

SCHEDULE 1

Section 77(1) assessment of all reasonably practicable options

Bylaw	Option(s)	Advantages and disadvantages
Introductory Bylaw	<p>Option 1</p> <p>To replace the Introductory Bylaw 2014 with a new bylaw made on the same terms.</p>	<p>Advantages</p> <p>A new bylaw will have all the advantages of the current bylaw.</p> <p>The bylaw contains definitions that are used throughout the Council's other bylaws and sets out, at a high level, the extent of the Council's powers to enforce those bylaws. As these other bylaws do not form part of this proposal if the bylaw is not replaced, the definitions contained therein will fall away and leave gaps in other current bylaws.</p> <p>There is no statutory reason why the 2014 bylaw should be amended or updated.</p> <p>Disadvantages</p> <p>The cost of setting up the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Introductory Bylaw 2014 when it is revoked on 17 December 2021.</p>	<p>Advantages</p> <p>Having an introductory bylaw can be seen to add additional complexity to the bylaw regime.</p> <p>Costs associated with setting up the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw.</p> <p>Disadvantages</p> <p>The bylaw contains definitions that are utilised by other existing Council bylaws which are not being reviewed as part of this proposal.</p>

<p>Animal Control Bylaw</p>	<p>Option 1</p> <p>To replace the Animal Control Bylaw 2014.</p>	<p>Advantages</p> <p>A new bylaw will have all the advantages of the current bylaw.</p> <p>The bylaw has proven effective at addressing animal welfare concerns in the district and the separation of this bylaw and the issues it addresses from the Dog Control bylaw makes it easier for the public to understand and enforcement staff to reference.</p> <p>There is no statutory reason why the 2014 bylaw should be amended or updated.</p> <p>Disadvantages</p> <p>The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Animal Control Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.</p>	<p>Advantages</p> <p>Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw.</p> <p>Disadvantages</p> <p>The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment.</p> <p>The Council would be entirely reliant on primary legislation to regulate the keeping of animals on private property and the trapping activities in public and private places.</p> <p>Licences or permits issued will cease to have effect and the Council will need to fall back on primary legislation (e.g. Health Act 1956, the Wildlife Act 1953 (via DoC), Animal Welfare Act 1999) to regulate animal control. The provisions of these primary statutes are generally less restrictive than under the proposed bylaw and in some cases carry lower penalties than under the LGA.</p>

Cemeteries Bylaw	<p>Option 1</p> <p>To replace the Cemeteries Bylaw 2014.</p>	<p>Advantages</p> <p>A new bylaw will have all the advantages of the current bylaw.</p> <p>The bylaw is an important legislative tool for the management of cemeteries, which are a critical Council asset.</p> <p>The bylaw provides functional and effective tools for managing cemeteries to date. It ensures acceptable standards of cemetery operation and that the convenience, safety, visual amenity and civic values are maintained for the well-being of users of the cemeteries, residents, monumentalists, and funeral services in the city. There is no statutory reason why the 2014 bylaw should be amended or updated.</p> <p>Disadvantages</p> <p>The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Cemeteries Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.</p>	<p>Advantages</p> <p>The Council will still retain a number of powers and functions to manage, operate, and regulate cemeteries pursuant to Burial and Cremation Act 1964.</p> <p>Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw.</p> <p>Disadvantages</p> <p>The Council would lose the ability to impose fees for burial services and to regulate various important matters including the conduct of persons within cemeteries, the times at which burials may be carried out, exclusive rights of burial, and so forth.</p>

Fire Control Bylaw	<p>Option 1</p> <p>To replace the Fire Control Bylaw 2014 when it is revoked on 17 December 2021.</p>	<p>Advantages</p> <p>This bylaw would allow the Council to continue to exercise control over burning in the open air, including on Council property, to prevent smoke from fires causing a nuisance.</p> <p>Maintaining the bylaw is also important so that the Council can uphold its shared responsibilities for fire management with other agencies (including the Hawke's Bay Regional Council and FENZ).</p> <p>Disadvantages</p> <p>The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Fire Control Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.</p>	<p>Advantages</p> <p>The Fire and Emergency New Zealand Act (FENZ Act) was introduced in 2017 and transferred many responsibilities from the Council to FENZ, so there will still be some regulation of outdoor burning provided by FENZ under the FENZ Act. Outdoor burning is also partially regulated by the Regional Council via the Regional Resource Management Plan.</p> <p>Costs associated with setting up and implementing the bylaw (which would need to be amended to reflect the new legislation) can be allocated to other Council projects.</p> <p>Disadvantages</p> <p>The Council runs the risk of not meeting environmental standards and not protecting public health and safety.</p>

