



**NAPIER**  
CITY COUNCIL  
*Te Kaunihera o Ahuriri*

# **STATEMENT OF PROPOSAL**

## *Draft Dog Control Policy and Bylaw 2022*

*For Public Consultation*



## 1. PROPOSAL

Napier City Council proposes to revoke its existing Dog Control Policy and Bylaw (2014) and adopt a new Dog Control Policy and Dog Control Bylaw 2022. This follows a thorough review process.

This statement of proposal is prepared under Sections 83, 83AA and 86 of the Local Government Act 2002. This document contains:

- A summary of the information contained in the statement of proposal;
- A copy of the draft policy and bylaw

## 2. SUMMARY OF INFORMATION

Napier City Council (“the Council”) is seeking feedback on its revised Dog Control Policy and Dog Control Bylaw 2022. The proposed amendments to the revised Dog Control Policy and Bylaw are not considered major policy/regulatory changes but rather necessary amendments to further enhance dog ownership, management and enforcement in Napier.

Key changes within the proposed Dog Control Policy and Bylaw 2022 are:

- Redrafting of the Policy and Bylaw to improve clarity and to ensure the Policy and Bylaw are consistent with and give effect to each other;
- To ensure as far as practicable Napier’s Dog Control Policy and Bylaw are consistent with Hastings’ Bylaw/Policy;
- To retain the current limitation on the number of dogs allowed to be kept on any urban property to ‘no more than two’.
- To amend the dog access descriptions to make them simpler to understand, comply with and enforce. The previous Policy had four ‘dogs access definitions’ – ‘Prohibited Areas’, ‘Controlled Areas’, ‘Off-lead Areas’ and ‘Exercise Areas’ with the revised Policy/Bylaw proposing three areas i.e. ‘Prohibited Areas’, ‘On Leash Areas’ and ‘Dog Exercise Areas’.
- The ‘Controlled Areas’ in public places will now be ‘On Leash Areas’ with ‘Off-lead Areas’ being removed. Previously it was ambiguous between the Bylaw/Policy whether owners could walk dogs ‘off lead’ in the ‘Controlled’ area or not.
- Council has rationalised and amended the various public dog access areas to include new suitable areas to exercise dogs, better define access areas within certain public spaces (such as parks) to ensure compatibility of uses and to protect children play areas, and to redefine current access areas where other users or wildlife are better protected.
- To enhance the ‘nuisances’ section of the bylaw to increase Council’s ability to control ‘nuisance’ situations caused by dogs in public areas, as well as where the dogs are kept.

- To delete a number of sections from the Dog Control Policy and, to a lesser degree, the Dog Control Bylaw, which are either unnecessary or already adequately covered under the Dog Control Act 1996.

Council considers that the revised Policy and Bylaw is the most appropriate way to address the issues related to dog control within the Napier City; and the Bylaw is the most appropriate form of bylaw, and does not give rise to implications under the New Zealand Bill of Rights Act 1990.

The Council wants to hear what the community thinks of the proposed changes before making any final decisions on the proposed Policy/Bylaw. You can make a submission by going online at [www.sayitnapier.nz](http://www.sayitnapier.nz) or visiting the Napier City Council Customer Service Centre.

### 3. BACKGROUND AND REASONS FOR PROPOSAL

Council is required to adopt a policy on dogs and must make a bylaw to give effect to the policy.

Council's current Dog Control Policy and Bylaw were last reviewed and amended in 2014 and are due for further review and amendment.

In making or amending a policy on dogs, Council must have regard to the matters within s10(4)(a) of the Dog Control Act 1996, which can be summarised as the need to provide for public safety and comfort, and the needs of dog owners.

In reviewing the dog control Policy and Bylaw, feedback was sought from key stakeholders i.e. the Department of Conservation, Hastings District Council Animal Control, Napier Port, and Council's own Parks and Reserves and Animal Control teams. Council also sought feedback on dog control issues from participants on Council's 'People Panel' by way of a survey. Council also considered statistics and trends from its Animal Control activity, including complaints and enforcement statistics.

### 4. OPTIONS FOR CONSIDERATION

#### 4.1 Limitation on the number of dogs (Bylaw)

The proposal is to retain the current limitation on the number of dogs allowed to be kept on any urban property to 'no more than two (2)', unless a permit has been granted by Council.

Generally speaking the more dogs kept on residential properties the more likelihood nuisance type situations develop such as barking/whining noises, unpleasant odours etc.

**Option A1 – Retain the existing 'Limitation on the number of dogs' requirement (Status Quo and preferred).**

Under this option Council would retain the existing limitation on the number of dogs allowed to be kept on any urban property to 'no more than two (2)'.

#### Comments

- Existing provision that Animal Control advises works well and is well understood;
- Has an associated Council permit option for good dog owners to keep more than two dogs should circumstances allow;

- Is a useful regulatory ‘tool’ to control a number of nuisance situations caused by too many dogs contained within residential properties. Simple to understand and relatively easy to enforce.
- Forces a number of good dog owners with more than two dogs to go through a Council permit system.
- Is the same as Hastings District Council’s Bylaw and assists with consistency in the region.

