

Buller District Council

# **Proposed Keeping of Animals Bylaw 2022**

**Statement of Proposal**  
**September 2022**



## Introduction

The Council is reviewing the Buller District Council Bylaw Model General Bylaw Part 13 – The Keeping of Animals, Poultry and Bees (NZS9201: Part 13: 1999) and the accompanying local amendment Section 1306 The Keeping of Cats (the Current Bylaw) in accordance with the Local Government Act 2002 (LGA).

The Council has taken the review as an opportunity to revisit the previous approach adopted in 2008 by proposing a significant number of changes to better address the perceived problems that arise in relation to animals in the district. The review proposes that the Keeping of Animals Bylaw 2022 (the Proposed Bylaw) remain standalone.

The Proposed Bylaw provides measures to regulate the keeping of animals (including pigs, poultry, bees, livestock and cats) within the district:

- to minimise the impact on animal owners' neighbours;
- to ensure they do not create a nuisance or endanger health; and
- to regulate the slaughtering of animals to avoid causing nuisance or offence.

The Proposed Bylaw would replace the Current Bylaw. A copy of the Proposed Bylaw is included in this statement of proposal.

The Proposed Bylaw does not apply to dogs as this is covered separately under the Dog Control Bylaw.

## Determination from BDC

The Council is able to make bylaws relating to the management of animal nuisance under the LGA, and the Health Act 1956 enables councils to make bylaws relating to the keeping of animals in order to improve, promote or protect public health and also prevent nuisance. The LGA also empowers Council to make bylaws to protect, promote and maintain public health and safety.

The Council is required to undertake analysis to ensure that the making of a bylaw is the best way to address the perceived problem. To inform the bylaw review an assessment was undertaken by Council on the Bylaw. The assessment sets out the authority to make a bylaw, the perceived problems or nuisance the bylaw addresses, and the options available to the Council to deal with these problems. The assessment supports the determination that a bylaw continues to be the most appropriate way of addressing the perceived problems that arise in relation to animals, and therefore supports the recommendation to initiate a review of the Bylaw. The decision to consult on the proposed bylaw was made by Council on 29 June 2022.

In proposing the Proposed Bylaw the Council has also considered whether there are any implications under the New Zealand Bill of Rights Act 1990. Council considers that the Proposed Bylaw is not inconsistent with the Bill of Rights Act.

## Reasons for proposing the Proposed Bylaw

The problem or matter the Proposed Bylaw seeks to address is the nuisance from keeping and slaughtering animals, and to maintain public health and safety. To do this, the Proposed Bylaw provides controls for the keeping of animals (including pigs, poultry, bees, livestock and cats) within the district to minimise the impact on people nearby and to ensure the animals do not create a nuisance or endanger health; and to regulate the slaughtering of animals to avoid causing nuisance or offence.

Reasons for the proposal are as follows:

- The Proposed Bylaw provides a tool for the Council to manage, regulate, and protect the public from nuisance and offence associated with the keeping of animals, and

## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

maintain public health and safety.

- This decision can positively impact on the present and future interests of the district and community by having a clear framework as to the management and regulation of animals.
- Not having an up to date bylaw on this matter would be contrary to the historical Council position to have a bylaw on animals.
- Service requests and complaints received by the Council in recent times in relation to animal nuisance demonstrate that there is a continuing need for the bylaw to address issues arising in relation to those matters.

## Consultation process

Under the LGA 2002 consultation with the community is required before a proposed bylaw is approved by Council:

- Sec.156: Consultation requirements when making, amending or revoking bylaws made under the Act: and
- Sec.83: Special Consultative Procedure

Written submissions are welcomed from anyone (individuals or groups) in the community affected by, or having an interest in, the proposed Animals Bylaw.

Residents can make a submission from **Tuesday 13 September to 4:30pm Tuesday 11 October 2022** during the consultation period. Late submissions will not be accepted.

Each submission will be considered by Council and there will be an opportunity for submitters to present their submission directly to councilors in November.

Submissions can be made by using any of the following methods:

- online at Council's website [www.bdc.govt.nz/bylaws](http://www.bdc.govt.nz/bylaws)
- email your submission to [submissions@bdc.govt.nz](mailto:submissions@bdc.govt.nz)
- drop-off your submission at the Council office in Brougham Street Westport or at the Reefton Service Centre - details on locations and opening times are listed at [www.bdc.govt.nz/contact](http://www.bdc.govt.nz/contact) or you can get that information by phoning the Council on 0800 807 239
- post your submission to Buller District Council, P.O. Box 21, Westport

Please include your full name and email address or postal address in your submission if you want:

- the Council to acknowledge receipt of your submission and/or
- to make an oral presentation to a Council meeting on the proposed bylaw.

You will then be contacted about when and where the meetings for this are taking place.

A submission form can be collected from Council's offices and libraries in Westport and Reefton, i-Sites, and Resource Centres across the district or be downloaded from our website [www.bullerdc.govt.nz](http://www.bullerdc.govt.nz).

Privacy statement – Please be aware, any submissions that are made on the proposed Animal Bylaw become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council's governing body as well as the public.

