

# Statement of Proposal: Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 (Tairāwhiti Draft Keeping of Animals Bylaw 2023)

## Overview

This document is the Statement of Proposal for the purposes of Section 83(1)(a) and Section 86(2) of the Local Government Act 2002. This document contains:

1. Proposal
2. Reasons for the Proposal
3. Options considered and preferred options
4. Legislative framework
5. Assessment of appropriateness
6. How you can have your say
7. A draft of the proposed bylaw

The Keeping of Animals, Poultry and Bees Bylaw 2012 seeks to protect the public from nuisance and protect, promote and maintain public health and safety. It does this by setting controls for the keeping of animals, poultry and bees in order to reduce the incidence of odour, noise and vermin.

Council is required to review all its bylaws within five years of them having been made, and every 10 years thereafter. The Keeping of Animals, Poultry and Bees Bylaw 2012 was last reviewed in 2012 and is due for review again.

When reviewing the current bylaw, Gisborne District Council (Council) identified several improvements to clarify and simplify the bylaw to ensure it protects the public from nuisance and maintains public health and safety.

## 1. Proposal

- 1.1. Council proposes to amend the Keeping of Animals, Poultry and Bees Bylaw 2012. The key changes proposed in the draft bylaw are:
  - (a) Simplify poultry keeping provisions and reduce the limit on head of poultry in residential zones.
  - (b) Simplify bee keeping provisions.
  - (c) Simplify pig keeping provisions.
  - (d) Add a feral/stray animal provision.
- 1.2. The categorisation of zones into urban or rural areas has been clarified.
- 1.3. Several minor formatting updates have also been made to the bylaw. This aligns the bylaw with Council's new standard format, rewords some parts for clarity and flow, and rearranges some clauses for enhanced readability. The title of the bylaw has also been simplified.

## 2. Reasons for Proposal

- 2.1. Many people in Tairāwhiti keep and interact with animals every day and while this is an important aspect of life for many, sometimes the keeping of animals can cause problems for other people nearby, either through nuisance or impacting their health and safety.

- 2.2. When reviewing the current Keeping of Animals, Poultry and Bees Bylaw, a number of improvements were identified to improve clarity and simplicity for Council staff and the public when interpreting the bylaw, and to ensure the bylaw fulfils its purpose in protecting the public from nuisance and maintaining public health and safety.

### 3. Options Considered and Preferred Options

- 3.1. The following tables set out each proposal, the issue it addresses, the objective, options considered and the preferred option. The preferred option is reflected in the draft bylaw.

**Proposal (a) Simplify poultry keeping provisions and reduce the limit on head of poultry on properties in urban areas.**

<i>Status Quo and Issue</i>	<p>The current poultry provisions are not clear and contain some confusing and unnecessary statements about when approvals might be needed. Council receives some complaints about poultry in residential zones, but not a significant amount. Most of these complaints are regarding nuisance caused by roaming poultry or poultry attracting flies and rats. The current limit of 12 head of poultry on a property is relatively high.</p> <p>The provisions allow an exception to the restrictions on residential zones for properties in areas deemed to be 'rural in character' by Authorised Officers. This is difficult to apply consistently in practice.</p>
<i>Objective</i>	<p>Enable the keeping of poultry in urban areas in a way that effectively minimises nuisance and health risks, by using clear poultry keeping provisions that are easy to understand and can be applied consistently.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Reword the poultry keeping section to be more user-friendly and retain the current limits and rules. Remove the 'rural character' exception.</p> <p>This option involves simplification of the provisions, removing the confusing and unnecessary statements and ensuring the rules are clear. This option retains the current limit of 12 head of poultry on a property, as well as the current setbacks required for poultry houses and runs, and fencing requirements. This option is effectively the status quo and the number of poultry allowed on residential properties is in line with many other councils' bylaw rules for poultry keeping.</p> <p>Removing the exception for residential properties that are rural in character will make it more straightforward for enforcement staff to apply the Bylaw, and those affected will be able to apply for a written permit for exceptions.</p> <p><b>Option Two:</b> Reword the poultry keeping section in line with Option One, including removing the 'rural character' exception and reduce the limit of the number of poultry that may be kept in urban areas to six. <i>(Preferred)</i></p> <p>This option involves simplification of the provisions, removing the confusing and unnecessary statements and ensuring the rules are clear. This option reduces the limit for the number of head of poultry that may be kept on a property to six in order to minimise nuisance, but retains the current setbacks required for poultry houses and runs, and fencing requirements.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Reword the poultry keeping section to be more user-friendly and reduce the limit of the number of poultry that may be kept in urban areas to six.</p>

