

# Otorohanga District Council

## Statement of Proposal

### Making of Structures and Works in Public Places Bylaw 2015

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#### 1. Introduction

Over the past five years inspections of the street verandahs of some business premises in the centre of Otorohanga have revealed a general lack of maintenance, corroded connections to facades, additional loading from air conditioning units and poorly secured signage.

The current poor state of some verandahs suggests that they are at risk of collapsing not only in an earthquake, but also during more common natural events such as strong winds or heavy hailstorms. This is an unsatisfactory situation because of the risks posed to the public.

Lack of maintenance of these structures in some cases also creates other issues of public nuisance or hazard, such as water leaks or lack of adequate lighting.

Currently council has a very limited ability to ensure that verandahs and other structures attached to buildings over public spaces are maintained in a sound condition, or how associated works in public places are conducted.

Whilst Council has the power to require that such structures are removed, it is generally not considered desirable to do this as the presence of verandahs provides shade and shelter that is likely to contribute positively to retail trade.

Informal requests to property owners to remedy deficiencies of existing verandahs have been largely unsuccessful, and it is therefore believed that new powers are required to protect public safety whilst retaining the centre of town in an attractive form that is conducive to strong retail trade. The making of a bylaw is considered the only practical means of giving such powers.

The Local Government Act 2002 empowers councils to make Bylaws for its district for one or more of the following purposes (Section 145):

- a. Protect the public from nuisance
- b. Protect, promote and maintain public health and safety
- c. Minimise the potential for offensive behaviour in public places.

The making of the proposed Bylaw will contribute to purposes a. and b. above, and therefore is in accordance with this requirement of the Act.

#### 2. Purpose of this Statement of Proposal

The Council must follow the Special Consultative Procedure contained in the Local Government Act for community consultation and comment in respect of making a Bylaw.

As part of the Special Consultative Procedure the Council must produce a Statement of Proposal, which contains a summary of information that is a fair representation of the major matters in the proposal, and make it available to the community. This

document is the Statement of Proposal. The information contained in this Statement of Proposal has been approved by Council for notification and consultation.

### **3. Proposed Structures and Works in Public Places Bylaw 2015**

This Bylaw is intended to address issues related to the construction, maintenance and demolition of structures in or adjacent to public places that are not addressed by the Building Act, Building Regulations, other legislation or the Otorohanga District Plan. Provisions of the Bylaw include:

1. Establishing placement and minimum height requirements for verandahs, balconies and awnings extending over public places and allowing council to remove such structures if they do not comply with this bylaw. Provisions also allow the council to request building owners to temporarily remove verandahs, balconies and awnings to enable construction work to occur beneath or near to them.
2. Requirements for verandahs, balconies and awnings over public places to be adequately maintained by the owner of the building to which they are attached.
3. Establishing conditions on the use of public places during construction, excavation and demolition activities in order to protect public safety.
4. Provisions for street damage deposit charges.

The provisions apply to all public spaces in the Otorohanga District, but will have most significance for the central business areas of Otorohanga and Kawhia where over-street verandahs are common.

The provisions relating to form and dimensions of verandahs and similar structures will not be retrospectively applied to structures existing at 1 January 2015, unless prior requests has been made by council to address these issues in relation to that particular property.

### **4. Report under Section 155 of the Local Government Act 2002**

In proposing a Bylaw Section 155 of the Local Government Act 2002 requires the Council to:

- a. determine whether a Bylaw is the most appropriate way of addressing the "perceived problem", and
- b. if so, determine 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

Bylaws cannot be inconsistent with the New Zealand Bill of Rights Act.

The primary perceived problem in this case is the likely continuing deterioration of privately owned verandahs and similar structures over public places in Otorohanga and Kawhia, which if not addressed will result in increasing risks of severe injury to the public if such a structure was to collapse.

There is also a range of secondary issues in respect of public safety (associated with matters such as maintaining lighting under verandahs, and conducting works in public

places) nuisance (such as lack of weather-tightness of verandahs) and supporting commercial activity through ensuring that business areas are well presented.

The content of the Bylaw is similar to that applied with apparent success in some other urban centres in New Zealand, and hence is believed to be suitable for the intended purpose within this District.

The Bylaw is not considered to infringe on any of the types of rights that are protected under the NZ Bill of Rights Act, and is therefore not inconsistent with this Act.

It is therefore considered that the proposed Structures and Works in Public Places Bylaw 2015 meets all of the tests set by the Act.

## **5. Summary of Information**

A summary of information in respect of the proposed making of the bylaw, which will also be used for advertising purposes, is as follows:

### ***Making of Structures and Works in Public Places Bylaw 2015***

#### ***Summary of Information***

*Over the past five years inspections of the street verandahs of some business premises in the centre of Otorohanga have revealed a general lack of maintenance, corroded connections to facades, additional loading from air conditioning units and poorly secured signage.*

*The current poor state of some verandahs over these public places suggests that they are at risk of collapsing not only in an earthquake, but also during more common natural events such as strong winds or heavy hailstorms, with potential to cause injury to the public.*

*Lack of maintenance of these structures in some cases also creates other issues of public nuisance or hazard, such as water leaks or lack of adequate lighting.*

*Currently Council has a very limited ability to ensure that verandahs and other structures attached to buildings over public spaces are maintained in a sound condition. Whilst Council has the power to require that these structures are removed, it is generally not considered desirable to do this as the presence of verandahs provides shade and shelter that is likely to contribute positively to retail trade.*

*Informal requests to property owners to remedy deficiencies of existing verandahs have been largely unsuccessful, and it is therefore believed that new powers are required to protect public safety whilst retaining the centre of town in an attractive form that is conducive to strong retail trade. The making of a bylaw is considered the only practical means of giving such powers.*

*This proposed new bylaw – the Structures and Works in Public Places Bylaw 2015 - will address issues related to the construction, maintenance and demolition of structures in or adjacent to public places that are not addressed by the Building Act, Building Regulations, other legislation or the Otorohanga District Plan.*

*A more detailed Statement of Proposal, including a copy of the proposed new Bylaw and associated information, is available from Council on request.*

*Submissions in respect of the making of the Structures and Works in Public Places Bylaw 2015 can be made in writing, and should be addressed to:*

*The Chief Executive  
Otorohanga District Council  
PO Box 11  
OTOROHANGA*

*Submissions can be made from 21 May 2015 and must be received by 5.00pm on Friday 26 June 2015.*

## **6. Special Consultative Process**

As stated in the Summary of Information submissions on the proposed new bylaw will open on 21 May 2015 and will close at 5.00pm on Friday 26 June 2015. Submissions will be considered by Council at its meeting of 21 July 2015, and submitters will be provided with the opportunity to speak to their submission at this meeting if they wish to do so.