

NOTICE IS HEREBY GIVEN THAT THE MONTHLY MEETING OF THE REGULATORY AND PLANNING COMMITTEE, WILL BE HELD IN THE COUNCIL CHAMBERS, 29 CIVIC AVENUE, GORE, ON TUESDAY 12 FEBRUARY 2008, FOLLOWING THE OPERATIONS COMMITTEE MEETING

**Steve Parry
CHIEF EXECUTIVE**

4 February 2008

A G E N D A

1. Improving Public Safety under the Dog Control Act
(Pages 1-2)
2. Review of Council Bylaws
(Pages 3-48)
3. Gore District Trade Waste Bylaw 2008
(Pages 49-56)
4. Regulatory Bulletin
(Pages 57-60)

REGULATORY AND PLANNING COMMITTEE AGENDA

FEBRUARY 2008

1. IMPROVING PUBLIC SAFETY UNDER THE DOG CONTROL ACT 1996: POLICY OPTIONS

(Memo from Chief Executive – 23.01.08)

In August last year the Council was invited to submit comments to the Department of Internal Affairs about improvements to legislation that could be considered to address intensified concerns associated with the increased number of dog attacks in communities.

The Minister of Local Government, Nanaia Mahuta has now released a focused and succinct policy options document for comment. The document (copy attached) lists nine specific options which the Minister is seeking feedback on. Interestingly, one of the nine options is the round-up and faster destruction of unregistered dogs, a specific proposal that the Gore District Council put forward in its earlier submissions on this matter.

The deadline for the receipt of feedback on the policy options document is Monday 31 March 2008. Given the type of options being posed and the identified pros and cons, it is highly likely that there will be a good level of debate amongst elected members before a consensus on some or all of the issues presented is obtained. It is therefore suggested that the Planning and Regulatory Committee appoint a working party to discuss and debate the policy options presented by the Minister and develop responses on the issues in order that they can be dispatched before the end of March. The committee may wish to give consideration as to whether it would want the working party to report back with its thinking prior to release to the Minister or whether this could occur for noting purposes after the submission has been forwarded.

In terms of working party membership, I have no fixed view, but I would however, strongly suggest that the Council's dog control contractor be included in the mix.

RECOMMENDATION

THAT a working party comprised of Councillors, the Chief Executive and the Council's dog control contractor be formed to prepare a response to the Minister of Local Government's policy options on improving public safety under the Dog Control Act 1996,

AND THAT the Committee indicate whether the working party has the authority to release its submission on behalf of the Council or whether a draft submission should be referred back to the Committee for endorsement prior to its dispatch to the Minister's office.

2. REVIEW OF COUNCIL BYLAWS

(Memo from Chief Executive – 29.01.08)

1.0 Introduction

- 1.1 The Local Government Act 2002 (**LGA 02**) introduced a new requirement for Councils to review their bylaws. However, the LGA 02 also contained a transitional regime for those bylaws made under repealed provisions of the Local Government Act 1974 (**LGA 74**)
- 1.2 Under Section 293 of the LGA 02, bylaws made under repealed provisions of the LGA 74 that were in force immediately before 1 July 2003, are deemed to be validly made under the LGA 02 and continued to be in force. However, Section 293 also provides that those bylaws that have not been subsequently revoked or that have not expired before 1 July 2008 **are automatically revoked on 1 July 2008**.
- 1.3 Section 158(2) of the LGA 02 also provided that the Council must review a bylaw made by it under the Local Government Act 1974 (other than bylaws to which Section 293 apply) no later than 1 July 2008 if the bylaw was made before 1 July 2003 (Section 158(2)(a)).
- 1.4 Bylaws made by the Council under the LGA 02 or the LGA 74 after 1 July 2003 must be reviewed no later than 5 years after the bylaw was made, and then every 10 years after that.
- 1.5 A bylaw that is not reviewed as required under Section 158 is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed under that section.
- 1.6 The effect of these sections is that:
 - A current bylaw made before 1 July 2003 under a now repealed provision of the LGA 74 will be **automatically revoked on 1 July 2008**. In terms of these bylaws, the Council needs to determine whether it wants to make new bylaws under the LGA 02 to regulate the same subject areas before 1 July 2008.

- A current bylaw made before 1 July 2003 under a provision of the LGA 74 that is still in force must be reviewed by 1 July 2008. If it is not reviewed the bylaw will be **automatically revoked on 1 July 2010**. In terms of these bylaws, the Council needs to undertake the review process before 1 July 2008.

Review Procedure

- 1.7 Section 160 of the LGA 02 sets out the procedure which the Council must use to conduct its reviews under Section 158. A bylaw must be reviewed by making the determinations required by Section 155 of the LGA 02.
- 1.8 The LGA 02 does not set out any procedure for dealing with bylaws covered by Section 293 but the Council will need to make the determinations in Section 155 of the LGA 02 if it wishes to replace any of the bylaws that will be automatically revoked.
- 1.9 The Section 155 determinations are:
 1. Identification of a perceived problem, and consideration of whether a bylaw is the most appropriate way of addressing the perceived problem; and
 2. If it has determined that a bylaw is the most appropriate way of addressing the perceived problem, then whether:
 - (a) A new bylaw or the reviewed bylaw is the most appropriate form of bylaw (Section 155(2)(a)); and
 - (b) A new bylaw or the reviewed bylaw gives rise to any implication under the New Zealand Bill of Rights Act 1990 (no bylaw can be made which is inconsistent with the New Zealand Bill of Rights Act 1990 (Section 155(3)).

Requirements after review

- 1.10 In terms of a review under Section 158, if, after the review, the Council considers that the bylaw should be amended,

revoked, or revoked and replaced, it must act under Section 156 of the LGA 02 and use the special consultative procedure when making, amending, or revoking the bylaw (Section 160(3)(a)).

- 1.11 However, if after the review, the local authority considers that the bylaw should continue without amendment, it must use the special consultative procedure (Section 160(3)(b)).
- 1.12 In conducting the special consultative procedure, the statement of proposal referred to in Section 83(1)(a) must include a copy of the bylaw to be continued, the reasons for the proposal and a report of any relevant determinations by the local authority under Section 155.
- 1.13 Sections 155-160 of the Local Government Act 2002, are enclosed as Appendix 1 to assist Councillors in following this admittedly, convoluted process.