Any personal information included with a submission, such as your name, is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply, such as your name, will not be treated as confidential unless you specifically request it in your submission.

## Options

When determining the best approach to the review it was considered that replacing the Bylaw was the most appropriate.

The Council considered three options when determining to review the Bylaw:

1. Review and amend the Bylaw.
2. Revoke the Bylaw and rely on alternative mechanisms and existing legislation to ensure compliance.
3. Replace the Bylaw with a new bylaw.

A summary of that analysis is shown below.

### **1. Review and amend the Bylaw**

#### **Advantages**

- Consistent with the Council's previous approach.
- Rules would be in one place, clear and known to key stakeholders and the public.
- Proactive approach to regulation of animals.
- Community views and preferences regarding the regulation of animals will be collected by way of the Special Consultative Procedure under the LGA.

#### **Disadvantages**

- Council resources required to undertake review
- Current bylaw is not well adapted to Buller and is very limited in its application
- Service requests and complaints to council highlighted the need for a targeted approach when dealing with complaints

### **2. Revoke the Bylaw and rely on alternative mechanisms and existing legislation to ensure compliance**

#### **Advantages**

- Provides a less adversarial approach to managing animals.
- Reduces the Council's regulatory role and enforcement burden.
- Still allows the community to participate in consultation relating to this issue through the special consultative procedure.

#### **Disadvantages**

- The current Bylaw would still need to be revoked, requiring a special consultative procedure.
- Inconsistent with the Council's previous approach.
- The Council will not have a specific tool to control the keeping of animals (including pigs, poultry, bees, livestock and cats) within the district to ensure they do not create a nuisance or endanger health or to regulate the slaughtering of animals to ensure the process is not seen by others.

### **3. Replace the Bylaw with a new bylaw**

#### **Advantages**

- A comprehensive review of the Bylaw would result in a very robust bylaw
- Provides the Council with a practical tool to control the keeping of animals (including pigs, poultry, bees, livestock and cats) within the district to ensure they do not create a nuisance or endanger health or to regulate the slaughtering of animals to ensure the process is not seen by others.

## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

- Rules will be in one place, clear and known to key stakeholders and the public.
- Proactive approach to regulation of animals and their possible impact on neighbours.
- Community views and preferences regarding the regulation of animals will be collected through the special consultative procedure.
- Allows the Council to take into consideration any new information in the sector since the last review.

### Disadvantages

- Review timeframes would reset – five years instead of 10 until next review is due.
- Resource intensive

## Key changes proposed

The following is a summary of the current bylaw and the changes in the proposed bylaw. **It is only a summary and the full proposed bylaw should be read for completeness and detail.**

### Urban Areas defined

**Current Bylaw:** Not defined. Refers to 'urban areas', 'predominantly urban character' and 'urban character under the District Plan' but no actual definition of the areas.

**Proposed Bylaw:**

A total of 9 urban areas have been defined in a set of maps which is attached to the proposed bylaw. The maps are intended to provide certainty around the term 'urban;' as it is used in the proposed bylaw. A number of the matters in the proposed bylaw refer to urban areas e.g. keeping of livestock. The proposed urban areas have been identified by Council and defined using census data as a base.

The areas defined on the set of maps accompanying the proposed bylaw:

- Westport
- Carters Beach
- Waimangaroa
- Granity
- Ngakawau and Hector
- Karama and Market Cross
- Inangahua Junction
- Reefton
- Ikamatua

### Interpretation

**Current Bylaw:** Not specified in this bylaw. (Set out in separate Model General Bylaws Part 1 – Introductory NZS9201:Part 1:2007)

**Proposed Bylaw:**

To assist in the interpretation of the bylaw a full list of definitions of terms used is proposed to be included in this bylaw.

- Allows for users to refer to just one bylaw for guidance on a term used rather than having to refer to a second document.
- Includes additional terms not covered in the Introductory bylaw.
- Provides clarification for those terms only used in this bylaw

## General Keeping of Animals

**Current Bylaw:** Noise which is causing nuisance to neighbours from any animal, bird or poultry is not allowed

**Proposed Bylaw:**

- no one should be allowed to keep an animal, or keep it in such a way, that it causes a nuisance (noise, smell, dust or attraction of flies) or is offensive to neighbours and other people.
- animals (other than cats and bees) must be confined to the property.
- the release or abandonment of any domestic animal is prohibited to avoid issues with the dumping of animals.

## Ban on urban roosters

**Current Bylaw:** Not included

**Proposed Bylaw:**

In response to a number of service requests and complaints we receive each year related to nuisance from roosters in urban areas, we are proposing:

- a ban on roosters, along with ganders and peacocks, in urban areas.

This will also bring BDC in line with many other councils around New Zealand that also ban roosters and other crowing animals.