**Proposal (b) Simplify bee keeping provisions.**

<i>Status Quo and Issue</i>	<p>Current bee keeping provisions are difficult to enforce and unable to adequately deal with the increasing number of complaints about bees, and the increasing popularity of hobby beekeeping in residential areas.</p> <p>In addition to the general nuisance provisions, the current bylaw imposes specific regulations on keeping bees including hive limits of between zero and three hives depending on the size of the property and if there are dwellings or sensitive uses on adjoining properties. These provisions are unnecessarily complex.</p>
<i>Objective</i>	<p>Enable the keeping of bees in residential areas in a way that effectively minimises nuisance and health risks, by using bee keeping provisions that are easy to understand and can be applied consistently. Provisions should allow for some flexibility and a clear compliance process.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Remove all provisions specifically regulating bees, and instead rely wholly on the general rule(s) regulating nuisance caused by any animal in any part of the district.</p> <p>This option simplifies the bylaw and provides a high degree of flexibility when responding to issues. However, it may result in a lengthier resolution process when issues occur with no specific regulations to guide a response.</p> <p><b>Option Two:</b> Retain some bee provisions and simplify hive limits. <i>(Preferred)</i></p> <p>This option provides some specific regulations while still allowing a degree of flexibility when responding to issues. It sets hive limits to two hives for any property in urban areas, instead of different limits depending on size of the property, and otherwise provides flexibility for staff to take a common-sense approach to resolving issues.</p> <p><b>Option Three:</b> Remove the specific bee provisions and replace with a general clause regarding bees not causing a nuisance, and guidance on limits or other conditions that Council may impose if nuisance does occur.</p> <p>This option reinforces the purpose of the bylaw as regulating nuisance, rather than prescribing the best way to keep bees. It removes residential hive limits entirely. While this provides enhanced flexibility when responding to issues, there is concern that removing limits entirely may lead to an influx in nuisance complaints. Deciding the appropriate hive number on a case-by-case basis may also cause possibly lengthier resolution processes when issues do occur.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Retain some bee provisions and simplify hive limits to two hives for any property in the urban areas.</p>

**Proposal (c) Simplify pig keeping provisions.**

<i>Status Quo and Issue</i>	<p>The current pig keeping provisions are unclear, overly complex and difficult to apply.</p>
<i>Objective</i>	<p>Enable the keeping of pigs in rural areas in a way that minimises nuisance and health risks, by using clear and effective pig keeping provisions that are easy to understand and comply with.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Status quo. Retain the current pig keeping provisions.</p> <p>This option's only advantage is that it is unlikely to affect anyone currently keeping pigs in rural areas. However, it results in the bylaw remaining overly complex. The way the existing setback provisions are communicated may not adequately achieve the purpose of the bylaw and desired outcomes from regulating pig keeping because they are unclear and therefore difficult to apply consistently.</p> <p><b>Option Two:</b> Amend the setback regulations in the pig keeping provisions</p>

	<p>for consistency and simplicity of application. <i>(Preferred)</i></p> <p>This approach would bring the regulations more in line with common practice among other councils and increases the ease of use of the provisions. There is a possibility the changes might affect some individuals currently keeping pigs if their setbacks are not in line with the amended rules, however the amended setbacks do not differ from the current setbacks when applied correctly.</p>
<i>Preferred Option</i>	<b>Option Two:</b> Amend the setback regulations in the pig keeping provisions for consistency and simplicity of application.

