

**REVOCATION OF *BULLER DISTRICT COUNCIL PUBLIC LIBRARIES BYLAW AND BULLER DISTRICT COUNCIL CULTURAL AND RECREATIONAL FACILITIES BYLAW***

The Buller District Council is proposing to revoke the *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw* (the Bylaws).

Attached to this document are:

- A report on the relevant determinations made by Council under section 155 of the Local Government Act 2002;
- A copy of the *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw*.

Council is proposing to revoke the Bylaws because it has determined that bylaws are not the most appropriate way of setting standards for the operation of libraries and other cultural and recreational facilities under its ownership or control.

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**Written submissions on the proposed revocation of the Bylaws are invited and must be received by Council during the submission period which opens Wednesday 18 October 2017 and closes 4.30pm on Monday 20 November 2017.**

Submissions can be made online via Council's website, emailed to [theplan@bdc.govt.nz](mailto:theplan@bdc.govt.nz), faxed to (03) 788 8041, delivered to Council's Westport office or posted to Buller District Council, PO Box 21, Westport 7866.

Submitters who wish to be heard will be given the opportunity to address Council in support of their submission.

**REVIEW OF BULLER DISTRICT COUNCIL PUBLIC LIBRARIES BYLAW AND  
BULLER DISTRICT COUNCIL CULTURAL AND RECREATIONAL FACILITIES BYLAW  
REPORT ON DETERMINATIONS UNDER SECTION 155, LOCAL GOVERNMENT ACT  
2002**

## **INTRODUCTION**

Section 159 of the Local Government Act 2002 (the LGA) requires councils to review bylaws made under the LGA or the Maritime Transport Act 1994.

Section 160 of the LGA outlines the procedure for the review and states that a review is carried out by council "*making the determinations required by section 155 [LGA].*"

The following determination is required under section 155 of the LGA:

- Whether a bylaw is the most appropriate way of addressing the perceived problem.

If it is determined that a bylaw is the most appropriate way of addressing the perceived problem, section 155 of the LGA requires the following further determinations:

- Whether the bylaw is the most appropriate form of bylaw; and
- Whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw* have been reviewed in accordance with the LGA.

This report outlines the findings of Council's determination under section 155 of the LGA.

## **WHETHER A BYLAW IS THE MOST APPROPRIATE WAY OF ADDRESSING THE PERCEIVED PROBLEM**

The perceived problem is the need to control and set standards for the operation of libraries and other cultural and recreational facilities under the ownership or control of Council.

Both the *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw* were adopted from New Zealand Standard (NZS) Model General Bylaws without amendment. They came into force on 1 September 2002 and were reviewed under section 158 of the LGA on 10 June 2008, after which they were continued without amendment.

Both the *Model General Bylaws – Public Libraries* and the *Model General Bylaws – Cultural and Recreational Facilities* have subsequently been withdrawn by NZS and have not been replaced. Around New Zealand, bylaws covering public libraries have been phased out by other councils. There is no longer a need to have a specific bylaw covering libraries. While some councils have retained bylaws covering public facilities under their ownership or control, many have not.

The relevant matters can be covered by policies and procedures which can more easily be tailored and adapted to meet changing needs and circumstances. Without the need to go through formal processes with associated time and costs, these are seen as a more efficient and effective means of addressing the perceived problem. As such, it is considered that the *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw* are no longer the most appropriate means of addressing the perceived problems.

## **CONCLUSION**

Council has determined that bylaws are not the most appropriate way of setting standards for the operation of libraries and other cultural and recreational facilities under the ownership or control of Council.

Following their review, Council proposes that the *Buller District Council Public Libraries Bylaw* and the *Buller District Council Cultural and Recreational Facilities Bylaw* be revoked.

## NEW ZEALAND STANDARD

# MODEL GENERAL BYLAWS

## Part 15

### PUBLIC LIBRARIES

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#### 1500 SCOPE

The purpose of this Part of the bylaw is to allow Council to exercise control over the operation of public libraries within the District.

This bylaw is made pursuant to section 684 of the Local Government Act 1974 and its amendments.

#### 1501 DEFINITIONS

For the purposes of this bylaw the following definitions shall apply:

**BOOK** means a book, magazine, newspaper, periodical, pamphlet, manuscript, standard or other article of a similar nature, or any part thereof which is the property of the Council or under the control of Council.

**BORROWER** means any person to whom the Council has by registration granted the privilege to borrow library books or documents.

**BORROWER'S CARD** means any card issued by a librarian as a means of identification of any borrower from the library.

**DOCUMENT** means any map, chart, print, photograph or negative film, plan, picture, broadsheet, card, cutting, microfilm or microfile, photocopy, engraving or etching, video tape, or piece of music including a manuscript, compact disc, record, or audio tape or any other article of a similar nature, or any part of it, whether the property of the Council or for the time being under the control of the Council.

**LIBRARIAN** includes any person for the time being appointed by the Council to control or manage or to assist in the control and management of the library.

**LIBRARY** means any library established and operated for the time being by the Council for use by the public or any section of the public, and includes every portion of any building used for such purposes, and includes a mobile library.

