



Nelson City Council

te kaunihera o whakatū

STATEMENT OF PROPOSAL

DOG CONTROL POLICY AND BYLAW 2012

1 Background

1.1 Reasons for the Proposal

Nelson's current dog control bylaw is due for review. It came into effect on 11 April 2005 and will no longer have effect after 12 April 2012. Sections 10 and 10AA of the Dog Control Act require the Council to adopt a dog control policy and bylaw at the same time.

Please note that the entire policy and bylaw is open for consultation, as well as any matters relevant to the policy and bylaw that people wish to raise as part of this consultation process. Council in making its decision will be taking account of all submissions made.

1.2 What are the Issues the Policy Needs to Address?

Section 10 of the Dog Control Act requires territorial authorities to adopt a policy on dogs. Every policy adopted:

- Shall specify the nature and application of any bylaws made to implement it.
- Shall identify any public areas in which dogs are to be prohibited.
- Shall identify public areas in which dogs are required to be on a leash.
- Shall identify any dog exercise areas in which dogs may be exercised without being on a leash.
- Must state whether dogs classified as menacing dogs are required to be neutered.

It can also address any other issues the territorial authority thinks are appropriate.

The territorial authority must give effect to the dog control policy through a dog control bylaw.

1.3 Options to Address the Issues

Do nothing. Review the current policy and bylaw and retain them without changes.

Amend the policy and bylaw. Make changes to the policy and bylaw with the intention of adding or removing public areas from the following categories: dogs prohibited, dogs on leash and dog exercise areas. Review the effectiveness of the Good Dog Owner Policy, the publicity material and signage, and patrols. Review the requirements related to multiple dog ownership. Update the Policy and Bylaw to reflect changes in the Dog Control Act 1996, as a result of Dog Control Amendment Acts in 2006 and 2010.

1.4 Legal Provisions

Section 10 of the Dog Control Act 1996 states that every territorial authority must adopt, in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002, a policy in respect of dogs in the district of the territorial authority.

Section 20 of the Dog Control Act states that any territorial authority may, in accordance with the Local Government Act 2002, make bylaws for all or any of the following purposes:

- Prohibiting dogs, whether under control or not, from specified public places.
- Requiring dogs, other than working dogs, to be controlled on a leash in specified public places, or in public places in specified areas or parts of the district.
- Regulating and controlling dogs in any other public place.
- Designating specified areas as dog exercise areas.
- Prescribing minimum standards for the accommodation of dogs.
- Limiting the number of dogs that may be kept on any land or premises.
- Requiring dogs in its district to be tied up or otherwise confined during a specified period commencing not earlier than half an hour after sunset, and ending not later than half an hour before sunrise.
- Requiring the owner of any dog that defecates in a public place or on land or premises other than that occupied by the owner to immediately remove the faeces.
- Requiring any bitch to be confined but adequately exercised while in season.
- Providing for the impounding of dogs, whether or not they are wearing a collar having the proper label or disc attached, that are found at large in breach of any bylaw made by the territorial authority under this or any other Act.
- Requiring the owner of any dog (being a dog that, on a number of occasions, has not been kept under control) to cause that dog to be neutered (whether or not the owner of the dog has been convicted of an offence against section 53 of this Act).
- Any other purpose that from time to time is, in the opinion of the territorial authority, necessary or desirable to further the control of dogs.

1.5 Is the Proposed Bylaw the Most Appropriate Form of Bylaw?

The proposed policy and bylaw both meet the following tests:

- They are authorised by statutory authority, by sections 10 and 20 of the Dog Control Act 1996.
- The policy and bylaw are not repugnant to the general laws of New Zealand.
- The policy and bylaw are certain and provide clear direction.
- The policy and bylaw are reasonable.
- The policy and bylaw are not overly restrictive, onerous on any person, or impractical.

1.6 Does the Proposed Bylaw Give Rise to Any Implications Under the New Zealand Bill of Rights Act 1990 (NZBORA)?

Part 2 of the NZBORA sets out 20 rights that are affirmed and protected under the NZBORA, subject to “such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” (section 5 of the NZBORA). Section 18 (freedom of movement) of the NZBORA is particularly relevant. The proposed policy and bylaw are consistent with these sections and are a reasonable response to dog control because they balance the need to minimise danger, distress and nuisance to the community generally, with provision for the exercise and recreational needs of dogs and their owners, as required by the Dog Control Act 1996.

