



# Thames-Coromandel District Council

## Proposed Property Maintenance and Nuisances Bylaw

# Statement of Proposal

The Thames-Coromandel District Council is proposing a new Property Maintenance and Nuisances Bylaw.

This document explains the proposed rules and includes the proposed bylaw in full. It also tells you how you can give us feedback.

### Why a bylaw?

The Local Government Act 2002 gives councils the authority to make bylaws. This includes bylaws to regulate certain activities in order to protect the public from nuisance, and to protect, promote and maintain public health and safety.

Our Council has had a Nuisances Bylaw since 2005. We're reviewing the rules again and are proposing a new bylaw. We're proposing changes for continued relevance, including some new definitions and provisions to enable problems generated on private property to be avoided but also addressed when they do occur (further to what is possible under the current Nuisances bylaw especially in regard to the state and use of private premises).

Council has considered the proposed Property Maintenance and Nuisances Bylaw included in this Statement of Proposal and has determined:

- A bylaw is the most appropriate way to address public health, safety and nuisance problems that are generated on private property.
- The proposed bylaw is the most appropriate form of bylaw for the purposes of consultation.
- The proposed bylaw is not inconsistent with the New Zealand Bill of Rights 1990.

## More about the proposed bylaw

Council adopted a Nuisances Bylaw in April 2005 (Part 11 Nuisances 2005 of Council's Consolidated Bylaw 2004). A review was undertaken in 2009 and the current bylaw must be reviewed no later than September 2019. The current review has been informed by complaints from the community over recent years about situations on private properties that are considered to cause a nuisance, and our own inspections of these properties. We've also had discussions with Council's community boards and considered feedback from the community to an informal survey that was open through August 2016.

Key topic areas that the proposed bylaw covers include the keeping of animals including poultry, and the state and use of a private premises (property maintenance).

**Keeping of animals including poultry** - The keeping and presence of animals, birds and insects can cause various nuisances and health and safety issues; such as through visual impact, noise, mess, smell, and potential for harm to people and property. The impact is often higher in urban areas where the population is more concentrated. Whether the keeping and presence of animals, birds or insects becomes a problem is often about type, location, scale (number) and conditions such as how they are housed. Our proposed bylaw includes rules so that any keeping of animals including poultry don't cause problems for others nearby.

**State and use of premises** - The state of a property can be a nuisance including overgrown vegetation, accumulation of materials such as cars or household items, and abandoned buildings. An unkempt or abandoned property can house vermin which are a risk to public health, and abandoned buildings can encourage inappropriate use or otherwise be unsightly for neighbours and the public..

We're proposing **various improvements** to make the bylaw more relevant to current regulatory and community needs as well as easier to read and understand. These include:

- Numbering and ordering of provisions.
- Greater use of explanatory notes.
- More definitions.
- Concise provisions using plain English for improved readability.
- A schedule with defined area descriptions for clarification.
- Separating the bylaw from the Council's Consolidated Bylaw 2004 and making changes so the bylaw can sufficiently stand-alone.

The nature and scope of changes proposed means Council would revoke the current Nuisances Bylaw 2005 (Part 4 of Council's Consolidated Bylaw 2004) and adopt a new Property Maintenance and Nuisances Bylaw following public consultation and consideration of the feedback received. Being a new bylaw, once adopted a review would be undertaken within five years.

## Have your say

**The consultation period will begin on 16 December 2016 and conclude at 4pm on 27 January 2017.**

This is your opportunity to let Council know what you think of the proposed Property Maintenance and Nuisances Bylaw. There are many different ways for you to tell us what you think. You can:

- Use our online consultation portal at: [www.haveyoursay-tcdc.objective.com](http://www.haveyoursay-tcdc.objective.com)
- Send us an email at: [customer.services@tcdc.govt.nz](mailto:customer.services@tcdc.govt.nz)
- Fax us on (07) 868 0234
- Complete a submission form and post it to us at Thames-Coromandel District Council, Private Bag, Thames 3540 or drop it into the area offices in Thames, Coromandel, Whitianga or Whangamata.