2.0 Process to Date

- 2.1 Council managers have held two meetings to review existing bylaws and ascertain whether they are effective in resolving an identifiable problem. Managers covering a wide array of disciplines and staff who deal with issues of public complaints regarding an assortment of nuisances were involved in these discussions.
- 2.2 The upshot of these deliberations has been a clearer view from management about what bylaws are working and useful, what is needed to safeguard against potential misuse or abuse of a Council service or asset. (eg water supply and cemeteries) and what are believed to be redundant.
- 2.3 In arriving at our recommendations, the staff has operated from a first principles basis and asked the following questions:
 - (a) What problem does the bylaw address?
 - (b) Is the bylaw needed to address the problem?
 - (c) Has the bylaw actually ever been utilised?

3.0 Bylaws Proposed for Revocation

- 3.1 The Council holds a folder containing all bylaws. Some of these bylaws precede the Gore District Council and have been superceded by new legislation.
- 3.2 These pertain to New Zealand Standard Building Bylaws, Gore Borough Council Bylaws and a few other miscellaneous provisions which have not been referred to or utilised by any current members of staff. One of the staff members involved in this process has had unbroken service with the Council since 1990. It is suggested therefore that the outmoded or obsolete bylaws contained in Appendix 2, be allowed to automatically be revoked on 1 July 2008. The Council merely noting this eventuality and taking no action to save these provisions will result in their demise.
- 3.3 There are other more current bylaws adopted by the Gore District Council since its inception that it is proposed to save, amend or in a few cases, revoke. All of these bylaws are subject to a separate analysis which is enclosed. Appendix 3 provides a schedule of the bylaws that are analysed for preservation, amendment or revocation in terms of the criteria set out in Section 155.

4.0 CONCLUSION

The Council staff have taken this opportunity to critically review the need for bylaws. The underlying philosophy behind our approach has been to have a select few bylaws that provide meaningful regulatory teeth to deal with current or potential problems that cannot be addressed via other means. Having a bevy of bylaws to regulate a wide variety of behaviours and do little more than collect dust in a folder, does not appear to be in keeping with the expectations of the Local Government Act 2002.

5.0 **RECOMMENDATION**

THAT the Council approve the revocation of bylaws detailed in Appendix 2,

THAT the Council note that these bylaws will be revoked on 1 July 2008,

AND THAT the Council consider and endorse the specific recommendations contained in Appendix 3.

APPENDIX 2

Bylaws to be Revoked Pursuant to Section 293 (3) of the Local Government Act 2002

NAME OF BYLAW	RATIONALE FOR REVOCATION
Gore Borough Council Animal Traps Bylaw 1988	Superceded by 1994 bylaw.
Gore Borough Council Building Bylaw 1984	Superceded by a new Building Code and new fees and charges.
<p>Gore Borough Council General Bylaw No 11, 1986</p> <p>Model Bylaw based on New Zealand Standards operating at that time.</p> <p>The Bylaw encompasses:</p> <p>Chapter 1 – Introductory</p> <p>Chapter 2 – Public Places</p> <p>Chapter 3 – Licensing and Control of Apartment Buildings and Boarding Houses</p> <p>Chapter 4 – Mobile or Travelling Shops and Hawkers and Itinerant Traders</p> <p>Chapter 5 – Licences for Vehicle Stands on Streets</p> <p>Chapter 6 – Removal of Refuse</p> <p>Chapter 7 – Water Supply</p> <p>Chapter 8 – Control of Advertising Signs</p> <p>Chapter 9 –Scaffolding and Deposit of Building Materials</p> <p>Chapter 10 – Amusement Devices and Shooting Galleries</p> <p>Chapter 11 – Nuisances</p> <p>Chapter 13 – The Keeping of Animals, Poultry and Bees</p> <p>Chapter 14 – Cemeteries and Crematoria</p> <p>Chapter 15 – Public Libraries</p> <p>Chapter 16 – Public Swimming Pools</p> <p>Chapter 17 - Parks and Reserves</p>	<p>This Bylaw has in part been superceded by more modern Bylaws (ie refuse, cemeteries, parks and reserves and dogs). Some of the other chapters - ie Billiard Rooms and Licensing and Control of Apartment Buildings and Boarding Houses are not presently applicable in the Gore District. In the instance of keeping of animals, poultry and bees, as well as water supply, specific proposals for new Bylaws addressing specific problems, will be presented to the Council in the next couple of months for consideration.</p>

Chapter 18 – Billiard Rooms Chapter 20 – Control of Noise Chapter 21 – Restriction of Access to Private Swimming Pools	
Gore Borough Council Building Bylaw, Amendment No.2 1989	Superceded by a new Building Code and new fees and charges.
Gore Borough Dog Control Bylaw 1986 Gore District Dog Control Bylaw 1992, Amendment No.1 1994 Gore District Dog Control Bylaw 1996 Gore District Dog Control Bylaw 1996, Amendment No.2 1997	All superceded by Gore District Dog Control Bylaw 2004.
Gore District Council Control of Drinking in Public Places Bylaw 1995 Gore District Council Control of Drinking in Public Places Bylaw, Amendment No.1 1998	Declared ultra vires by the District Court and has since been replaced by the Gore Liquor Ban Bylaw 2005.
Gore Borough Council Bylaw No.11, Amendment No.1 1984	Relates to library subscriptions for Non-Borough residents. Superceded by the Council’s Fees and Charges Policy.
Gore Borough Council Public Places Bylaw 1999, Amendment 1989	Deals with damage to Council property on reserves and streets. The need for retention of this bylaw will be covered in analysis provided on roading and parks and reserves bylaws.
Gore Borough Council Revocation Bylaw No.1 1987	Revokes the SBC signs Bylaw 1986, controlling advertising signs on State Highway 1 and 94. The Gore District Plan now governs and controls these matters.
Gore Borough Council Restriction of Access to Private Swimming Pools Bylaw 1984	Now governed by the Fencing of Swimming Pools Act 1987.

The Maitaura Borough Mobile or Travelling Shops and Itinerant Traders Bylaw 1985	Now governed by the Fencing of Swimming Pools Act 1987.
The Maitaura Borough Land Subdivision Fees Bylaw 1985	Superseded by GDC Policy.
The Maitaura Borough Fire Protection Bylaw 1985	Superseded by the Gore District Council Fire Prevention (Vegetation) Bylaw 2005.
The Maitaura Borough Traffic Control Bylaw 1985	Superseded by the Parking and Traffic Bylaw 1996 and Amendments.
The Maitaura Borough Fire Certificate Fees Bylaw 1985	Now governed by the Council's Fees and Charges Policy, which is reviewed annually.
The Maitaura Borough Building Bylaws 1985	Superseded by a new Building Code.
The Maitaura Animal Traps Bylaw 1985	Superseded by the Gore District Council Animal Traps Bylaw 1994.
The Maitaura Borough (Dog Control) Bylaw No.5 1982	Superseded by the Gore District Dog Control Bylaw 2004.