2 The Draft Policy and Bylaw

In adopting the draft policy and bylaw for public consultation the Council was required to consider whether the policy and bylaw meet the requirements of sections 10 and 20 of the Dog Control Act 1996.

The Council considered that the proposed policy and bylaw do meet these requirements.

3 Summary of Provisions

3.1 Make changes to the Policy and Bylaw by adding or removing public areas from the following categories: dogs prohibited, dogs on leash and dog exercise areas.

The Proposed Approach

Require dogs to be on a leash as the default in the urban area, including along the transport corridors (Railway Reserve and the Trafalgar 200/Atawhai Shared Pathway), on public streets and along esplanade reserves.

Add new dog prohibited areas, as follows:

- Haven Holes Reserve.
- The Brook Conservation Reserve.
- Trafalgar Park, the Saxton Field Cricket Oval and Athletics Track, and Saxton Field Hockey and Softball Areas.
- the picnic area associated with Sunday Hole, Black Hole and associated barbeque facilities, and Girlies Hole.
- The fenced area of the foreshore and esplanade reserve at Paremata Flats.
- The part of the Marsden Valley Reserve to the east of the Barnicoat Walkway.

Add new dog exercise areas, as follows:

- Maitai Valley – Almond Tree Flat and the paddock before the golf course.
- The following neighbourhood reserves:
 - Whangamoia – Frost Reserve.
 - Atawhai – Frenchay Reserve, Montrose Reserve, Te-Ata Reserve, Todd Bush Reserve and Tresillian Reserve.
 - Nelson City – Andrews Farm Reserve, Betsy Eyre Park, Custom House Reserve, Grampian Oaks Reserve, Pioneers Park, Russell Reserve, Wigzell Park and Wolfe Reserve.
 - Stoke – Aldinga Reserve, Ballard Drive Reserve, Bishops Park, Enner Glynn North Reserve, Manson Reserve, Manu Kau Reserve, Monaco Reserve, Neale Reserve, Ngaio Reserve, Nikau Reserve, Poets Park, Ranui Reserve, Tokomaru Reserve and Woodstock Reserve.
 - Tahunanui – Bisle Reserve, Blackwood West Reserve, Bolt Reserve and Centennial Park.
- Miyazu Reserve (between Neale Park and Paremata Street).
- Saxton Field Circus Oval – excluding the periods when a circus is occupying the area.
- Undeveloped areas of Saxton Field, and a large number of neighbourhood reserves.

Remove the following from the list of dog exercise areas (leash required in these areas):

- Boulder Bank Drive (Sewerside Drive).

- Maitai Walkway above the Collingwood Street bridge.
- The Railway Reserve.
- Bishopdale Reserve (South).

Reasons

The purpose of going to a leash required rule in general, except for defined exercise areas, is to ensure the general public have the confidence to use public areas without undue unwanted confrontation with dogs. This principle is especially important in multi-use areas such as public walkways and cycleways.

This increased restriction on dogs in general public areas has been balanced by providing a significant number of new exercise areas where dogs can be off leash.

A number of extra dog prohibited areas have been added (including Black Hole and the associated barbeque area, and the picnic area associated with Sunday Hole) because these are popular recreation areas used by families, including children. The other reason for dog prohibited areas is to protect wildlife (including at Haven Holes, Paremata Flats and the eastern half of Marsden Valley Reserve).

3.2 Review the Effectiveness of the Good Dog Owner Scheme

The Proposed Approach

The Council proposes to discontinue the Good Dog Owner Policy, and to replace it with a discount for all dog owners who pay their registration fees on time.

Reasons

Most of the provisions of the Good Dog Owner Policy are now included in the Dog Control Act 1996. The Good Dog Owner Scheme takes a lot of time to administer, and it is not an effective mechanism for managing multiple dog ownership. A standard discount for paying registration fees on time will be simpler to administer, and assumes that everyone is a good dog owner unless proven otherwise.

3.3 Review the Dog Ownership Information

The Proposed Approach

Changes to the publicity material are proposed, including advice on what dog owners can do to avoid conflicts with other people in the community, the importance of locking extendable leads where there is a risk of tripping cyclists and pedestrians, and dog training options.