**LIBRARY MANAGER** means the appointed manager of a Council library.

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**1502 COUNCIL MAY MAKE RULES FOR LIBRARIES**

Council may, from time to time by resolution, make rules for the following areas that shall apply to one or more libraries:

- (a) For the internal control, management, and use of the library;
- (b) For determining the number of books or documents to be lent to any one borrower at one time;
- (c) For determining the times and hours during which the library and any specified parts thereof shall be open and the holidays, days, and times upon which it may be closed;
- (d) For determining the time to be allowed for the return of any library book or document;
- (e) For maintaining good order and conduct within the library; and
- (f) For fees and charges payable by persons for library membership, overdue books and for any other services of any department of the library.
- (g) For the appropriate use of electronically accessible information.

**1503 UNAUTHORIZED USE OF BORROWER'S CARD**

Any person who is not named in any borrower's card, or duly authorized by the person so named, shall not make use of any such card for the purpose of obtaining any book or document from a library.

**1504 BORROWING**

**1504.1**

No person shall take or borrow any library book or document without having the issue of the library book or document recorded in the library record system.

**1504.2**

No person shall be entitled to borrow any library book or document specified as reference only, except with the permission of a librarian, and subject to such conditions as laid down by the librarian.

## **1505 DAMAGE TO LIBRARY BOOKS OR DOCUMENTS**

### **1505.1**

If any library book or document is lost or returned in a damaged condition the borrower shall pay to the Council such a sum of money as will replace such library book or document or as will be full compensation for any damage or loss to the Council.

### **1505.2**

If a lost book or document is subsequently found and returned within two years of the date of borrowing, a refund of all or part of the charge made for the loss may be paid to the borrower at the discretion of a librarian.

## **1506 UNPAID MONEY**

No person owing any money to the Council in connection with any library service shall take out or borrow any library book or document, and a librarian may revoke that Borrower's card until all such charges have been paid in full.

## **1507 CHANGE OF ADDRESS**

Every holder of a borrower's card shall notify any change in his/her address to a librarian within one month of their obtaining a new address.

## **1508 UNAUTHORIZED TAKING OF LIBRARY BOOKS OR DOCUMENTS**

Any person (other than as a borrower) taking or attempting to take any library book or document, or other article from a library, and any person knowingly pledging, pawning, selling, or purchasing or advancing money on any such library books or documents or article or attempting to do so, shall commit an offence against this Part of this bylaw, in addition to any other offence of which such offender shall be guilty.

## **1509 EXPULSION OF OFFENDERS**

A librarian may require any person behaving in a disorderly manner in the library, or any person who is not bona fide using the library for the purpose for which it is intended, to leave the library, and any refusal on the part of the person to do so will constitute an offence against this bylaw.

## **1510 BREACH**

Where in the opinion of a librarian, any person has contravened any of the provisions of this bylaw or any rules made by the Council relating to the library use, or has otherwise acted in an unlawful manner in the library, a librarian may exclude that person from the library, until notice is given for the person to return.

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## NEW ZEALAND STANDARD

# MODEL GENERAL BYLAWS

## Part 16

### CULTURAL AND RECREATIONAL FACILITIES

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#### 1600 SCOPE

The purpose of this Part of the bylaw is to enable the Council to control and set standards for the operation of the cultural and recreational facilities under the ownership or control of the Council.

This bylaw is made pursuant to sections 613 and 684 of the Local Government Act 1974 and its amendments.

#### 1601 DEFINITIONS

For the purposes of this bylaw the following definitions shall apply:

**COUNCIL FACILITY** includes any swimming pool, aquatic centre, recreational, cultural or community centre, museum, art gallery, hall, zoo or golf course under the ownership or control of Council.

**MANAGER** means the appointed manager of a council facility, or his or her appointed deputy.

#### 1602 COUNCIL MAY MAKE RULES FOR COUNCIL FACILITY

##### 1602.1

Council may from time to time, by resolution, make rules for the following areas that shall apply to one or more council facilities:

- (a) For the control, management and use of the Council facility;
- (b) For determining the hours during which the council facility and any specified parts thereof shall be open and the holidays, days, and times upon which it will be closed;
- (c) For maintaining good order and conduct whilst persons are in or on a council facility;

- (d) For fees and charges payable for entry to, or use of a council facility;
- (e) For the closure of that facility or part thereof or for setting aside of part or all of that facility for the exclusive use of individuals or groups.

**1602.2**

The Manager of a council facility shall post the rules that apply to any member of the public using that facility, in a visible place as near as is reasonably practical to the entrance to that facility.

**1603 EXPULSION OF OFFENDERS**

Any person responsible for any Council facility may require any person behaving in a disorderly manner in or on a council facility, or any person who is not bona fide using the council facility for the purpose for which it is intended, to leave the council facility, and any refusal on the part of the person to do so will constitute an offence against this Part of this bylaw.

**1604 BREACH**

Where in the opinion of a Manager any person has contravened any of the provisions of this bylaw or any rules made by the Council relating to the use of the council facility, or has otherwise acted in an unlawful manner in or on the council facility, the Manager may exclude that person from the council facility, until notice is given for the person to return.