

# **Statement of Proposal**

## **Signs Bylaw and Amend Part 5 Consolidated General Bylaw**



## Proposal

Council is proposing to make a Signs Bylaw (Bylaw) and amend our Consolidated General Bylaw 2020 (CGB) by removing Part 5 – Advertising Signs (Part 5) that currently regulates sign activities within the District.

The proposed Bylaw will regulate all sign activities within Council owned or controlled land and property, including Council roads and road reserves as well as State Highway road reserves within the 70km per hour or less speed limited zones.

This document includes further information on the proposal, including the reasons for the proposal, a table of the amendments proposed to the CGB and the proposed draft of the Bylaw including some statutory background information.

## Have your say

Before making any final decisions, Council would like to know your views. You can tell us what you think of this proposal between Monday 2 October – Thursday 2 November 2023.

Further information on how to let us know what you think about the proposal is included in this document.

## Key dates

**Feedback period:** Monday 2 October – Thursday 2 November 2023.

**Chat with a Councillor:** Begins the week of 24 October 2023

**Deliberations:** 5 December 2023

**Decision of Council:** February 2024

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## Introduction

There are 10 topic specific bylaws under Parts that make up Council's Consolidated General Bylaw (CGB). The rules for Council owned, controlled, or managed cemeteries and crematoria within the Kaipara District are currently located in the CGB under Part 7 – Cemeteries and Crematoria (Part 7).

This proposal aligns with the Council direction given after the CGBs statutory 10-year review in 2020 and addresses the issues that public and staff identified at that time.

After reviewing Part 5 of the CGB and are proposing to:

- make a separate Signs Bylaw to regulate sign activities within Council owned or controlled land and property, including Council roads and road reserves as well as State Highway road reserves within the 70km per hour or less speed limited zones; and
- amend the CGB by removing Part 5 and relevant sign provisions and references from other Parts in the CGB.

Before finalising the proposed Bylaw and amending the CGB, Council wants to hear your views.

This Statement of Proposal provides you with the reasons for the proposed amendments and the statutory issues Council must consider when making and amending a bylaw. It includes the proposed amendments of the CGB along with a copy of the draft Bylaw.

## Reasons for the proposal

After the statutory review of the CGB in 2020 Council directed staff to start the work programme to investigate and review the CGB with the aim to split the 10 Parts into individual bylaws. Part 5 is the second Part of the CGB to undergo this process.

The Part 5 review identified the following issues:

- Bylaw form -
  - Rules for signs were hard to find because Part 5 was bunched with the other Parts in the CGB
  - The current bylaw framework is not appropriate for the type of bylaw that Part 5 is. Any amendments required to be made to Part 5 in response to legislative changes would require Council to review the whole CGB under the Local Government Act 2002 (LGA). This statutory process is not efficient for any minor changes that Part 5 would require
  - There are no specific provisions to help monitor and enforce bylaw effectiveness
  - Wording and structure need to be clarified
- Bylaw clarity and certainty -
  - continued confusion for public and Council staff regarding the regulatory jurisdiction between Part 5, the District Plan and Waka Kotahi

Council determined that the proposed Bylaw is the best way to address the identified issues and regulate sign activities in Council owned or controlled land and property, including Council roads and road reserves as well as State Highway road reserves within the 70km per hour or less speed limited zones within the District.

The proposed Signs Bylaw:

- addresses the identified issues.
- provides a better opportunity to educate the public regarding different jurisdictions of the three regulatory mechanisms that control sign activities within the district
- supports better community engagement through developing, and later reviewing a topic specific bylaw
- better monitoring of bylaw performance and ensure staff and Council can provide sufficient attention to the review processes in the future
- enables Council to make the Signs Bylaw supporting Sign Standards.

## Legislative Framework

As part of the bylaw making process Council must consider whether our bylaws are effective, efficient, and still necessary. This also includes making sure that the bylaw is not inconsistent with the [New Zealand Bill of Rights Act 1990](#).

Council considered the research and analysis undertaken by staff, and decided a bylaw is still the most appropriate way of addressing the identified perceived problems, but that Part 5 of the CGB form was no longer fit for purpose. Council decided that a Signs Bylaw be made to regulate sign activities and that Part 5 of the CGB be removed to avoid regulation duplication. This was decided at the [26 April 2023 Council meeting](#).