**Option A2 – Amend the ‘Limitation on the number of dogs’ requirements from two (2) to three (3).**

Under this option Council would retain a limitation on the number of dogs allowed to be kept on any urban property and increase it from two (2) to three (3).

Comments

- The limit of three (3) dogs is favoured by some Councils, although the majority favour two (2).
- Changing from a limit of two to three dogs would mean fewer dog owners are captured by the need to seek an exemption to keep more than two dogs, and result in less enforcement and permits being issued.
- Would result in inconsistency with Hastings District Council’s Bylaw limit of two (2).

**Option A3 – Remove the requirement from the Bylaw.**

Comments

- Would result in owners being allowed to keep as many dogs on an urban property as they like. Council would no longer need to manage a permit system.
- Would result in more nuisance type situation and complaints.
- Would require Council to use its ‘nuisance’ abatement rules within the Bylaw to enforce situations where the number of dogs cause adverse effects.
- Results in inconsistencies with Hastings District Council’s Bylaw limit of two (2).

## **4.2 Dog Access Areas**

Dog walking provides an important means of exercise for many owners and their dogs and therefore contributes to health and wellbeing generally. However, dogs need to be socialised into public places in a way that minimises nuisance and allows the community (including vulnerable persons and wildlife) to use Napier’s public spaces. In considering vulnerable persons, it is also important to note that a number of people actively avoid places where they are likely to encounter dogs.

In rationalising rules around dog access areas and where they might be best located, Council has considered dog access rules in a comprehensive manner, with an emphasis on consistent and easy to understand rules that comply with the following objectives:

- Promote safe interaction between dogs and people using public places and private ways to ensure that dogs do not injure, endanger, intimidate or otherwise cause distress to any person, in particular, children and vulnerable adults;
- Integrate, where practicable, owners and their dogs with other users of public places;
- Manage the conflict between dogs and protected wildlife, stock, poultry, domestic animals, property and natural habitat;
- Recognise owners as legitimate users of public places and dog access as desirable for dog welfare;
- Ensure that areas with different dog access rules have clearly visible boundaries, which may be achieved through transition zones, vegetation, topography and fencing.

#### **4.2.1 Dog Access Areas definition amendments (Bylaw and Policy)**

The previous Policy had four 'dogs access definitions' – 'Prohibited Areas', 'Controlled Areas', 'Off-lead Areas' and 'Exercise Areas'. This has led to confusion around where dogs can be exercised in public areas 'off-lead' in Napier, resulting in a public understanding that dogs can be exercised generally in Napier 'off lead'.

It's now proposed that the 'Controlled Areas' in public places will now be 'On Leash Area' with 'Controlled Areas' and 'Off-lead Areas' being removed. Previously it was ambiguous between the Bylaw/Policy whether owners could walk dogs 'off lead' in this area or not.

**Option B1 – Retain the existing Dog Exercise Areas definitions - 'Prohibited Areas', 'Controlled Areas', 'Off-lead Areas' and 'Exercise Areas'.**

##### Comments

- Having 'Controlled Areas' and 'Off-lead Areas' creates confusion for dog owners and Council officers alike;
- Whilst its admirable to provide greater areas for dogs to be exercised, it's preferable that these areas are defined as 'Exercise Areas' rather than 'Off-lead Areas';
- The general public perception that dogs can be exercised in public areas of Napier whilst 'off lead' is dangerous, with the preferable option being dogs can be exercised 'on-lead' unless within a defined exercise area.

**Option B2 – Change the Dog Exercise Areas definitions to - 'Prohibited Areas', 'On-leash Areas' and 'Exercise Areas' (Preferred Option).**

##### Comments

- Simplifies classifications from four to three to promote consistent and easy to understand rules and compliance
- Allows for general exercise of dogs in public places as 'on-lead' rather than 'off-lead' to promote safe interaction between dogs and people.
- Assists with surveillance and enforcement.

#### 4.2.2 Dog Access Areas – proposed area amendments (Bylaw and Policy)

Council has conducted a critical review of its dog access areas as listed in the current Dog Control Bylaw/Policy and is proposing the following main amendments to the lists.

- Adding sports playing areas at Taraha Park, Park Island North, Tremain field, Bluewater Stadium, Hawkes Bay Hockey as defined Prohibited Areas. (new)
- Extending the prohibited area around the Ahuiriri Estuary to protect the endangered bird life and its habitat. This includes the Humber Street Reserve in Pandora Pond.
- Changing the Lagoon Farm area (controlled by Napier City Council) and the estuary stop banks from Prohibited Areas to On-leash Areas.
- Including Watchman Road Reserve and Port Beach West public spaces as Prohibited Areas.
- The Taradale/Kennedy Road greenbelt area better defined and classified an Exercise Area to improve connectivity between Exercise Areas.
- Widening the Exercise Area in Alexander Park to extend from Taradale Road to Te Awa Park.
- Introducing a seasonal restriction to the existing Esplanade foreshore Exercise Area to better protect nesting birds.
- Increasing the Exercise Area within the Taipo Stream Reserve.
- Introducing part of Dolbel Reserve as a new Exercise Area.