APPENDIX 3A

CEMETERIES BYLAW 2000

1.0 Current Status

- 1.1 The Cemeteries Bylaw 2000 adopts the New Zealand Standard 9201, Chapter 14, Model General Bylaw for Cemeteries and Crematoria with various amendments and additions.
- 1.2 This bylaw and Amendment No.1 2000 was made under Section 684(1)(10) of the Local Government Act 1974 as well as the provision in the Burial and Cremation Act 1964. Consequently this bylaw will be automatically revoked on 1 July 2008.
- 1.3 A new bylaw will need to be prepared if the Council wishes to continue with regulating conditions of use and behaviour at the District's cemeteries.
- 1.4 It should be noted that the Council also has in place the Cemeteries Bylaw 2000, Amendment No.1 2004 which came into force on 1 March 2004. Under Section 158 of the Local Government Act 2002, this bylaw is technically not due for review until 1 March 2009. However, it will need to be reviewed in the context of the principal bylaw to which it relates.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 Directing the positions of all graves and vaults in cemeteries, the depths of the graves and the construction of coffins to prevent the escape of any noxious exhalation.
- 2.2 Prohibiting the burial in any grave of more than one body or prescribing conditions subject to which more than one body may be buried in any grave.
- 2.3 Controlling or restricting the times at which or between which burials may be carried out.
- 2.4 Regulating the burial in cemeteries of the ashes of the dead.
- 2.5 Regulating and restricting the disinterment of bodies.

3.0 Options to Deal with Perceived Problems

- 3.1 The Council could simply have a suite of policies in place to state its preferences and standards in response to the perceived problems outlined above. This would most likely suffice in most instances. However, the ability to prosecute and meaningfully sanction via a fine, in the instances of extreme breaches of the policy, would not be available.
- 3.2 The attraction of a bylaw is that in extreme cases (eg unlawful disinterment) a maximum fine of \$20,000 is now able to be incorporated via the Local Government Act 2002.
- 3.3 The option of a bylaw has benefits in terms of present and future social, economic, environmental and cultural wellbeing. The respect and protection shown for the District's deceased is considered to benefit social wellbeing whilst the preservation of cemetery structures and imposition of conditions of usage enhances both cultural and environmental wellbeing. Finally, the ability to prosecute and impose fines for misusing these assets is in the economic interests of ratepayers.

4.0 Contribution to Community Outcomes

Well maintained District cemeteries supported by a bylaw, are considered to contribute to the following community outcomes:

- (a) Southland is a great place to live; we value our history and heritage.
- (b) Safe places in a caring society that is free from crime; we apprehend and hold law breakers appropriately accountable.
- (c) We are healthy people; we live in a compassionate, caring community.
- (d) A treasured environment which we care for and which supports us now and into the future; we have a healthy safe and accessible built environment.

5.0 CONCLUSION

It is believed that in the interests of public health, safety, protection of community heritage, together with positive attributes for community, wellbeing and the attainment of community outcomes, a bylaw for the District's cemeteries is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155 (1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived problems identified in Section 2 of this report

AND THAT a new bylaw, prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3B

DOG CONTROL BYLAW 2004

1.0 Current Status

- 1.1 The Dog Control Bylaw 2004 came into effect on 1 October 2004. The bylaw was made under the authority of Section 20 of the Dog Control Act 1986.
- 1.2 The bylaw regulates dogs in the District and must be read in conjunction with the Council's Dog Control Policy.
- 1.3 Applying Sections 20 of the Dog Control Act 1996 and Section 158 of the Local Government Act 2002, this bylaw is not due for review until 1 October 2009. However, in the interests of having all the Council's bylaws reviewed at the same time, the Dog Control Bylaw 2004 is proposed for review in 2008.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 Prohibiting dogs, whether under control or not, from specified public places.
- 2.2 Requiring dogs, other than working dogs, to be controlled on a leash in specified public places, or in public places in specified areas or parts of the District.
- 2.3 Regulating and controlling dogs in any other public place.
- 2.4 Designating specified areas as dog exercise areas.
- 2.5 Prescribing minimum standards for the accommodation of dogs.
- 2.6 Limiting the number of dogs that may be kept on any land or premises.
- 2.7 Requiring dogs in its District to be tied up or otherwise confined during a specified period commencing not earlier than half an hour after sunset, and ending not later than half an hour before sunrise.

- 2.8 Requiring the owner of any dog that defecates in a public place or on land or premises other than that occupied by the owner to immediately remove the faeces.
- 2.9 Requiring any bitch to be confined but adequately exercised while in season.
- 2.10 Providing for the impounding of dogs, whether or not they are wearing a collar having the proper label or disc.
- 3.0 Options to Deal with Perceived Problems
- 3.1 The current Dog Control Policy of the Gore District Council prepared under Section 10 of the Dog Control Act 1996 and approved by the Council on 28 September 2004 stipulates in Section 1 that, *“the Gore District Council will create a bylaw pursuant to the Dog Control Act 1996 and Local Government Act 2002, that will give effect to this Dog Control Policy”*.
- 3.2 It is contended that in light of this policy and the range of perceived and real problems that need to be controlled and regulated, that the only viable and responsible option for the Council is to have a Dog Control Bylaw.
- 3.3 Whilst the Dog Control Act 1996 sets out a range of obligations for dog owners and remedies available to Councils to address nuisance caused by dogs, they are generic in nature and do not have the required level of specificity to effectively address the problem or issues that are peculiar to the Gore District (eg dog exercising areas, areas in which dogs are either banned from or must be on a leash).
- 3.4 A Dog Control Policy without the regulatory backing of a bylaw and its enforcement and sanctioning strength is not considered to be adequate to overcome the considerable number of problems caused by some parts of the dog population to the community.
- 3.5 A Dog Control Bylaw which regulates dog behaviour and clamps down on public nuisances such as incessant barking, wandering, defecating in public places and intimidating menacing behaviour, is considered to have benefits for social and environmental wellbeing.

