places Bylaw to provide controls on the design, construction, maintenance, demolition or other works on structures that are in or above public places (in particular roads and footpaths) and the placement of structures or objects in or above those places.

Unlike most other local authorities Kaikōura District Council does not currently have robust and readily enforceable regulatory provisions to manage these matters and ensure that such places are maintained in a form suitable for their safe and unobstructed use by the public, but also recognising that the effective management of these spaces is also important to some businesses.

One consequence of this has been that some issues relating to the condition of verandahs or balconies over footpaths have been difficult to resolve, and the potential exists for the range and severity of such issues to increase, creating hazard and nuisance to both the public and businesses.

Section 145 of the Local Government Act 2002 empowers Council to make Bylaws for its district for one or more of the following purposes (Section 145):

- a. Protect the public from nuisance
- b. Protect, promote and maintain public health and safety
- c. Minimise the potential for offensive behaviour in public places.

It is believed that issues that currently exist meet criteria a and b above, and that as such the making of a bylaw to address these matters would be a justifiable and appropriate response.

2. Purpose of this Statement of Proposal

Council believes that the management of public places is likely to be of interest to and potentially have impact on the public it is believed that the Special Consultative Procedure of the Local Government Act should be followed in the proposed making of the Structures, works and Items in Public Places Bylaw.

As part of the Special Consultative Procedure the Council must produce a Statement of Proposal, which contains a summary of information that is a fair representation of the major matters in the proposal and make it available to the community. This document is the Statement of Proposal. The information contained in this Statement of Proposal has been approved by Council for notification and consultation.

3. Proposed Structures, Works and Items in Public Places Bylaw

The proposed bylaw puts in place controls relating to three main aspects of use of public places, in particular roads and footpaths, as follows:

- Verandahs, balconies, awnings and other projections from buildings: Form, dimensions, use, maintenance, modification, associated charges.
- Construction, maintenance and demolition work in public places: Minimising hazard or nuisance to public, preventing or making good damage caused
- Placement of Items in Public Places: Minimising obstruction, associated charges

Whilst the bylaw attempts to provide more consistent standards in respect of the form and maintenance of verandahs, the rules relating to the form of these structures or associated features will not be retrospectively applied unless a previous request has been made by a Council officer for the associated issue to be remedied.

The introduction of the bylaw would only be expected to have any significant immediate effect on a very small number of premises that have either not conducted adequate maintenance or have not responded to previous requests from Council to address particular matters.

4. Report under Section 155 of the Local Government Act 2002

In proposing a Bylaw, Section 155 of the Local Government Act 2002 requires the Council to:

- a. determine whether a Bylaw is the most appropriate way of addressing the "perceived problem", and
- b. if so, determine whether the proposed Bylaw is the most appropriate form of Bylaw, and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990

Bylaws cannot be inconsistent with the New Zealand Bill of Rights Act.

It is believed that a bylaw is the most appropriate means of addressing the problem because there is a need for readily enforceable provisions relating to these matters, and a bylaw can provide that, whilst other approaches cannot.

It is also believed that the proposed bylaw is the most appropriate form of bylaw for the Kaikōura District since it is relatively short and simple, making it suitable for use in a community where both affected parties and Council as the regulator have limited resources that would make application of a complex bylaw difficult.

The bylaw does not infringe any of the rights contained in the NZ Bill of Rights 1990.

It is therefore considered that the proposed Structures, Works and Items in Public Places Bylaw meets all of the tests set by the Act.

Dave Clibbery

Senior Manager Operations