Following this, at the Council meeting on 27 September 2023 Council decided to consult on this proposal with the community to gain feedback.

For further details on this decision, see the agenda report for the 27 September 2023 meeting, either on our website at [www.kaipara.govt.nz](http://www.kaipara.govt.nz) or at Council offices and libraries.

## Proposed amendments to the Consolidated General Bylaw

CGB	Proposed amendments
Contents Page	Remove 'Part 5- Signs' heading
Part 2 – Public Places	Remove 'including signage' from clause 5.1(b)
	Remove 'including signage' from clause 9.1
	Remove clause 10.1(c)
	Remove 'signboard' from clause 14.1
Part 5 – Advertising Signs	Remove whole Part

## **Proposed Draft Signs Bylaw**



# **Kaipara District Council Signs Bylaw**

**This Bylaw is made under sections 145 and 146 of the Local Government Act 2002**

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# Part A

## Preliminary provisions

### 1. Title

This Bylaw is the Signs Bylaw

### 2. Commencement

This Bylaw comes into force on XX Month 2023

### 3. Application

3.1 This Bylaw applies to signs located on or within:

- 3.1.1 Council owned or controlled land and property, including public reserves; and
- 3.1.2 Council controlled roads, and road reserves; and
- 3.1.3 a State Highway road reserve within the 70km per hour or less speed limited zone;

3.2 This Bylaw does not apply to:

- 3.2.1 Official signs;
- 3.2.2 Signs located in or on private property; or
- 3.2.3 A sign for which a resource consent has been issued by Council.

#### Related information

- For signs that are located within the 70km per hour **or more** speed limited State Highway road reserve or for a sign that can be seen from a State Highway within this zone, you will need to approval from Waka Kotahi NZ Transport Agency (NZTA).
- For signs displayed on or attached to private property, including but not limited to, wall mounted signs, window signs and verandah signs on commercial property and businesses, the Kaipara District Plan rules apply, and you may require a resource consent.

### 4. Purpose

4.1 The purpose of this Bylaw is to:

- 4.1.1 protect the public from nuisance, protect public safety, and protect Council owned or controlled land and property from misuse;
- 4.1.2 manage impacts on the effectiveness, efficiency, and safety of the Kaipara District roading system.

4.2 The Bylaw seeks to achieve this by providing for [signs](#) that are [located](#) on or within [Council owned or controlled land and property](#), a [Council](#) controlled road, or [road reserve](#), a [State Highway road reserve](#) within the 70km per hour or less speed limited zone.

**Related information:**


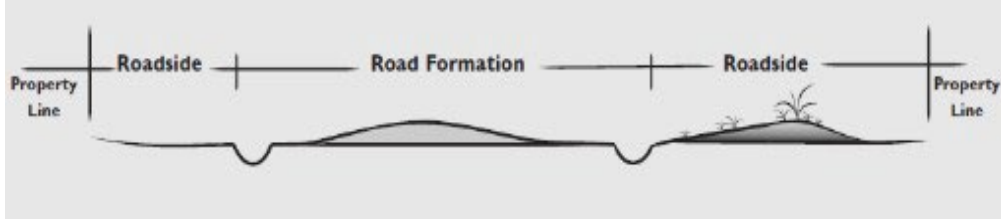
- The Kaipara District Plan controls signs on private property, including business, industrial, and residential premises.
- New Zealand Transport Agency (Signs on State Highways) Bylaw 2010 controls signs that are located or that **can be seen from** any State Highway Road in areas that have a speed limit of 70km per hour **or more** speed limited zone.