3.6 Irrespective of whether a bylaw is in place, there will be a community expectation that the Council will provide a dog control service to police either its policy or bylaw. The economic costs to the community are therefore considered to be no greater or lesser, with or without a bylaw.

3.7 However it is considered that there will be a cost in terms of social and environmental wellbeing to the community should no Dog Control Bylaw be put in place due to the likelihood of not being able to effectively regulate dog behaviour in the District and impose sanctions for specific breaches of local policy.

4.0 Contribution to Community Outcomes

The following community outcomes are viewed as being positively influenced by the existence of a Dog Control Bylaw in the Gore District:

- (a) Safe places in a caring society that is free from crime:
 - We have public places safe for children and families
 - We apprehend and hold lawbreakers appropriately accountable
- (b) A treasured environment which we care for and which supports us now and into the future:
 - We have an environment protected from the negative aspects of human activities

5.0 CONCLUSION

It is contended that in the interests of public safety, environmental harmony, together with positive attributes for community wellbeing and the attainment of community outcomes, a Dog Control Bylaw for the Gore District is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155 (1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3C

GORE SKATEBOARD BAN BYLAW 2007

1.0 Current Status

- 1.1 The Gore Skateboard Ban Bylaw 2007 came into effect on 1 March 2007. The bylaw was made under the authority of Section 145 of the Local Government Act 2002.
- 1.2 The bylaw prohibits the riding of skateboards in a defined area of the central business district of Gore.
- 1.3 Applying Section 158 of the Local Government Act 2002, this bylaw is not due for review until 1 March 2012. However, in the interests of having all the Council's bylaws reviewed at the same time, the Gore Skateboard Ban Bylaw is proposed for review in 2008.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 The safety of pedestrians, particularly the elderly and young children, as skateboarders and roller skaters can gain a fair amount of speed when travelling in a direct line without any fancy manoeuvres.
- 2.2 Property damage caused by skateboards trying to jump on and off the likes of steps, seats, ramps etc which can lead to chipping and erosion of edges of these structures, many of which are in private ownership.
- 2.3 Public nuisance because many members of the public and visitors do not expect to have to dodge roller skaters and skateboarders whilst walking down the street or browsing in shop windows.

3.0 Options to Deal with Perceived Problems

- 3.1 The Council could undertake a major public education campaign in an endeavour to change skateboarder's behaviours in regard to using their boards in the Main Street. Past experience in terms of media coverage afforded to the issue suggests that this is unlikely to be effective.

- 3.2 Other options could be advocating for more Police in Gore or funding private security patrols. The former is a long shot for success given errant skateboarders are not considered to be the most pressing law and order issue, while the latter would be prohibitively expensive.
- 3.3 These options would rely on the Police to use its existing powers to prevent skateboarders and roller skaters travelling through the central business district on skateboards and roller skates. However, the Police can only advise/suggest to the young people concerned that they refrain from using the central business district as a de facto skateboard park and ask that they use the designated skateboard park facility provided for them.
- 3.4 The Police cannot be patrolling the central business district continuously and also have no powers of seizure of the offender's preferred mode of transport to drive home the message. It is therefore unlikely that any of these alternatives would have a social, environmental or cultural benefit to the community.

4.0 Contribution to Community Outcomes

The following community outcomes are viewed as being positively influenced by the existence of a Skateboard Ban Bylaw:

- (a) Safe places in a caring society that is free from crime. From this primary outcome flow two immediate outcomes that have particular relevance to this matter:
- We have public places safe for children and families
 - We apprehend and hold lawbreakers appropriately accountable.
- (c) A treasured environment which we care for and which supports us now and into the future. Intermediate outcomes under this primary outcome which have relevance to this issue are:
- We have healthy, safe and accessible built environment
 - We have an environment protected from the negative effects of human activities.

5.0 CONCLUSION

- 5.1 An analysis of the strategies indicates that no single approach, except for the development of a bylaw, would be effective in reducing and possibly eliminating the practice of skateboarders displaying their skills in the central business district of Gore.
- 5.2 The key reasons for favouring a bylaw to address skateboarding and roller skating in the central business district are:
- the Police being able to confiscate skateboards for a period of time as a means of punishment for breach of the bylaw;
 - reduction of vandalism to property and an increase in the perception of safety as visitors and locals feel less intimidated and threatened by skateboarders and roller skaters travelling through the central business district at high speeds. This is considered to have positive impacts on both social and environmental wellbeing.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155 (1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT a reviewed Skateboard Ban Bylaw be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3D

HEAVY MOTOR VEHICLE TRAFFIC RESTRICTIONS BYLAW 1990

1.0. Current Status

1.1 The Heavy Motor Vehicle Traffic Restrictions Bylaw 1990 came into effect on 25 December 1990. The bylaw appears to have been made under Section 684 (1) of the Local Government Act 1974, a provision which was subsequently repealed by the Resource Management Act 1991.

1.2 However, Section 72 of the Transport Act 1962, authorises bylaws as follows:

(f) Prohibiting any specified class of heavy traffic that has caused or is likely to cause serious damage to any road unless the cost of reinstating (or strengthening) the road, as estimated by the said Minister or the local authority, as the case may be, is previously paid.

(i) Prohibiting or restricting absolutely or conditionally any specified class of traffic (whether heavy traffic or not), or any specified motor vehicle or class of motor vehicle which by reason of its size or nature or the nature of the goods carried is unsuitable for use on any road or roads specified in the bylaw.

1.3 The empowering provisions in the Transport Act 1962 are essentially concerned with prohibiting heavy traffic if that traffic is likely to cause serious damage to roads or prohibiting traffic (in this case heavy traffic) where by reason of its size or nature or the nature of the goods carried, the traffic is unsuitable for use on any road specified in the bylaw.

1.4 Given the uncertain nature of the status of this bylaw, it should be formally reviewed before 1 July 2008.

2.0 Identification of perceived problems and consideration of whether a bylaw is the best way of dealing with the perceived problem

2.1 Disruption of residential life by large noisy vehicles travelling in residential areas.

2.2 Disturbance of the central business district environment by heavy vehicles increasing noise and congestion levels.

2.3 Protecting the roading asset from unnecessary deterioration by routing heavy vehicles on roads that are designed and constructed for their usage.

3.0 Options to Deal with Perceived Problems

3.1 The Council could consult with the heavy traffic industry to endeavour to obtain agreement to use the designated heavy traffic bypass at all times. This has worked reasonably well in the past.