## Number of cats in urban areas

**Current Bylaw:** Maximum number of cats is three in non-rural areas. If more than three they must not cause any nuisance. Excludes cat breeders, boarding establishments, vets and SPCA shelters

**Proposed Bylaw:**

- The maximum number of cats six months or older that may be kept in any dwelling is four. This is in line with a number of other councils around New Zealand. Existing exceptions remain in the Proposed Bylaw for catteries, animal shelters and vets.
- Cat owners who have more than four cats would be allowed to continue to own these cats until the end of the cat's natural lives.
- Exemptions can be made by Council (on a case-by-case basis) provided housing is adequate, no nuisance will result and all other lawful requirements are met.

## Keeping of Poultry in urban areas

**Current bylaw:** Appropriate, and maintained, housing with specified distance from neighbours

**Proposed bylaw:**

- Maximum number of 12 head of poultry on any property
- Appropriate poultry house/shelter with specified distance from neighbours
- No noise or odour nuisance
- Effluent/discharge management
- Provision for Council to require abatement of nuisance (written notice)



## Beekeeping general

**Current bylaw:** No keeping of bees causing or likely to cause nuisance/annoyance or be dangerous/injurious to health. Authorised officers may prescribe conditions related to location and number of hives

**Proposed bylaw:**

We are proposing a more detailed clause in the Proposed Bylaw regarding beekeeping.

If in the opinion of Council bees cause a nuisance or may be dangerous or injurious to the health of any person specific controls on beekeeping in general the Council may seek advice from an experienced beekeeper and also require:

- compliance with Apiculture NZ Code of Conduct or similar
- Relocation of hives or reduction in the number
- Approved flight management plan to ensure bees fly a minimum of 1.8m above adjacent property, footpath or road
- Reduction of number of hives

Beekeepers must also register all hives in accordance with the Biosecurity Act 1993 and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998.

## Bee Keeping in Urban Areas

**Current Bylaw:** Council may prescribe relocation or reduction in number of hives

**Proposed Bylaw:**

- Two hives permitted
- Approval of Council required for up to a maximum of four hives with appropriate conditions using an incremental approach based on property size or adjacent land being reserve or rural. Possible nuisance or health issues also taken into consideration.

## Keeping of Livestock in Urban areas

**Current Bylaw:** Must meet such conditions as prescribed by Council

**Proposed Bylaw:** More specific guidance is proposed in the bylaw

- Livestock must not cause annoyance or nuisance including noise or odour nuisance
- Provision for Council to require abatement of nuisance (written notice)

## Pig Keeping

**Current Bylaw:** No pigs in urban areas

**Proposed bylaw:**

More specific guidance proposed for pig keeping throughout the District including:

- Must not cause nuisance or be injurious to health of any person or offensive
- Must comply with Operative District Plan
- Pigsties must be built in accordance with Building Act 2004 and any other lawful requirements

## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

- Discharge of effluent must not cause nuisance and must comply with Resource Management Act 1991 and West Coast Regional Council requirements
- Provision for Council to require abatement of nuisance (written notice)
- All pig farmers must also comply with the provisions of the Biosecurity Act 1993, Animal Welfare Act 1999 and any other relevant regulations.

### Slaughter of livestock

**Current Bylaw:** No provisions

**Proposed Bylaw:**

Due to the sensitive nature of this issue it is proposed to provide some specific guidelines and safeguards to avoid offending people nearby.

- Responsibility to ensure slaughtering and process not visible (e.g. screening) to any person nearby
- Responsibility to ensure waste removed immediately and does not cause nuisance, threat to health or become offensive
- Definitions for who is responsible and 'person nearby'

### Fees and Operational policies

**Current bylaw:** No provisions in this bylaw (Set out in separate Model General Bylaws Part 1 – Introductory (NZS9201:Part 1:2007))

**Proposed Bylaw:**

- Fees may be payable for any approvals made to council under this bylaw
- Operational policies related to matters in this bylaw (such as guidance information, application procedures, definitions) may be made by council if required
- Allows users to refer to just one bylaw for interpretation of a term used rather than having to refer to a second document.

### Offences and Penalties

**Current bylaw:** Not specified in this bylaw (Set out in separate Model General Bylaws Part 1 – Introductory (NZS9201:Part 1:2007))

**Proposed bylaw:**

- Allows users to refer to just one bylaw for interpretation of a term used rather than having to refer to a second document.
- Failure to comply with bylaw is an offence and liable to enforcement action (Local Government Act 2002 or Health Act 1956)
- Injunctions through District Court for breach or continuing breach of bylaw
- Seizure or impounding of any animal other than domesticated cats, bees and poultry if found at large causing nuisance
- With a warrant council may enter private property and seize animals/bees/other property in breach of Bylaw

### Repair and Removal of Works

**Current bylaw:** Not specified in this bylaw (Set out in separate Model General Bylaws Part 1 – Introductory (NZS9201:Part 1:2007))

**Proposed bylaw:**

- Allows users to refer to just one bylaw for interpretation of a term used rather than having to refer to a second document.



## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

- Council powers to repair, remove or alter any work, material or thing in contravention to this bylaw or require that it be done
- Recovery of costs associated with above and ability for owner to claim back work, material or thing
- provision for Council to issue notice stating work required and time frame

**APPENDIX ONE: URBAN AREA**



## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

















## Proposed Keeping of Animals Bylaw 2022 – Statement of Proposal