Parking Control Bylaw	Option 1 To replace the Parking Control Bylaw 2014 when it is revoked on 17 December 2021.	Advantages A new bylaw will have all the advantages of the current bylaw. The bylaw is an important legislative tool for addressing Napier-specific parking issues, enabling effective and lawful enforcement of parking rules. The bylaw ensures the city functions effectively and that acceptable standards of safety and civic value are maintained for the well-being and enjoyment of residents, visitors and businesses in Napier City. It improves access and safety and addresses issues raised by council officers to improve the operation of parking in the district. It also helps to improve the safety of roads for all users and improve the community's understanding of requirements for enforcement. There is no statutory reason why the 2014 bylaw should be amended or updated. Disadvantages The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.
	Option 2 To not replace the Parking Control Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.	Advantages Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw. Disadvantages The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment. The Council would be unable to control parking activities within the city. In particular, it would not be able to charge for parking or impose parking fines. This would likely have a negative impact on the well-being and enjoyment of residents, visitors and businesses in Napier City. While the Council could rely on primary legislation for some matters, many of the powers that are specific to the city's needs and which are presently available under the bylaw will no longer be in place (e.g. the power to restrict parking in areas for the Council's purposes, requiring parking permits and charging for parking with parking meters).

Parks and Reserves Bylaw	Option 1 To replace the Parks and Reserves Bylaw 2014 when it is revoked on 17 December 2021.	Advantages A new bylaw will have all the advantages of the current bylaw. The bylaw is an important legislative tool for the management of the city's parks and reserves. It identifies rules around what is and is not acceptable behaviour in Council reserves and what requires Council Officer approval, as well as bookings and a number of other matters. It is a key tool in managing users in parks to ensure social norms are adhered to and adverse effects on other users are avoided. There is no statutory reason why the 2014 bylaw should be amended or updated. Disadvantages The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.
	Option 2 To not replace the Parks and Reserves Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation	Advantages Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw. Some matters that are currently regulated by the bylaw are also regulated by Reserves Act 1977 (e.g. pursuant to section 94 the following are offences if they are carried out without permission of the council: lighting fires, trespassing animals, planting trees, damaging the reserve, digging, depositing dangerous or offensive substances, erecting things on reserves, carrying on commercial activity, interference with the reserve and firearms/weapons). Police constables can prevent breaches of the Act and can also address disorderly or offensive conduct/assembly, and wilful damage under the Summary Offences Act 1981. Under the Litter Act 1979, a public authority can appoint a Litter Control Officer, who can require people to pick up their litter or otherwise enforce offences under that Act. These provisions would go some way to regulating reserves.

		<p>Disadvantages</p> <p>The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment.</p> <p>The bylaw allows groups to use reserves exclusively and be charged for this, and for the Council to close/restrict entry to reserves for maintenance and public safety. It also prevents activities on reserves without permission, such as:</p> <ul style="list-style-type: none">- Assemblies and events;- Sports and games;- Use of model aeroplanes and boats;- Placement of structures; and- Commercial activities. <p>It prevents unaccompanied children in reserves, prevents the playing of loud music, bathing, disruptive/annoying/offensive conduct, littering, wastage of water, pollution and lighting fires, interference with wildlife, damage, dogs off leash, roaming animals, fireworks/firearms etc. It also creates a number of offences for failures to comply.</p> <p>If the bylaw is not replaced, many of these more specific powers will no longer be in place. For example, the council will not be able to close and restrict entry to reserves, charge for exclusive use of reserves or require their permission for a number of activities.</p>
--	--	---

<p>Public Places Bylaw</p>	<p>Option 1</p> <p>To replace the Public Places Bylaw 2014 when it is revoked on 17 December 2021.</p>	<p>Advantages</p> <p>A new bylaw will have all the advantages of the current bylaw.</p> <p>The bylaw is an important legislative tool for the management and regulation of public places in Napier City.</p> <p>It ensures that acceptable standards of convenience, safety, visual amenity, and civic values are maintained for the well-being of residents, visitors and businesses in Napier City.</p> <p>It addresses damage to public places such as roads, grass verges, garden areas and reserves, and activities within public places and reserves which may have an adverse effect on other users of these facilities.</p> <p>It also addresses specific areas within Napier and Taradale and specific issues such as skateboard riding.</p> <p>There is no statutory reason why the 2014 bylaw should be amended or updated.</p> <p>Disadvantages</p> <p>The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Public Places Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.</p>	<p>Advantages</p> <p>Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw.</p> <p>The Council will have some limited powers under primary legislation (e.g. the Litter Act 1979 and the Health Act 1956), but the provisions in these statutes are generally less restrictive than under the proposed bylaw and in some cases carry smaller penalties than under the LGA.</p>