3.2 Whilst in the main there is a good level of support and co-operation from heavy traffic users in respect of utilising the designated bypass, the Council does need to have recourse to meaningful sanctions should persistent and flagrant breaches of failure to use the bypass occur.

3.3 The expectation of affected residents and business owners is that in instances ongoing and/or defiant breach, the Council will act decisively and use appropriate regulatory provisions to correct and punish errant behaviour of the offending company or driver.

3.4 It is considered that confining heavy traffic to a designated bypass in Gore and supported by an enforceable bylaw, contributes to social and environmental wellbeing. There are social benefits from having people feel safe in their neighbourhoods with heavy traffic not passing through them. There are also environmental benefits in keeping heavy traffic away from residential and main shopping areas of Gore.

4.0 Contribution to Community Outcomes

The following community outcomes are viewed as being positively influenced by the existence of a Heavy Motor Vehicle Traffic Restrictions Bylaw:

(a) Safe places in a caring society that is free from crime:

- We have safe roads

(b) A treasured environment which we care for and which supports us now and into the future:

- We have an environment protected from the negative effects of human activities

5.0 CONCLUSION

It is contended that in the interests of public safety, environmental harmony, together with positive attributes for community wellbeing and the attainment of community outcomes, a Heavy Motor Vehicle Traffic Restrictions Bylaw for Gore is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155 (1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an amended bylaw be prepared under the Local Government Act 2002, and Section 72 of the Transport Act 1962, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3E

LONG GRASS/OVERHANGING FOLIAGE BYLAW 1991

1.0 Current Status

- 1.1 The Long Grass/Overhanging Foliage Bylaw 1991 came into effect on 15 November 1991. The bylaw was made under Sections 684(1)(8), (16) and (17) of the Local Government Act 1974. It was also possibly made under Section 64 (1)(a) of the Health Act 1956.
- 1.2 The bylaw applies to the urban areas of the District. It requires long grass and noxious plants on urban land to be controlled and requires trees and shrubs overhanging roads and footpaths to be trimmed.
- 1.3 Sections 684(1)(16) and (17) authorise bylaws for the following purposes:
 - (16) Restricting or prohibiting the planting or erection, at or within a specified distance of corners, bends, or intersections on roads, of trees, shrubs, hedges, scrub, or other growth, or of fences or walls, which, in the opinion of the Council are, or are likely to constitute, a source of nuisance or danger to traffic, and requiring the trimming or cutting down of such trees, shrubs, hedges, scrub, or other growth:
 - (17) Requiring any allotment in such parts of the District as are specified in the bylaws to be fenced along its line of frontage to any road, and to be kept clear of noxious plants.

These sections have not been repealed.

- 1.4 Section 684(1)(8) of the LGA 74, which has been repealed, authorised bylaws for conserving public health, wellbeing, safety, and convenience, and regulating drainage and sanitation.
- 1.5 In 1991, Section 64(1)(a) of the Health Act 1956 authorised the Council to make bylaws conserving public health, and preventing or abating nuisances. (The section now authorises the Council to make bylaws improving,

promoting, or protecting public health, and preventing or abating nuisances.)

- 1.6 As this bylaw was made under Sections 684 of the Local Government Act 1974, some of which has not been repealed, it must be reviewed by 1 July 2008.
- 1.7 It should be noted that the Council also has in place, the Long Grass/Overhanging Foliage Bylaw 1991, Amendment No.1, 2004, which came into force on 1 November 2001. This bylaw will also need to be reviewed in the context of the principal bylaw to which it relates.
- 2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem
- 2.1 Long grass and noxious plants in an urban setting are both an eyesore and nuisance in spreading seeks to neighbouring properties.
- 2.2 Long grass in sections has the potential to harbour vermin.
- 2.3 Long grass in sections can create a fire hazard in Summer.
- 2.4 Foliage that overhangs footpaths, public rights of way and public roads, impede pedestrians and traffic, and can potentially be a hazard.
- 3.0 Options to Deal with Perceived Problems
- 3.1 Experience over the past 15 years has taught us that some regulatory muscle is required to deal with the owners of vacant sections in particular that don't have an ongoing mowing regime. This problem is particularly prevalent with absentee land owners.
- 3.2 Appealing to a recalcitrant land owner's community pride and spirit is an option, but his will not always be successful.
- 3.3 Frustrated neighbours that adjoin vacant sections which become overgrown turn to the Council with an expectation that some action and improvement can occur expeditiously. The presence of the bylaw greatly assists with this objective.

3.4 Sections 183 and 184 of the Local Government Act 2002 provide specifically for the removal of fire hazards. The existence of these sections will obviate the need for long grass constituting a fire hazard to be included in a Long Grass/Overhanging Foliage Bylaw.

3.5 The existence of a Long Grass/Overhanging Foliage Bylaw is considered to have benefits in respect of enhancing present and future environmental wellbeing, given the positive aesthetic benefits that accrue from well maintained lawns in an urban setting.

4.0 Contribution to Community Outcomes

The following community outcome is considered to be positively influenced by the existence of a Long Grass/Overhanging Foliage Bylaw:

- A treasured environment which we care for and which supports us now and into the future.

5.0 CONCLUSION

5.1 The Long Grass/Overhanging Foliage Bylaw has been customised for the Gore District and was not drafted from a generic template. Since its inception it has proved extremely useful in getting unkempt sections tidied in quick fashion. It is used on an annual basis by the Council's regulatory staff.

5.2 It is believed that in the interests of eradicating public nuisance, promoting environmental harmony and the attachment of a community environmental outcome, a Long Grass/Overhanging Foliage Bylaw for the urban areas within the Gore District, is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3F

PARKING AND TRAFFIC BYLAW 1996 AND AMENDMENTS

1.0 Current Status

- 1.1 The Parking and Traffic Bylaw 1996 came into effect on 1 July 1996. The bylaw was made under Sections 591A and 684(1)(13), (15) and (19) of the Local Government Act 1974 and Section 72 of the Transport Act 1962.
- 1.2 The bylaw regulates parking and traffic in Gore and Mataura.
- 1.3 Sections 591A and 684(1)(13), (15) and (19) of the Local Government Act have not been repealed, but because the bylaw was made before 1 July 2003, the bylaw must be reviewed before 1 July 2008.
- 1.4 It should be noted that the Council also has in place the following amendments:
 - Parking and Traffic Bylaw 1996, Amendment No.1, 1999
 - Parking and Traffic Bylaw 1996, Amendment No.1, 2000
 - Parking and Traffic Bylaw 1996, Amendment No.1, 2002
 - Parking and Traffic Bylaw 1996, Amendment No.2, 2002
 - Parking and Traffic Bylaw 1996, Amendment No.5, 2005
 - Parking and Traffic Bylaw 1996, Amendment No.6, 2005

These bylaws will also need to be reviewed in the context of the principal bylaw to which they relate.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 Regulating parking in the Gore central business district so that customers and service vehicles can access business premises in a safe orderly fashion.
- 2.2 Regulating parking in Gore and Mataura to provide designated parks for the disabled, taxis and buses.