Reasons

The changes are intended to increase dog owners' understanding of the rules and community expectations, and therefore reduce conflict between dogs and people.

3.4 Review the Requirements Related to Multiple Dog Ownership

The Proposed Approach

Allow Nelson residents to keep up to two dogs on any property within the urban area, as of right. Require any person who wishes to keep more than two dogs on their property to gain written permission from the Council to do so.

Dog owners who already have more than two dogs will have an “existing use right” to continue to own their existing dogs until the end of those dogs’ lives. Written permission will be required for ownership of any additional dogs.

This limit does not apply to properties outside of the urban area, as defined on the map attached to both the dog control policy and the bylaw.

Reasons

To improve the Council’s ability to manage the effects of multiple dog ownership through the use of property-specific conditions, and the ability to withdraw approval if conditions are not met or issues arise.

4 Questions for Submissions

The following are questions you may wish to consider when making a submission. Although these specific questions have been posed within this Statement of Proposal, any comment or feedback is welcome.

New “dogs prohibited” areas are proposed to be added to the policy and bylaw, including reserves and sports facilities developed since the last bylaw was adopted, reserves with enhanced bird habitats and pest control, two additional Maitai swimming holes (Black Hole and Girlies Hole), the picnic area associated with Sunday Hole and the barbeque facilities associated with Black Hole.

Questions:

Do you support some or all of these “dogs prohibited” areas?

Why or why not?

It is proposed to generally require dogs to be on a leash as the default in the urban area, including along the transport corridors (Railway Reserve and Trafalgar 200/Atawhai Shared Pathway), on public streets and along esplanade reserves.

Question:

Do you support dogs being required to be on a leash as the default in the urban area?

Why or why not?

The Council proposes to add a large number of new dog exercise areas, including two Maitai Valley areas (Almond Tree Flat and the paddock

before the golf course) as well as the Miyazu Reserve, the Saxton Field circus oval and undeveloped areas of Saxton Field.

Questions:

Do you generally support these reserves being dog exercise areas? Why or why not?

Of the list of reserves proposed to be dog exercise areas (listed in section 3), are there any you have particular concerns about? Why?

It is dog owners' responsibility to carry a bag to pick up doggy dos. However, the Council has installed dispensers for plastic rubbish bags as a convenience for people exercising their dogs in a number of areas in Nelson. The Council proposes to continue to provide bags to the existing dispensers and may expand the service to other areas. This service is funded by dog owner registration fees.

Questions:

Do you agree with the level of provision of doggy do bags?

Do you have any recommendations of where additional dispensers would be well used by dog owners?

The Council proposes to discontinue the Good Dog Owner Policy, and to replace it with a discount for all dog owners who pay their registration fees on time.

Question:

Do you support this approach? Why or why not?

Changes to the publicity material are proposed, including advice on what dog owners can do to avoid conflicts with other people in the community, the importance of locking extendable leads where there is a risk of tripping cyclists and pedestrians, and dog training options.

Questions:

Do you have any suggestions for matters to include in the dog ownership information?

Do you have any comments on current levels of signage?

The level of patrols and enforcement is also under review.

Question:

Do you have any comments about the existing level of patrols and enforcement of the dog control bylaw?

A choice of two different registration tags was provided this year.

Question:

Do you have any comments on the choice of two different registration tags?

5 Submissions

Any person or body interested is welcome to make submissions or comments on any aspect of, or omission from, the bylaw. Please note that the entire policy and bylaw is open for consultation, as well as any matters relevant to the policy and bylaw that people wish to raise as part of this consultation process. Council in making its decision will be taking account of all submissions made.

Submissions are to be in writing and forwarded to:

Dog Control Policy and Bylaw Review
Nelson City Council
PO Box 645
Nelson 7040

Or emailed to: submissions@ncc.govt.nz

Submissions must be received no later than 5.00pm on Monday 5 March 2012.

Any person who wishes to speak to the Council in support of their submission will be given the opportunity to address the Council at a hearing which commences at 9.00am on Tuesday 20 March 2012.

Copies of the proposed policy and bylaw and the attachments are available free of charge from Civic House on request.

All enquiries should be directed to Debra Bradley on 546 0261.