		<p>Disadvantages</p> <p>The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment.</p> <p>Without a bylaw, high risk activities and behaviours cannot be monitored and investigated to provide control. The Council would have limited powers to control behaviour in public places and would instead be largely reliant on police to monitor and control behaviour on public land. This will not be effective on all occasions.</p> <p>The Council would have limited powers to control behaviour in public places and would instead be largely reliant on police to monitor and control behaviour on public land. This will not be effective on all occasions.</p> <p>The Council will have some limited powers under primary legislation (e.g. the Litter Act 1979 and the Health Act 1956), but the provisions in these statutes are generally less restrictive than under the proposed bylaw and in some cases carry smaller penalties than under the LGA.</p> <p>The Council would not have powers to regulate issues that are specific to the City, such as skateboard riding, or to address the area-specific concerns that the bylaw currently identifies and regulates.</p>
--	--	--

Public Places Liquor Control Bylaw	Option 1 To replace the Public Places Liquor Control Bylaw 2014 when it is revoked on 17 December 2021 on the same terms as the current bylaw.	Advantages A new bylaw will have all the advantages of the current bylaw. The bylaw is an important legislative tool for the management and regulation of alcohol consumption in public areas and to ensure alcohol-related harm is reduced in commercial areas consistent with the Council's Local Alcohol Policy August 2019. The police also utilise this bylaw to enforce liquor ban areas, especially during large events in the city. The current bylaw has proven particularly effective during large events in the city, such as Art Deco Weekend. The proposed bans will give the police preventative enforcement tools to respond immediately to the public consumption of alcohol in breach of the ban. These tools include seizing and removing alcohol in breach of the ban, issuing infringement notices, arresting any person refusing to surrender alcohol or refusing to leave a place subject to the ban, and searching persons or vehicles within the area to ascertain whether alcohol is present. The public will be aware of where consumption of alcohol is prohibited. There is no statutory reason why the 2014 bylaw should be amended or updated. Disadvantages The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.
	Option 2 To replace the Public Places Liquor Control Bylaw 2014 when it is revoked on 17 December 2021 with a bylaw that invokes a total ban on the consumption of alcohol in public areas across Napier.	Advantages The police will have powers to prevent alcohol consumption in public places. They will be entitled to seize and remove alcohol in breach of the ban, issue infringement notices, arrest any person refusing to surrender alcohol or refusing to leave a place subject to the ban, and search persons or vehicles within the area to ascertain whether alcohol is present. A total alcohol ban across the district will ensure that members of the public do not congregate outside of the proposed alcohol ban area. Disadvantages Members of the public who wish to consume moderate amounts of alcohol in public places will not be able continue to do so. Some members of the community may think that it is only a small minority of participants that cause disorder and that the majority of persons who drink in public are responsible. Some parts of the community may consider a public alcohol ban to be an overreaction to the bad behaviour of a minority group. There is insufficient evidence of high levels of crime or disorder that have been caused or made worse by alcohol consumption in the general district outside of the current alcohol bylaw areas.

	<p>Option 3</p> <p>To not replace the Public Places Liquor Control Bylaw 2014 when it is revoked on 17 December 2021.</p>	<p>Advantages</p> <p>Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw.</p> <p>Some members of the community may think that it is only a small minority of people that cause disorder and that the majority of persons who drink in public are responsible.</p> <p>The police will have some general powers if a person is intoxicated and causing a nuisance in a public place.</p> <p>Relying on other legislation would go some way to addressing some of the problems, which could be described as symptoms of uncontrolled drinking in public places. For example, the Summary Offences Act 1981 makes many acts offences in respect of which the offender may be arrested or prosecuted, such as disorderly behaviour, offensive language, fighting in a public place, common assault, wilful damage or underage drinking. However, these measures could be seen as controls after the event.</p> <p>Disadvantages</p> <p>Without a bylaw, high risk activities and behaviours cannot be adequately monitored and investigated by the Council and police to provide control. The measures described above will not be as successful as immediate or readily enforceable measures provided under the current bylaw.</p> <p>This bylaw sets up liquor bans in various parts of the district that have been identified as posing a risk and are enforced by the police under the LGA. With no bylaw the liquor bans will discontinue and the police will no longer have their enforcement powers under the LGA. The Council will need to let the police know that the liquor bans are no longer in force and will mean that the:</p> <ul style="list-style-type: none"> • Consumption of alcohol will not be prohibited in the liquor ban areas; • Possession of alcohol will not be prohibited in the liquor ban areas; and • Bringing of alcohol in any liquor ban areas will not be prohibited.
	<p>Option 4</p>	<p>Advantages</p>