3.0 Options to Deal with Perceived Problems

- 3.1 Given the existence of parking meters in Gore, parking restrictions in Gore and Mataura and designated parks for the disabled and specialist vehicles, it is difficult to the point of being impossible envisaging any other viable alternative than a bylaw.
- 3.2 The Council could remove all parking meters not designate any loading zones or specialist parking areas and let the traffic park and flow as it pleases. Apart from the likely breakdown in civic order that such an option would bring, there is also the cost of removing the meters and the lost revenue from some to be considered.
- 3.3 The removal of parking meters and designated parking and loading zones would most likely have a cost to present and future economic and social wellbeing.

4.0 Contribution to Community Outcomes

The following community outcomes are considered to be positively influenced by the existence of a Parking and Traffic Bylaw:

- (a) Safe places in a caring society that is free from crime. From this primary outcome flows an intermediate outcome that has particular relevance to this matter:
- We have safe roads
- (b) A treasured environment which we care for and which supports us now and into the future. Intermediate outcomes under this primary outcome which have relevance to this issue are:
- We have a healthy, safe and accessible built environment

5.0 CONCLUSION

It is contended that in the interests of public safety, together with positive attributes for social and economic wellbeing and the attainment of community outcomes, a Parking and Traffic Bylaw for Gore and Mataura, is required.

6.0 RECOMMENDATION

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3G

PARKS AND RESERVES BYLAW 1990

1.0 Current Status

- 1.1 The Parks and Reserves Bylaw 1990 came into force on 28 November 1990. The bylaw was made under the authority of Section 684(30) to (33) of the Local Government Act 1974 and the Reserves Act 1977.
- 1.2 The bylaw adopts the New Zealand Standard 9201, Chapter 17, Model Bylaws for parks and reserves.
- 1.3 Sections 684(1)(30) to (33) of the Local Government Act 1974, have been repealed. As a consequence this bylaw will be automatically revoked on 1 July 2008. The Council now needs to determine whether a new bylaw dealing with parks and reserves should be created.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 The main problem that needs to be controlled is damage to reserves and playgrounds caused by vandals and hoons.
- 2.2 Another potential and perceived problem is minimising offensive behaviour on Council reserves.

3.0 Option to Deal with Perceived Problems

- 3.1 Instances of wilful damage and offensive behaviour are offences that are included in the Summary Offences Act 1981.
- 3.2 The local Police has previously prosecuted offenders that have vandalised Council assets or unlawfully chopped down a tree. These instances suggest that there is no need to have a separate Parks and Reserves Bylaw as the prosecutions were obtained under the Summary Offences Act 1981.
- 3.3 It is difficult to identify any specific wellbeing (economic social cultural or environmental) by the existence of a Parks and Reserves Bylaw. At the same time there are no

identifiable adverse impacts on their wellbeing by the existence of the Parks and Reserves Bylaw.

4.0 Contribution to Community Outcomes

For similar reasons outlined in 2.23 above, it is difficult to identify how a bylaw for Parks and Reserves positively influences community outcomes. There is considered to be no impact, either positive or negative on this area.

5.0 CONCLUSION

The Parks and Reserves Bylaw 1990 has not been utilised to mitigate or eliminate any perceived or real problem. The problems identified in Section 2 of this report have in the past and will continue in the future, to be prosecuted by the Police using the provisions of the Summary Offences Act 1981.

6.0 **RECOMMENDATION**

THAT the Council not create a new bylaw for parks and reserves after the Parks and Reserves Bylaw 1990 is automatically revoked on 1 July 2008.

APPENDIX 3H

REFUSE BYLAW 2003

1.0 Current Status

- 1.1 The Refuse Bylaw 2003 came into effect on 30 June 2003. The bylaw was made under the Local Government Act 1974, but the section of the statute to which it relates is not specified.
- 1.2 In all probability the bylaw was made under Section 542 of that Act. This section gives territorial authorities the power to make bylaws in the areas of depositing, collection, transportation and disposal of waste. This particular provision has not been repealed. Consequently the bylaw needs to be reviewed by 1 July 2008.
- 1.3 The Refuse Bylaw 2003 regulates the collection and disposal of refuse in the Gore District.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 The main perceived problem that the bylaw endeavours to address is setting out rules in regard to contents that can be placed in official Council bags as part of the public refuse collection system. These rules are necessary to protect the health and safety of staff and contractors.
- 2.2 Accumulation of refuse on private land which can become both a health hazard and a public nuisance, is also a potential problem addressed by the bylaw.

3.0 Options to Deal with Perceived Problems

- 3.1 The Council could simply have a policy governing rules for its refuse collection system. In tandem with this, the Council could run an educational programme to alert residents of the contents of the policy and the dangers inherent in placing sharp, hot liquid or ash material in refuse bags.
- 3.2 Such an approach may well be effective in the majority of instances, but on balance it is considered more appropriate

to have a bylaw which has the ability to meaningfully sanction offenders who show little regard for common sense and the safety of other people.

- 3.3 The option of a bylaw has benefits in terms of present and future social and environmental wellbeing. The protection of people's health and safety is advantageous to social wellbeing, while the careful disposal of waste makes a positive contribution to environmental wellbeing.

4.0 Contribution to Community Outcomes

The following community outcomes are viewed as being positively influenced by the existence of a Refuse Bylaw.

Topic: Environment

Outcome:

A treasured environment which we care for and which supports us now and into the future.

Intermediate Outcomes:

- We have an informed community caring for the environment.
- We have a healthy, safe and accessible built environment.
- We have an environment protected from the negative effects of human activities.

5.0 CONCLUSION

It is contended that in the interests of public safety, the reduction of potential public nuisances together with positive attributes for social and environmental wellbeing and the attainment of community outcomes, a Refuse Bylaw for the Gore District, is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3I

ANIMAL TRAPS BYLAW 1994

1.0 Current Status

1.1 The Animal Traps Bylaw 1994 came into force on 30 August 2004. The bylaw was made under Section 684(1)(37) of the Local Government Act 1974.