If you have any questions about this proposal or about how to make a submission, please contact us on 07 868 0200 or email: [customer.services@tcdc.govt.nz](mailto:customer.services@tcdc.govt.nz)

We encourage you to consider using the online consultation portal as this method minimises the administration costs of the Council and gives you the advantage of saving your draft submission for further editing before submitting.

## Hearings

Please tell us if you would like to attend a hearing to speak to Council in support of your submission, and include a telephone number and email address to ensure we can contact you to arrange a time for your presentation. Hearings will be held in late February 2017.

## What happens next?

After the hearings, the Council will consider all the submissions received and make decisions on any amendments to the proposed bylaw as a result. As a submitter you will be notified of Council's decision. Council will consider a final bylaw for adoption in May 2017.

**Remember, you have until 4pm on 27 January 2017 to send us your feedback.**

	<b>Title:</b>	<b>Property Maintenance and Nuisances Bylaw 2017</b> <b>Te Ture ā-rohe Tiaki Rawa me Ngā Mahi Whakaporearea 2017</b>
	<b>Date Adopted (review date):</b>	[To be determined]
	<b>Date in Force:</b>	[To be determined]
	<b>Next Review Date:</b>	By or before [date to be determined] (within 5 years of date adopted)

## 1. TITLE

- 1.1. This bylaw is the Thames-Coromandel District Council Property Maintenance and Nuisances Bylaw 2017.

## 2. PURPOSE AND SCOPE

- 2.1. This bylaw sets rules for the maintenance and management of private property so as to protect public health and safety and to protect the public from nuisances.
- 2.2. This bylaw shall apply to the entire Thames-Coromandel district.
- 2.3. This bylaw is made pursuant to section 145 and 146 of the Local Government Act 2002 and section 23 the Health Act 1956.

## 3. EXPLANATORY NOTE

- 3.1. This bylaw is not the only legislative document relating to property maintenance and nuisances. Nothing in this bylaw derogates from any duty, power or responsibility arising from any other Act, regulation, bylaw or rule.
- 3.2. Words which refer to the singular include the plural and the plural includes the singular.
- 3.3. Reference to any Act or provision of any Act includes any amendment to that Act or any Act passed in substitution for it.
- 3.4. Notes in italics are for information only and are not part of this bylaw.

## 4. COMMENCEMENT

4.1. This bylaw comes into force on [date to be determined].

## 5. REVIEW

5.1. Review of this bylaw will be undertaken in accordance with section 158 of the Local Government Act 2002.

## 6. DEFINITIONS

6.1. In this bylaw, unless the context requires otherwise:

**Animal** means any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young or eggs and the carcass or its constituent parts, but does not include humans or dogs.

**Aircraft** means any device that flies or is intended for flying either manned or unmanned and either powered or unpowered.

**Building** means a temporary or permanent moveable or immovable structure including a structure intended for occupation by people, animals, machinery or chattels and includes part of a building.

**Chief Executive** means the person employed by Council as the Chief Executive of the Council for the time being.

**Council** means the Thames-Coromandel District Council.

**Derelict** means abandoned and with no evidence of regular maintenance or use.

**District** means the Thames-Coromandel district.

**Litter** has the same meaning as defined in section 2 of the Litter Act 1979.

**Livestock** means any species of cattle, sheep, goat, pig, horse, deer, alpaca, llama or poultry.

**Material or thing** means, but is not limited to:

- a. Building material or equipment associated with building activities and including asbestos
- b. Household goods/furniture
- c. Litter
- d. Manure
- e. Metal

- f. Paper
- g. Plastics
- h. Timber
- i. Tyres
- j. Vehicles including vehicles with wheels or other parts removed
- k. Waste

**Nuisance** means a person, animal, thing, or circumstance causing unreasonable interference with the peace, comfort, or convenience of another person. This includes but is not limited to:

(a) where any accumulation or deposit of material or thing is in such a state or is so situated as to be offensive or likely to be injurious to health;

(b) where there exists on any land or premises any condition giving rise or likely to give rise to the breeding of pests or vermin or is suitable for the breeding of pests or vermin, which are capable of causing or transmitting disease;