In reviewing these areas and making the proposed amendments, Council has consulted with various affected parties and stakeholders, looked at its activity statistics, and considered existing access areas to define clear boundaries based on use, vegetation, topography and fencing.

Council also looked at areas of new development where it will be advantageous to provide for new dog access areas.

#### **Option C1 – Status Quo - Retain the existing Dog Access Areas**

##### Comments

Having gone through an initial review process, including talking to key stakeholders, Council considers that some of these dog exercise areas are either no longer suitable or need amending, including new areas incorporated to better meet community needs, recent urban developments and better protect existing wildlife. For these reasons, to retain the status quo would be a missed opportunity to continuously improve and add dog exercise areas for dog and owner welfare.

#### **Option C2 – Amended Dog Access Areas (Preferred)**

##### Comments

It makes sense to continually review and upgrade Dog Access Areas to make them relevant for all.

The suggested amendments follow an extensive review involving stakeholder feedback and data analysis.

#### 4.2.3 Enhance the 'nuisance' section of the Bylaw

##### **Option D1 - Status Quo**

###### Comments

The current Bylaw contains generic 'nuisance' provisions relating to where dogs are kept (private property), including remedies Council officers can take to require dog owners to remedy those nuisance situations. This works well for nuisance situations on private properties however is silent on nuisance situations in public places.

##### **Option D2 Enhanced amendment of 'nuisance' section of Bylaw (Preferred)**

###### Comments

The proposed Bylaw retains the existing Bylaw's private property nuisance provisions as well as introducing clauses defining nuisance situations that dog owners must not create in a public place or on private property. This allows for a wider control of nuisance situations in public places.

The proposed new nuisance clauses includes the following situations –

- Obstructing lawful passage,
- Rushing, chasing, frightening and intimidating behaviour causing injury or distress,
- Destroying, tearing or interfering with refuse containers,
- Interfering with property,
- Rushing at, chasing, frightening, obstructing or causing injury or distress to stock, domestic animals, etc
- Barking, howling or whining,
- Rushing at vehicles.

## **5. DETERMINATION OF APPROPRIATENESS**

In reviewing the Dog Control Policy and Bylaw, Council intends to provide a safe and healthy environment for citizens and visitors in Napier. The focus of implementing this Policy and Bylaw is to prioritise safe interactions between dogs, people and their environment; reduce nuisance situations, minimise the possibility of dog attacks and promote the welfare of dogs generally.

Council has taken care to ensure the revised documents are consistent with each other, as far as practicable in unison with Hastings District Council's Policy/Bylaw, easy to read and understand, and balance the needs of dog owners with non-dog owners.

The Dog Control Policy, enforced through the Dog Control Bylaw, is considered to be the most efficient and effective method of managing the issues related to dogs.

## **6. FORM OF BYLAW**

The proposed Dog Control Bylaw 2022 is considered the most appropriate form of bylaw to address the issues and for the purpose of public consultation.

## 7. NEW ZEALAND BILL OF RIGHTS ACT 1990

The Local Government Act requires the Council to determine whether there are any implications for the proposed bylaw under the New Zealand Bill of Rights Act 1990 i.e. no bylaw may be made that is inconsistent with that Act. In Council's opinion the proposed bylaw does not contain any provision that is in conflict with the New Zealand Bill of Rights Act 1990.

Following the prescribed special consultative procedure set out in section 83 of the Local Government Act 2002 (the LGA 2002), the Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights Act 1990 implications, if any.

## 8. CONSULTATION AND SUBMISSION

In making, amending, or revoking the Policy and Bylaw, Council must use the Special Consultative Procedure set out in section 83 of the LGA 2002. Council has prepared and adopted the proposed Policy and Bylaw for public consultation. Any person can make a submission on the proposed Policy and Bylaw.

A copy of the Statement of Proposal, including the proposed Policy/Bylaw and information about making a submission can be obtained from the Council website

You can make a submission online at [www.sayitnapier.nz](http://www.sayitnapier.nz) or visiting the Napier City Council Customer Service Centre. Please indicate whether you would like to speak to your submission and include contact details. People who wish to be heard by Council will be given the opportunity to do so. The hearing of submissions is scheduled for July 2022.

For any queries please contact Paulina Wilhelm, Manager City Development on [paulinaw@napier.govt.nz](mailto:paulinaw@napier.govt.nz).

The period for making submissions is from 23 May 2022 to 22 June 2022.

## 9. ATTACHMENTS

**Attachment 1 – Proposed Dog Control Policy 2022**

**Attachment 2 – Proposed Dog Control Bylaw 2022**

**Attachment 3 – High Level Engagement Plan**