**Proposal (d) Add feral/stray animal provisions.**

<i>Status Quo and Issue</i>	It is unclear whether feral/stray animals are within the scope of the current bylaw, and if so, how the bylaw applies to situations where these animals cause a nuisance.
<i>Objective</i>	Clarify how the bylaw applies to feral or stray animals, including where responsibility lies to abate nuisance and health risks.
<i>Options Considered</i>	<p><b>Option One:</b> Status quo. Rely on general nuisance provisions when responding to nuisance issues relating to feral/stray animals.</p> <p>When nuisance occurs from feral/stray animals, it often falls outside the regular meaning of a person keeping animals. This becomes difficult for Council to respond to such issues, and unclear for residents to interpret.</p> <p><b>Option Two:</b> Add new clause regulating nuisance caused by feral and stray animals being encouraged onto private property. <i>(Preferred)</i></p> <p>Specific regulation identifies where responsibility lies to abate nuisance caused by feral/stray animals. This clarifies residents' responsibilities, and Council's role in nuisance abatement, which enhances use and application of the bylaw. The clause clarifies that people must not encourage a feral or stray animal to become a nuisance, and that the owner or occupier of the property from which such animal emanates must abate the nuisance caused by the animal. This is also in line with a common approach taken by other councils.</p>
<i>Preferred Option</i>	<b>Option Two:</b> Add new clause regulating nuisance caused by feral/stray animals being encouraged onto private property.

#### **4. Legislative Framework**

4.1. This section describes our legislative requirements.

##### *Local Government Act 2002 (LGA)*

4.2. Section 155 of the Local Government Act 2002 sets out requirements for the making, amending and revoking of bylaws. In addition to the general provisions about decision making, the Council, when considering a bylaw, must:

- (a) Determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue
- (b) Determine whether the bylaw is in the most appropriate form
- (c) Determine whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

##### *New Zealand Bill of Rights Act 1990 (NZBORA)*

4.3. Any bylaw made by Council must be consistent with all rights protected under the NZBORA.

##### *Health Act 1956 (Health Act)*

4.4. Section 23 of the Health Act requires Council to improve, promote and protect public health within the district. To achieve this, Council can make bylaws for the protection of public health.

4.5. Any bylaw made under the Health Act must follow the same process prescribed by the LGA.

#### **5. Assessment of Appropriateness (s155 LGA)**

5.1. The Council determined at its meeting on 8 September 2022 that a bylaw is the most appropriate way to address the problems of nuisance and health concerns caused by keeping animals for domestic purposes throughout the district. A bylaw is an effective and enforceable mechanism to:

- Allow responsible animal owners to keep animals in appropriate areas of the district
- Protect the public from the inherent nuisance and health risks associated with keeping animals
- Provide controls over the keeping of certain animals and reduce the incidence of odour, noise and vermin.

5.2. Council considers the proposed bylaw to be in the most appropriate form of bylaw.

5.3. Council considers the proposed bylaw to be consistent with the New Zealand Bill of Rights Act 1990 as the proposed changes are reasonable, not overly restrictive or impractical. Public freedom to keep animals has only been restricted when necessary to achieve public protection from nuisance and health issues.

#### **6. Have Your Say**

6.1. Before making any final decisions, we'd like to hear your feedback on the draft bylaw. You can make a submission:

- Online: [www.gdc.govt.nz](http://www.gdc.govt.nz)
- By Post: P.O. Box 747, Gisborne 4040

- In person: At Gisborne District Council – 15 Fitzherbert Street, Gisborne
- 6.2. If you would like to speak to your submission, please indicate this and provide your contact details. We will be in touch to let you know the date and time for verbal submissions.

6.3. Timeline:

Consultation period begins:	<b>25 January 2023</b>
Closing date for submissions:	<b>10am 2 March 2023</b>
Public hearing to hear oral submissions:	<b>29 March 2023</b>
Decision of Council:	<b>To be confirmed</b>

**7. Copy of Draft Bylaw attached**

Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 (Tairāwhiti Draft Keeping of Animals Bylaw 2023)

The current bylaw, which will be revoked, can be found at the following link:  
[https://www.gdc.govt.nz/\\_data/assets/pdf\\_file/0019/10369/Bylaw-keeping-of-animals-poultry-and-bees-2012.pdf](https://www.gdc.govt.nz/_data/assets/pdf_file/0019/10369/Bylaw-keeping-of-animals-poultry-and-bees-2012.pdf)