	<p>To undertake any or all of the following:</p> <ul style="list-style-type: none"> - Undertake a public education campaign. - Advocate for more police in Napier. - Fund security patrols. - Control alcohol consumption using other regulatory means (e.g. the Napier District Plan). - Rely on other primary legislation 	<p>Public education, advocating for more police presence, the provision of security patrols, and District Plan requirements may assist with reducing the occurrence of alcohol-related problem behaviours.</p> <p>Costs associated with setting up and implementing the bylaw can instead be allocated to this educative approach.</p> <p>Disadvantages</p> <p>These measures will not be as not successful as immediate or readily enforceable measures provided under the current bylaw.</p>
--	--	---

Tattooists and Skin Piercers Bylaw	Option 1 To replace the Tattooists and Skin Piercers Bylaw 2014 when it is revoked on 17 December 2021.	Advantages A new bylaw will have all the advantages of the current bylaw. The bylaw is an important legislative tool for the management and regulation of skin piercing practices to prevent the transference of communicable diseases, such as Hepatitis B and C and HIV/AIDS, and the development of wound infections. There is no statutory reason why the 2014 bylaw should be amended or updated. Disadvantages The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.
	Option 2 To not replace the Tattooists and Skin Piercers Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.	Advantages Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw. Disadvantages Without a bylaw, high risk activities and behaviours cannot be monitored and investigated to provide control, meet health standards, and protect public health and safety. Skin piercing is a high risk practice. While skin piercing practices would need to comply with the Ministry of Health Guidelines, the Council would have no power to directly regulate (via licensing and monitoring) these facilities or ensure that the required standards of operation are achieved and maintained.

<p>Trading in Public Places Bylaw</p>	<p>Option 1</p> <p>To replace the Trading in Public Places Bylaw 2014 when it is revoked on 17 December 2021.</p>	<p>Advantages</p> <p>A new bylaw will have all the advantages of the current bylaw.</p> <p>The bylaw is an important legislative tool for the management and regulation of the conduct of persons selling goods on streets, roads, footpaths and other public places, and to regulate the conduct of persons using vehicles to sell goods and services to the general public.</p> <p>The bylaw is primarily used as a licensing tool, and to address complaints from shopkeepers and public.</p> <p>The bylaw is critical in controlling the proliferation of vendors on streets, parks and reserves.</p> <p>It protects the local retail community from unfair competition and ensures the City's parks and reserves are primarily used for rest and recreation.</p> <p>There is no statutory reason why the 2014 bylaw should be amended or updated.</p> <p>Disadvantages</p> <p>The cost of setting up and implementing the bylaw. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw and the costs of implementing the new bylaw will be the same as the current bylaw.</p>
	<p>Option 2</p> <p>To not replace the Trading in Public Places Bylaw 2014 when it is revoked on 17 December 2021 and rely on primary legislation.</p>	<p>Advantages</p> <p>Costs associated with setting up and implementing the bylaw can be allocated to other Council projects. However, the cost of establishing the new bylaw is minimal in this case as it is proposed that the bylaw be replaced on the same terms as the current bylaw. The costs of implementing the new bylaw will also be the same as the current bylaw.</p> <p>Disadvantages</p> <p>The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and amenity.</p> <p>The Council would not be able to regulate the conduct of persons selling goods on streets, roads and footpaths, or those persons selling goods from vehicles to the public. Without this regulation, vendors on streets, parks and reserves may proliferate and create unfair competition for the local retail community as well as detract from the pleasantness of the city's parks and reserves.</p> <p>Without a bylaw, the Council would also have no power to collect fees for licences or site rentals.</p>