## 5. Interpretation

In this Bylaw, unless the context otherwise requires means:

<b>Authorised Officer</b>	<ul style="list-style-type: none"> <li>a. a person authorised by Council to perform duties under this Bylaw; or</li> <li>b. a person appointed by Council as an Enforcement Officer under <a href="#">section 177 of the Local Government Act 2002</a>; or</li> <li>c. an Authorised officer of Waka Kotahi NZ Transport Agency.</li> </ul>
<b>Bylaw</b>	The Kaipara District Council Signs Bylaw.
<b>Council</b>	The Kaipara District Council or any person delegated or authorised to act on its behalf.
<b>Council owned or controlled land and property</b>	A place that is under the control of Kaipara District Council that, at any material time, is open to or is being used by the public, whether free or on payment of a charge; and includes any buildings, vehicles, park, reserve, recreational ground, sports field, public garden, public square, cemetery, beach, foreshore, dune, wharf, breakwater, boat ramp, pontoon, road, footpath, access way, grass verge, berm, and any Council asset such as park benches and lamp posts.
<b>District Plan</b>	The Kaipara District Plan
<b>Official Sign</b>	<p>All signs provided by or on behalf of the Council that gives information or direction to the public for:</p> <ul style="list-style-type: none"> <li>- education, public awareness, and safety;</li> <li>- signs relating to a place of historic or environmental significance;</li> <li>- public transport signs;</li> <li>- signs required by legislation;</li> <li>- signs that provide safety or security information.</li> </ul>
<b>Owner</b>	The person who the sign belongs to and is responsible for.
<b>Person</b>	<p>Means and includes:</p> <ul style="list-style-type: none"> <li>a. an individual, a corporation, a body corporate, and an unincorporated body, and</li> <li>b. in the context of this Bylaw may mean –           <ul style="list-style-type: none"> <li>• the person who wishes to display a sign;</li> <li>• the person who displays a sign (for example the person who installs a wall mounted sign on a building or locates a portable sign on a footpath);</li> <li>• the owner, occupier, or manager of the premises where the sign is located (for example the manager of a store that has a portable sign located on the adjoining footpath or the owner for a sign that must be removed because the business has ceased to trade); and</li> <li>• any other person responsible for the sign (for example the event organiser for an event sign displayed on the roadside).</li> </ul> </li> </ul>
<b>Permit</b>	A written approval from Council with or without prescribed conditions and charges.
<b>Private property</b>	Land, buildings, and structures owned by a natural person or private entity.



<b>Public Reserve</b>	Any land which is vested in or under the control of Council and which is set aside for public enjoyment as a reserve, park, garden, or greenspace area.
<b>Road Reserve</b>	The area from a property boundary on one side of the road to the property boundary on the other side of the road. 
<b>Sign / Signs/ Signage</b>	Any device, character, graphic or electronic display, whether temporary or permanent, which is for the purposes of: <ul style="list-style-type: none"> <li>- identification of, or provision of, or information about:                         <ul style="list-style-type: none"> <li>• any activity, or</li> <li>• property or structure or,</li> <li>• an aspect of public safety;</li> <li>• providing directions; or</li> <li>• promoting goods, services, or events; and</li> <li>• is projected onto, or fixed or attached to, any structure or natural object; and</li> </ul> </li> <li>- includes the frame, supporting device and any ancillary equipment that functions to support the message or notice.</li> </ul>
<b>Sign Standards</b>	The Sign Standards document made by Council under clause 7 of this Bylaw.
<b>Site</b>	a. an area of land comprised in a single record of title as per Land Transfer Act 2017; or b. an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be dealt with separately without the prior consent of the Council; or c. the land comprised in a single allotment or balance area on an approved survey plan of subdivision for which a separate record of title as per Land Transfer Act 2017 could be issued without further consent of Council; or d. except that in relation to (a) to (c), in the case of land subdivided under the Unit Title Act 1972 or 2010 or a cross lease system, a site is the whole of the land subject to the unit development or cross lease.
<b>State Highway</b>	A road that is declared to be a state highway under section 11 of the National Roading Act 1953, section 60 of the Government Roading Powers Act 1989, or under section 103 of the <a href="#">Land Transport Management Act 2003</a> .
<b>State Highway Road Reserve</b>	For the purposes of this Bylaw means: The area between a property boundary to the sealed part of the road along a State Highway within the 70km per hour or less speed limited zone. 

- 5.1 The [Interpretation Act 1999](#) applies to this Bylaw.
- 5.2 Words implying the singular include the plural and vice versa.
- 5.3 Any related information is provided for information purposes, does not form part of this Bylaw. It may be inserted, amended, or removed without formality. Related information notes are provided within the boxes throughout this Bylaw.

