

# Statement of Proposal

## Draft Greater Wellington Regional Council Parks, Forests and Reserves Bylaw

### 1. Introduction

Greater Wellington Regional Council has reviewed the *Wellington Regional Council Bylaws for Forests, Parks and Recreation Areas 1994* (the 1994 Bylaws) in accordance with the requirements set out in the *Local Government Act 2002 (LGA 2002)*. As a consequence of this review, the Council is proposing a new draft Bylaw: *Draft Greater Wellington Parks, Forests and Reserves* (the draft Bylaw).

The draft Bylaw contained in this Statement of Proposal is made in accordance with the powers contained in section 149 of the *LGA 2002*. The *LGA 2002* requires that the Council follows the special consultative procedure when making amendments or new bylaws.

This Statement of Proposal has been prepared in accordance with the requirements set out in section 86 of the *LGA 2002*. It includes:

- The reason for the proposal
- Consideration of whether a bylaw is the most appropriate way to address the perceived problem
- Consideration of whether the proposed bylaw is the most appropriate form of the bylaw
- Implications under the *New Zealand Bill of Rights Act 1990*
- The draft Greater Wellington Parks, Forests and Reserves Bylaw

### 2. Reason for proposal

The *LGA 2002* requires the Council to review its bylaws. As a result of the review, the Council considers that the *Wellington Regional Council Bylaws for Forests, Parks and Recreation Areas 1994* should be amended. The *LGA 2002* requires the Council to initiate the special consultative procedure if it considers that bylaws should be amended following their review.

The new Bylaw has been proposed for a number of reasons. The *1994 Bylaws* are now more than 13 years old. Some of the provisions within are outdated because of changes in legislation, management plans or other Council policies that have occurred since that time. The penalty provisions are also considered inadequate.

### **3. Consideration by the Council of section 155 of the *Local Government Act 2002***

#### **3.1 General**

The *LGA 2002* specifies the process for reviewing bylaws. The Council must first determine whether a bylaw is the most appropriate way of addressing the perceived problem. If the Council determines that a bylaw is the most appropriate way, it must determine whether the proposed bylaw is the most appropriate form of bylaw (section 155(2)(a)). The Council must also determine whether the proposed bylaw gives rise to any implications under the *New Zealand Bill of Rights Act 1990* (section 155(2)(b)). Each of these tests is examined further below:

#### **3.2 Is a bylaw the most appropriate way?**

The bylaws covering parks and forests have been in place for many years. As Greater Wellington Regional Council owns and manages various types of land tenure it thus requires consistent set of bylaws controlling activities in these areas. Section 149 of the *Local Government Act 2002* empowers the Council specifically to make bylaws for forests, parks, reserves, recreation grounds, as well as works related to water supply and flooding. This in itself signals that bylaws are the appropriate way of addressing inappropriate activities in these areas. Alternative means such as public education and encouragement still require a regulatory framework. Park rangers and other staff need to have regulatory tools to deal with situations where non-regulatory methods have failed. Consequently, the Council is satisfied that the bylaws are appropriate in the circumstances.

The draft Bylaw provides basic information for park users regarding unacceptable behaviour and use (i.e., prohibited activities), as well as clear definition as to what activities and use require approval (i.e., activities requiring approval) in order to be carried out in a park, forest or reserve.

#### **3.3 Are there any implications under the *New Zealand Bill of Rights Act 1990*?**

In addition to the considerations undertaken above, the proposed bylaw must meet the legal standards of reasonableness and cannot be inconsistent with the freedoms protected and affirmed in the *New Zealand Bill of Rights Act 1990*. Officers do not believe that there are any implications under the *New Zealand Bill of Rights Act 1990*. The Council will only seek to impose justifiable and reasonable limitations on persons in the interests of public safety and protection of both public and private property.

### **4. Proposed Bylaw**

Attached is a copy of the draft Greater Wellington Regional Council Parks, Forests and Reserves Bylaw.

# Greater Wellington Regional Council Parks, Forests and Reserves Bylaw - Draft

Bylaws controlling activities carried out in regional parks, regional forests, including water catchment areas and soil conservation and river control reserves

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## Explanation

The Council is authorised under section 149 of the Local Government Act 2002 to make bylaws managing the use of regional parks and forests, and soil conservation and river control reserves that it owns or administers. The Local Government Act 2002 also allows the Council to make bylaws for flood protection and flood control works.