1.2 This provision of the 1974 Act was repealed by Section 198 of the Animal Welfare Act 1999, but a savings provision has been provided that bylaws continue in force and have effect until the close of 31 December 2007.

1.3 Section 32 of the Animal Welfare Act 1999 provides for an order in Council to declare any trap or device to be:

- (a) a prohibited trap or a prohibited device; or
- (b) a restricted trap or a restricted device.

1.4 The Animal Traps Bylaw 1994, which was revoked on 31 December 2007, prohibits the use of leg-hold traps in the urban areas of the Gore District.

1.5 The Government has recently promulgated new regulations under the Animal Welfare Act 1999, to restrict the sale and use of leg-hold traps in New Zealand.

1.6 The new regulations came into effect on 1 January 2008. From this date no leg-hold trap may be used within 150 metres of a dwelling or in any area where it is probable a pet would be caught.

1.7 Any breach of the regulations is an offence under the Animal Welfare Act 1999 and punishable by up to six months imprisonment and/or a fine of up to \$25,000 for an individual or up to \$125,000 for a body corporate.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the problem

2.1 Animal welfare concerns concerning the injury and distress caused by the traps, potential for escape and animals suffering if they are held in the trap too long.

2.2 Leg-hold traps set near residential dwellings and other areas such as public walkways and picnic spots increase the risk of injury to cats and dogs.

3.0 Options to Deal with Perceived Problems

3.1 The new regulations promulgated by the Government under the Animal Welfare Act, address these problems and obviate the need for a bylaw.

4.0 CONCLUSION

There is no need for an Animal Traps Bylaw.

5.0 RECOMMENDATION

THAT the Council:

- (i) Note the recent promulgation of new regulations under the Animal Welfare Act 1999, restricting the sale and use of leg-hold traps.**
- (ii) Note that the Animal Welfare Traps Bylaw 1994 was automatically revoked on 31 December 2007 and will not be replaced.**

APENDIX 3J

TRADE WASTE BYLAW 2001

1.0 Current Status

- 1.1 The Trade Waste Bylaw 2001 was made under Section 491 of the Local Government Act 1974. It is not clear from the bylaw what date it came into effect.
- 1.2 Section 491 of the Local Government Act 1974 has since been repealed. Consequently this bylaw will be automatically revoked on 1 July 2008.
- 1.3 The Trade Waste Bylaw regulates and sets conditions on the discharge of trade waste to the Council's sewerage system.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 Unauthorised discharges into Council sewers.
- 2.2 Public nuisances caused by the potential to overload oxidation ponds.
- 2.3 Damage to sewer pipes caused by toxic discharges.
- 2.4 Gas and smell emanating from the sewerage system caused by toxic discharges.

3.0 Options to Deal with Perceived Problems

- 3.1 Given the severe consequences of inappropriate or unauthorised discharges to the Council's sewerage system, it is contended that a Trade Waste Bylaw is the only sensible and responsible option available to the Council.
- 3.2 To not have a bylaw would be reckless in terms of risk management and provide the community with ineffectual remedies and/or sanctions to arrest unauthorised discharged, should they occur.
- 3.3 A Trade Waste Bylaw has benefits in terms of present and future social and environmental wellbeing. The mitigation or elimination of potential public nuisance is considered to

have apposite impact on the social wellbeing of residents, while the careful and regulated disposal of trade waste promotes environmental wellbeing.

4.0 Contribution to Community Outcomes

The following community outcomes are viewed as being positively influenced by the existence of a Trade Waste Bylaw.

Topic: Environment

Outcome:

A treasured environment which we care for and which supports us now and into the future.

Intermediate Outcomes:

- We have an informed community caring for the environment.
- We have a healthy, safe and accessible built environment.
- We have an environment protected from the negative effects of human activities.

5.0 CONCLUSION

It is contended that in the interests of public safety, the reduction of potential public nuisances together with positive attributes for social and environmental wellbeing and the attainment of community outcomes, a Trade Waste Bylaw for the Gore District, is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

APPENDIX 3K

SOLVENT ABUSE BYLAW 1995

1.0 Current Status

- 1.1 The Solvent Abuse Bylaw 1995 came into effect on 1 July 1995. The bylaw was made under Section 684(1)(8) of the Local Government Act 1974.
- 1.2 This provision of the Local Government Act 1974 has been repealed therefore the bylaw will automatically be repealed on 1 July 2008.
- 1.3 The Solvent Abuse Bylaw 1995 prohibits inhaling or sniffing solvents in a public place.

2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem

- 2.1 Discussion with Sergeant Ken Anderson of the Gore Police has revealed that solvent abuse is an infrequent occurrence in the Gore District. Invariably, abusers are young people who are dealt with under the Children Young Persons and Their Families Act 1989.
- 2.2 Sergeant Anderson, who was not aware of the Council's bylaw, advised that the emphasis on solvent abusers was one of providing support and education, rather than punishment.
- 2.3 It should be noted that solvent abuse is not detailed as a crime under the Crimes Act or the Summary Offences Act.

3.0 CONCLUSION

Given that the Police deal with solvent abuse incidents via the Children Young Person and Their Families Act, together with the lack of awareness of the Council's 1995 bylaw and the lack of an identifiable problem in the community, it is logical to conclude that a Solvent Abuse Bylaw, is not required.

4.0 RECOMMENDATION

THAT the Solvent Abuse Bylaw 1995 not be replaced when it is automatically revoked on 1 July 2008.

APPENDIX 3L

FIRE PREVENTION (VEGETATION) BYLAW 2005

1.0 Current Status

- 1.1 The Fire Prevention (Vegetation) Bylaw 2005 came into effect on 1 July 2005. The bylaw was made under Section 158 of the Local Government Act 2002 and Section 9 of the Forest and Rural Fires Act 1977.
- 1.2 The bylaw controls and regulates the mitigation of the hazards and perhaps more crucially, incorporates the urban areas of the Gore District into any Restricted Fire Season or Prohibited Fire Season that may be declared by the Southern Rural Fire Committee.
- 1.3 This bylaw is not actually due to be reviewed until 2010, however in the interests of having all of the Council's bylaws reviewed at the same time and coming into effect on the same date – where possible – it is proposed to include the Fire Prevention (Vegetation) Bylaw 2005 in the 2008 bylaw review.