### Related information

#### Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, the Kaipara District Plan, and the Regional Plan for Northland which contains rules for signs the Coastal environment.

Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

## Part B

### Sign activities on Council controlled or owned property and land

#### 6. A person must comply with the Sign Standards

- 6.1 A person must comply with the Sign Standards made in accordance with clause 7.
- 6.2 Clause 6.1 does not apply to any person acting in compliance with a lawful direction of an Authorised Officer.

## Part C Controls

#### 7. Council may make Sign Standards

- 7.1 Council may make any Sign Standards to regulate sign activities in or on Council [owned or controlled land or property](#), road reserve or State Highway road reserve or at a location that can be seen from a State Highway or public reserve.
- 7.2 Any Sign Standards document made under clause 7.1 may prescribe rules for one or more of the following purposes:
  - 7.2.1 sign permits and associated conditions
  - 7.2.2 sign design;
  - 7.2.3 sign construction;

- 7.2.4 sign content;
- 7.2.5 sign maintenance;
- 7.2.6 sign locations;
- 7.2.7 non-permitted sign; and
- 7.2.8 any other matters Council considers relevant and reasonably necessary to achieve the purpose of the Bylaw.

#### Related information

Council may approve and amend the Sign Standards document by resolution.

To make a decision, Council must comply with the decision-making requirements under [Subpart 1 of Part 6 of the Local Government Act 2002](#).

## 8. Fees

- 8.1 Council may by resolution, and in accordance with the Local Government Act 2002 set fees for permits and other provided matters.
- 8.2 Council reserves the right to determine situations when fees may be remitted, refunded or waived on a case-by-case basis.

# Part D

## Enforcement powers, offences, and penalties

### 9. Council can use statutory powers and other methods to enforce this Bylaw

- 9.1 In addition to the authority conferred on Council by any other Act, an Authorised Officer may:
  - 9.1.1 remove or alter a sign that is, or has been, located on a site in breach of this Bylaw;
  - 9.1.2 repair any damage resulting from a breach of this bylaw;
  - 9.1.3 Instruct a sign owner to remove, repair or maintain the sign
- 9.2 Council may recover the reasonable costs in connection with any enforcement undertaken in accordance with clause 9.1 from the person who committed the breach of this Bylaw.

### 10. Offences

- 10.1 It is an offence to breach this Bylaw.
- 10.2 A person commits a breach of this Bylaw who:
  - 10.2.1 does something, or causes something to be done, or knowingly allows something to be done that is contrary to the provisions of this Bylaw;
  - 10.2.2 forgets to or neglects to do anything which should be done by that person at the time and in the manner provided for by this Bylaw;

- 10.2.3 knowingly allows or unknowingly allows any condition or thing/s to exist contrary to any provision/s in this Bylaw;
  - 10.2.4 fails to comply with any notice or direction given to that person under this Bylaw by an Authorised Officer;
  - 10.2.5 obstructs or hinders any Authorised Officer in the performance of any duty under or in the exercise of any power conferred upon them by this Bylaw.
- 10.3 Where it is suspected that a person has committed a breach of this Bylaw, that person shall, on the direction of an Authorised Officer provide their full name and address.

## 11. Penalties

- 11.1 Every person who commits an offence against this Bylaw is liable to:
- 11.1.1 the penalty set out in section 242 of the [Local Government Act 2002](#);
  - 11.1.2 where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.
- 11.2 In accordance with section 162 of the [Local Government Act 2002](#), [Council](#) may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

### Related information

Pursuant to section 242(4) of the [Local Government Act 2002](#), the penalty upon conviction for an offence under a Bylaw is a fine of up to \$20,000.00.

# Part E

## Exemptions and savings

## 12. Exceptions

A person is not in breach of this Bylaw if that person proves that the act or omission followed the directions of an Authorised Officer or was in accordance with a permit issued by Council.

## 13. Savings

Any permits or other authorisations issued under part 5 of the Consolidated General Bylaw 2020 continue to be in force in accordance with their terms, unless re-negotiated, renewed, or cancelled by Council.