This Bylaw manages activities so that these parks, forests and reserves can be used for their intended purpose without users being subject to hazard, nuisance or activities that may adversely affect their health, safety and well-being.

It provides for the protection of the natural and heritage resources, land, buildings and structures of all regional parks, forests and reserves from damage or loss through any human activity.

The operative *Regional Parks Network Management Plan*, the *Regional Forest Land Management Plan*, and individual park management plans and access plans identify activities that can be undertaken as of right without approval (allowed activities), activities that need to be managed through specific controls (managed activities), activities for which approval is required (restricted activities) and activities which may not occur in any circumstances (prohibited activities). The Bylaw ensures compliance with these management and access plans and they should be referred to when interpreting the Bylaw.

The Bylaw does not prevent or inhibit any lawful management or emergency services activity within a regional park, forest, recreation area or reserve.





## 1. Bylaw administration

1.1 This Bylaw applies to all regional parks, forests and reserves owned or administered by the Council, and any flood protection works and flood control works undertaken by or on behalf of the Council.

1.2 This Bylaw shall come into force on [date].

*The 1994 Wellington Regional Council Bylaws for Forests, Parks and Recreation Areas* will be revoked on [date].

1.3 This Bylaw is in addition to all other Council powers under the Reserves Act 1977, Local Government Act 2002, regional parks and forest management plans, water catchment area access plans, floodplain management plans and any other Acts and policies applying to regional parks, forests and reserves.

1.4 This Bylaw shall not apply to:

- (1) Officers or agents of the Council exercising their lawful functions; or
- (2) Emergency services and civil defence personnel carrying out public duties; or
- (3) Volunteer group activities undertaken in agreement with GW officers; or
- (4) An activity undertaken within the terms of prior written approval from Council, including concessions and leases.

1.5 Applications to obtain the written approval for a proposed activity as set out in part 4 of these Bylaws shall be:

- (1) Applied for in accordance with the provisions set out in the Council's operative concession policy (information on this policy is available on the website or at any Council office); and
- (2) Granted prior to carrying out the activity.

1.6 The Council when considering any application made under clause 1.5 may:

- (1) Require a fee be paid at the time the application is made; and
- (2) Impose conditions, including the payment of fees towards the monitoring of the activity.

## 2. Definitions

**Abandon** means any vehicle or thing that is left in a Park, Forest or Reserve after dusk without approval from an authorised officer to do so.

**Act** means the Local Government Act 2002 and amendments.

**Aircraft** means any device using air as its medium for movement from place to place and includes helicopters, gliders, and hot air balloons. It does not include kites.

**Animal** means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect, or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans;

**Authorised officer** means any person appointed by the Council as an enforcement officer under section 177 of the Act and includes any Police Constable.

**Council** means Greater Wellington Regional Council or an officer authorised to act on its behalf;

**Emergency services** means Police, New Zealand Fire Service or Ambulance personnel and ancillary services such as search and rescue

**Litter** shall have the meaning, given to it in section 2 of the Litter Act 1979

**Management plan** means an operative management or access plan for any regional park, forest, recreational area or reserve owned or managed by the Council.

**Nuisance** shall have the meaning given to it by section 29 of the Health Act 1956 and includes a person, thing, or circumstance causing distress or unreasonable interference with the peace, comfort or convenience of any person.

**Person** means a natural person or a corporate or unincorporated body of persons.

**Proscribed substance** means a mind altering substance, whether synthetic or naturally occurring, which substance might alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations in a person but does not include:

- (1) Medically prescribed substances ingested by the person for whom they were prescribed; or
- (2) Substances purchased from a pharmacy without medical prescription; or

- (3) Alcohol as defined in the Sale of Liquor Act 1989; or
- (4) Nicotine

**Regional park, forest or reserve** means:

- (1) Land that is a regional park of the Council pursuant to section 139(1) of the Local Government Act 2002;
- (2) Land that the Council controls and manages as administering body pursuant to the Reserves Act 1977 or any other statute or authorisation;
- (3) Land that is a regional forest held under the Wellington Regional Water Board Act 1972 as future water collection areas, water collection areas, forestry areas, recreation areas or other areas under this Act's control.
- (4) Land that is held under the Soil Conservation and Rivers Control Act 1941 for flood and erosion control purposes and either owned or managed by the Council.