(c) where there exists on any land or premises any condition or activity that creates or is likely to create an odour that is objectionable or offensive at or beyond the boundary of the land;

(d) where any premises, including any accumulation or deposit of any material or thing thereon, are in such a state as to harbour or to be likely to harbour pests or vermin;

(e) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;

(f) where any buildings or premises used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive or likely to be injurious to health;

(g) where any animal, or any carcass or part of a carcass, is so kept or allowed to remain as to be offensive or likely to be injurious to health;

(h) where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health

**Occupier** means the inhabitant occupier of that property or premises.

**Owner** means the person named on the certificate of title for and land or their attorney or agent.

**Pest or vermin** means any wild, feral or farm animal, and any species of caged or feral bird that is causing a nuisance to any person or thing outside a property boundary upon which it is located or that may attack or infest or are parasitic on living beings and plants and includes but

is not limited to: ants, cockroaches, ferrets, flies, mice, mosquitoes, mites, pigeons, possums, rats, stoats, ticks and wasps.

**Poultry** means chickens, ducks, geese, pigeons, roosters, turkeys and other domestic fowls of all descriptions.

**Property** means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s).

**The Act** refers to the Local Government Act 2002.

**Vehicle** has the same meaning given by the Land Transport Act 1998.

**Waste** has the same meaning as defined in section 5 of the Waste Minimisation Act 2008.

## 7. PROPERTY MAINTENANCE

- 7.1. A person must not allow any material or thing to be deposited, accumulated, used, processed or stored on any private property under their control in a manner that causes or may cause a nuisance.
- 7.2. A person must not allow any property under their control to become overgrown with vegetation to an extent that it causes or may cause a nuisance.
- 7.3. The owner of any building that is derelict in the opinion of an authorised officer must ensure that the building is secured so as not to allow access by the public.

## 8. ANIMALS INCLUDING POULTRY

- 8.1. Any building or property used for the keeping of animals shall be constructed, situated, used or kept in a condition that does not create or is not likely to create an offensive or objectionable sight or odour and shall be free from pests and vermin.
- 8.2. Any poultry must remain within the property boundary and have access to a poultry house or similar shelter to which an enclosed poultry run may be attached.
- 8.3. No shelter, poultry house or poultry run shall be erected or maintained so that any part of it is within 2 metres of the boundary of any adjoining property.
- 8.4. No livestock shall be kept, or allowed to remain, on any property where it causes or is likely to cause a nuisance.

- 8.5. Any person must comply with any direction given by an authorised officer to move or remove any animal or beehive where in the opinion of that authorised officer the beehive or nuisance is causing or is likely to cause a nuisance.
- 8.6. No suffering shall be caused to an animal by the manner of its shelter or keeping.

## **9. ENFORCEMENT, OFFENCES AND PENALTIES**

- 9.1. The Council may use its powers under the Local Government Act 2002, the Health Act 1956 and the Litter Act 1979 to enforce this bylaw.
- 9.2. The Council may remove or cause to be removed from any private property any material or thing found on that private property in breach of this bylaw and may recover any costs of removal from the person who committed the breach.
- 9.3. The Council may, pursuant to section 163 of the Local Government Act 2002, remove or alter a work or thing that is, or has been, constructed in breach of this bylaw and may recover the costs of removal or alteration from the person who committed the breach.
- 9.4. Every person who breaches this bylaw commits an offence.
- 9.5. Every person who commits an offence under this bylaw is liable to a penalty under the prevailing legislation.

**Signed on Behalf of Thames-Coromandel District Council by;**

\_\_\_\_\_  
District Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Executive

\_\_\_\_\_  
Date

## **BYLAW HISTORY**

<b>Action</b>	<b>Description</b>	<b>Date of Council Resolution</b>	<b>Effective Date</b>
<i>Made new bylaw</i>	<i>Adopted new Property Maintenance and Nuisances Bylaw 2017 Revoked Part 11 Nuisances 2005 of Council's Consolidated Bylaw 2004</i>	<i>[To be determined]</i>	<i>[To be determined]</i>