Statement of Proposal

Revoking Provisions of the Street Use and Public Places Bylaw 2018

This Statement of Proposal includes:

- A statement of the provisions of the Street Use and Public Places Bylaw 2018 which are proposed to be revoked; and
- The reasons for the proposal; and

Street Use and Public Places Bylaw 2018

Council proposes to revoke the provisions in its Street Use and Public Places Bylaw 2018 relating to begging and rough sleeping. These are clauses 20.2 and 20.3 of the Bylaw, and the definitions of “begging” and “rough sleeping”.

The provisions which it is proposed will be revoked are:

20.2 No person shall beg in a public place within 5 metres of a public entrance to retail premises within defined areas in the CBD, Greerton and Mount Maunganui (using current maps in the Bylaw attachments and enable these to be changed by Council resolution based on evidence of the problem).

20.3 No person shall rough sleep within five metres of a retail premises within defined areas in the CBD, Greerton and Mount Maunganui (using current maps in the Bylaw attachments and enable these to be changed by Council resolution based on evidence of the problem).

Together with the following definitions (clause 5.2):

**Begging** means soliciting for money or goods for private benefit.

**Rough sleeping** means sleeping in a public place on the streets, pavements or anywhere other than in approved accommodation, with the exception of where council has given approval.

Reason for Proposal

Clauses 20.2 and 20.3 of the Street Use and Public Places Bylaw 2018 were made under the Local Government Act 2002, which authorises the council to make bylaws for all or any of the following purposes:

- Protecting the public from nuisance;
- Protecting, promoting and maintaining public health and safety;
- Minimising the potential for offensive behaviour in public places;

The Council proposes revoking clauses 20.2 and 20.3 and the associated definitions of “begging” and “rough sleeping” because a bylaw is no longer considered to be the most
appropriate way of addressing the perceived problem in relation to begging and rough sleeping in public places. That problem may be defined as the nuisance and other negative impacts of begging and rough sleeping in public places. The effect of the revocations, if they proceed, is that begging and rough sleeping will no longer be expressly regulated under the Bylaw.

The Council has faced difficulties in enforcing the begging and rough sleeping provisions of the bylaw. Further, the behaviour in question is considered to be primarily an issue for the Police and not Council. There are other provisions in the Street Use and Public Places Bylaw 2018 that address behaviour sometimes associated with begging and rough sleeping, such as obstructions in public places, and these provisions will remain. Overall the Council does not regard a bylaw to be the most appropriate means of addressing the nuisance and other negative impacts of begging and rough sleeping in public places.

**Legal Requirements**

Under section 155 of the Local Government Act 2002, Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem. If it is, Council must determine before making a bylaw whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Likewise, if Council is of the view that an existing bylaw is no longer the most appropriate means of addressing a problem then it can consider revoking the bylaw. This is the conclusion the Council has reached (subject to consultation) in relation to the begging and rough sleeping provisions in the Street Use and Public Places Bylaw.

**Submissions to the proposed amended Street Use and Public Places Bylaw 2018**

Public submissions on the proposed revocation of clauses 20.2 and 20.3 of the Bylaw, and the definitions of “begging” and “rough sleeping”, may be made from Wednesday, 20 November 2019 until 5pm Friday, 20 December 2019.

Submission forms are available from Council’s customer service centre at 91 Willow Street, the Tauranga, Mount Maunganui, Greerton and Papamoa libraries and on Council’s website at www.tauranga.govt.nz or contact the Policy Team on 07 577 7000 or info@tauranga.govt.nz