**Sign** means any display of posters, placards, hoardings, handbills, writings, pictures, images, murals and logos or devices, (including but not limited to blimps, balloons, flags, sandwich boards and banners) for advertising or other purposes together with any frame or support.

**Stock** means any animal (except dogs), and its young, kept in captivity and dependent on humans for its care and sustenance.

**Trading** means having or offered for sale, or making available for sale or hire or reward goods or services.

**Vehicle** means a contrivance equipped with wheels, tracks or revolving runners upon which it moves or is moved and includes any motor vehicle, caravan, hovercraft, skateboard, in line skates or similar recreational devices, but does not include a:

- (1) Pram or baby carriage; or
- (2) Non-motorised child's toy including a tricycle, bicycle or scooter.

**Waahi tapu** means a place sacred to the Maori people.

**Written approval** means approval given by the Council as set out in clause 1.5 to undertake a specific activity set out in part 4 of these Bylaws

### **3. Prohibited activities**

No person shall carry out any activity or be responsible for carrying out any activity in a park, forest or reserve as described below:

#### **Access**

- 3.1 Enter into or remain (including with any animal or vehicle) on any regional park, forest, reserve, that is closed to public access or temporarily restricted to the public as advised by an authorised officer or by signage;

#### **Alcohol and drugs**

- 3.2 Ingest any proscribed substance, or be intoxicated so as to cause a nuisance that could result in property, land or Council functions being damaged, misused or lost.

#### **Chemical use**

- 3.3 Interfere with, including remove or relocate any herbicide, insecticide or pesticide or any pest control facility that has been placed in a regional park, forest or reserve as part of a Council pest control programme.
- 3.4 Use or place any herbicides, insecticides or pesticides within a regional park, forest or reserve.

#### **Compliance with management plans**

- 3.5 Conduct any activity that is prohibited by an operative parks, forests or reserve management plan or access plan.

#### **Damage or interference**

- 3.6 Obstruct any operation of any park, forest or reserve, park, forest or reserve operation (including flood protection works and ecological site restoration areas);
- 3.7 Interfere with the operation, or gate or structure of any park, forest or reserve so as to endanger public health and safety or stock; or
- 3.8 Interfere with or damage any archaeological, heritage, historic or waahi tapu site; or
- 3.9 Deposit, remove or damage any vegetation, material, buildings, structures, or surfaces.

#### **Dangerous or distressing activities**

- 3.10 Carry out an activity that is likely to be dangerous or injurious to the health of any person or animal; or

- 3.11 Chase, unlawfully interfere with, or cause distress to any stock or other animal or wildlife; or
- 3.12 Light any firework or signal flare (except in an emergency); or
- 3.13 Possess any weapon or instrument of a dangerous nature (except with approval for hunting purposes, as in 4.8).

### **Dogs**

- 3.14 Allow dogs to behave in an intimidating manner or to interfere with stock or animals and wildlife

### **Harvesting and planting**

- 3.15 Remove, kill, injure, catch, snare or trap any animal or wildlife (except with approval for hunting, as in 4.6)
- 3.16 Bring in, leave or liberate any animal (unless allowed for in the management plan); or
- 3.17 Bring in, leave, plant, remove or interfere with any tree, shrub or plant of any kind or part thereof or sow or scatter the seed of any tree shrub or plant of any kind.

### **Lighting fires, depositing materials or littering**

- 3.18 Leave any fire, gas barbecue or camping stove unattended; or
- 3.19 Deposit, or leave or light any flammable object, noisome material, noxious substance, or pollutant, either on land or, where applicable, in or onto water; or
- 3.20 Deposit or leave any litter in a park, forest or reserve.

### **Nuisances and offensive behaviour**

- 3.21 Behave in such a way as to cause any nuisance or any obstruction or be offensive, including, but not limited to:
  - (1) Painting, drawing, writing, marking or distributing any graffiti, or offensive or indecent matter of any kind; or
  - (2) Using indecent or obscene language; or
  - (3) Acting in a disorderly, intimidating or offensive manner; or
  - (4) Creating in any way any sound or noise that is a nuisance to other persons.

### **Vehicles and riding animals**

- 3.22 Place or leave any material or vehicle, so as to obstruct the public right of

passage on any road, passage or track; or

- 3.23 Drive any vehicle or ride any animal in a disorderly, intimidating, offensive or dangerous manner; or
- 3.24 Use any motor vehicle or ride any animal outside of a defined track or road; or
- 3.25 Wash, clean or repair motor vehicles within a park, forest or reserve; or
- 3.26 Park a vehicle other than in a place set aside by the Council for that purpose, or abandon a vehicle in a park, forest or reserve.

**Waterways**

- 3.26 Unlawfully dam or in any other way restrict the flow of any watercourse; or
- 3.27 Take an excessive amount of natural or reticulated water, or interfering with any natural or reticulated water body.

#### **4. Activities requiring approval**

The following activities can only be carried out in a park, reserve or forest with the prior written approval of the Council, or where the activities are permitted by signage:

##### **Aircraft movement**

- 4.1 Land in an aircraft or having landed allow the aircraft to remain in any regional park or forest [except in an emergency].

##### **Commercial activity and gatherings**

- 4.2 Carry out any commercial activity, trading activity, or solicit any subscription, collection or donation; or
- 4.3 Organise, hold or conduct, or attempt to hold or conduct, any assembly of any kind or conduct themselves so as to in any way impede persons or traffic.

##### **Compliance with management plans**

- 4.4 Enter or remain for the purpose of carrying out any activity for which approval is required under a management plan or other regulation.

##### **Erecting structures, signs or camping**

- 4.5 Put up or erect any structure of any kind or live or camp in any building, tent, structure or vehicle, or camp on any land except in a designated camping ground or where permitted in a management plan.
- 4.6 Put up, display or leave any sign or interfere with any existing signs.

##### **Hunting**

- 4.6 Hunt, trap, kill and/or remove any animal, such as deer, pigs, goats or possums; or
- 4.7 Collect any natural materials, such as seeds, plants or rocks.

##### **Weapons**

- 4.8 Possess or use any weapon for the purposes of hunting, as in 4.6.

##### **Lighting fires**

- 4.9 Light any fire in the open air except in a Council approved fireplace or a gas barbeque or camping stove, provided it is attended.

## **5. Breaches and offences**

Every person commits a breach of this Bylaw who:

- 5.1 Fails to obey a lawful instruction on being requested to do so, by an Authorised Officer; or
- 5.2 Knowingly permits, allows or incites an activity that is a breach of this Bylaw; or
- 5.3 Fails to comply with, a direction for compliance with this Bylaw by an Authorised Officer.
- 5.4 Does not produce the written approval required under part 4 of these Bylaws when requested at any time by an Authorised Officer; or
- 5.5 Acts contrary to, or fails to comply with any conditions set out in any written approval required under part 4 of these Bylaws; or
- 5.6 Obstructs or hinders any Authorised Officer in the performance of his or her duties under this Bylaw; or
- 5.7 Fails to pay any fees on being requested to do so by an Authorised Officer.
- 5.8 No person shall having committed a breach of this Bylaw remain in the park or forest (including vehicles and animals of that person) after being requested to leave by an Authorised Officer, after that Officer having first informed that person of the breach.



## **6. Penalties for breach of Bylaw**

- 6.1 In the event of any breach of this Bylaw the Council may act with or without the assistance of the police take such action as is necessary to stop the breach; or
- 6.2 Every person who breaches this Bylaw commits an offence and is liable on conviction to a fine not exceeding \$20,000 and where the breach is a continuing one a further fine for every day on which the breach is continued.
- 6.3 In addition to the powers under clause 8.1 to act upon any breach of this Bylaw, the Council may pursuant to section 163 of the Act:
- (1) Remove or alter a work or thing that is, or has been constructed or set up in breach of this Bylaw; and
  - (2) Recover the costs of removal or alteration or loss or damage to public property arising as a consequence of any such breach.
- 6.4 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an Authorised Officer, provide his/her full name, and address.