2.0 Identification of the Perceived Problem

- 2.1 The principal problem to be overcome is ensuring that the urban areas of the District can be controlled should fire restrictions or a total fire ban be imposed by the Southern Fire Committee.
- 2.2 There is also the potential problem of controlling fire hazards such as vegetation and the storage of any inflammable materials on properties.

3.0 Options to Mitigate Perceived Problems

- 3.1 Educating the public about the hazards of dry vegetation and storage of flammable materials, would certainly contribute to reducing the problem identified in 2.11 above.
- 3.2 However the need to enforce a regional fire ban without geographical exceptions in times of high fire risk is imperative and can only be effectively enforced via a bylaw.

3.3 It is contended that the retention of the Fire Prevention (Vegetation) Bylaw 2005, is in the interests of benefiting present and future social and economic wellbeing. Minimising the chances of an outbreak of fire contributes to both social harmony and reducing the economic costs of suppressing fires.

4.0 Contribution to Community Outcomes

The following community outcomes are considered to be positively influenced by the existence of a Fire Prevention (Vegetation) Bylaw:

(i) Outcome:
Safe places in a caring society that is free from crime.

Intermediate Outcome:

- We have safe homes.
- We have public places safe for children and families.
- We apprehend and hold law breakers appropriately accountable.

(ii) Outcome:
A treasured environment which we care for and which supports us now and into the future.

Intermediate Outcome:

- We have a healthy, safe and accessible built environment.
- We have an environment protected from the negative effects of human activities.

5.0 CONCLUSION

It is contended that in the interests of public safety, environmental harmony, together with positive attributes for community wellbeing and the attainment of community outcomes, a Fire Prevention (Vegetation) Bylaws for the Gore District, is required.

6.0 RECOMMENDATION

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an updated bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3M

GORE DISTRICT COUNCIL SPEED LIMITED BYLAW 2005

1.0 Current Status

- 1.1 The Gore District Speed Limit Bylaw 2005 came into effect on 1 July 2005. The bylaw was made under Section 684(1)(13) of the Local Government Act 1974 and Section 158 of the Local Government Act 2002.
- 1.2 The bylaw was also made pursuant to Land Transport Rule 54001: Setting of Speed Limits. This rule establishes procedures whereby road controlling authorities may set enforceable speed limits on roads within their jurisdictions.
- 1.3 The Speed Limit Bylaw sets speed limits on District roads. The bylaw consists of eight schedules outlining the various speed limits and refers to a series of maps. These maps show the location of the urban traffic areas and all speed limits. The set limits are enforced by the Police.
- 1.4 The bylaw is not actually due to be reviewed until 2010. However in the interests of having all of the Council's bylaws reviewed at the same time and coming into effect on the same date – where possible – it is proposed to include the Speed Limit Bylaw 1995 in the review.

2.0 Identification of the Perceived Problem etc.

- 2.1 The problem that this addresses is the regulation and enforcement of speed limits on roads in the interest of public safety.

3.0 Options to Mitigate Perceived Problems

- 3.1 It is submitted that having speed limits that are not enforceable by law would be akin to a reckless dereliction of duty for a public body as a territorial authority. Whilst a good level of public education is dispensed nationally about the perils of driving too fast, experience has shown that this needs to be supported by strong enforcement.
- 3.2 When Land Transport Rule 54001: Setting Speed Limits was introduced, there was a clear expectation tat territorial

authorities would introduce their own local bylaws to ensure that speed limits could be set locally but remain enforceable.

4.0 Contribution to Community Outcomes

The following community outcome is considered to be positively influenced by the existence of a Speed Limit Bylaw:

Outcome:

Safe places in a caring society that is free from crime.

Intermediate Outcome:

- We have safe roads.
- We apprehend and hold law breakers appropriately accountable.

5.0 CONCLUSION

It is contended that in the interests of public safety, environmental harmony, together with positive attributes for community wellbeing and the attainment of community outcomes, a Speed Limit Bylaw for the Gore District, is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

APPENDIX 3N

THE GORE DISTRICT ROADING BYLAW 1997

- 1.0 Current Status
- 1.1 The Gore District Roading Bylaw 1997 came into effect on 1 July 1997. The bylaw was made under Section 684(1)(13) of the Local Government Act 1974 and Section 17 of the Transport Act 1962.
- 1.2 Section 684(1)(13) of the Local Government Act 1974, has not been repealed. However, as the bylaw was made prior to 1 July 2003, it will need to be reviewed by 1 July 2008.
- 1.3 The bylaw applies to all roads vested in or under the control of the Gore District Council. The principal purpose of the bylaw is to regulate stock driving on roadways. It also prohibits driving contrary to the specified direction on one-way roadways and regulates the approval process for the construction of vehicular access ways.
- 1.4 The Council also has a “Gore District Roading Bylaw, Amendment No.1, 2000”. This bylaw amends the 1997 bylaw by adding a clause dealing with stock crossings and specifically targeting deer.
- 1.5 The amendment which came into force on 1 June 2000 was made under Section 684(1)(13) of the Local Government Act 1974 and Section 72 of the Transport Act 1962. As it was created prior to 1 July 2003, the amended bylaw will need to be reviewed in conjunction with the principal 1997 bylaw.
- 2.0 Identification of the perceived problem and consideration of whether a bylaw is the best way of dealing with the perceived problem
- 2.1 Stock movement on roads causes problems with public safety, public nuisance, farm staff and stock safety, pavement integrity, increased travel time and increased vehicle maintenance. Movement of dairy cows on roads is the most significant problem.
- 2.2 Driving in the opposite direction than specified in a one-way road or street presents obvious danger to other motorists and pedestrians.

- 2.3 The construction of vehicle access ways from public roads to private property needs to be regulated to ensure that the safety of the public is not compromised by the installation of accesses at inappropriate or dangerous locations within the roading network.
- 3.0 Options to Deal with Perceived Problems
- 3.1 The Council could have a suite of policies detailing the standards it requires and the approval processes necessary for the likes of stock droving, vehicle access construction and stock crossings. However if there was a serious or continuing breach of these policies, the Council would not have access to enforcement and sanctioning provisions that a bylaw affords.
- 3.2 Education and public awareness of the policies of the Council would assist in encouraging compliance, but once again, should persons flagrantly ignore the policy and endanger the safety of others; the Council does need to have recourse to strong and effective enforcement measures.
- 3.3 It is considered that a Roding Bylaw enhances road and commuting safety, therefore making a positive contribution to present and future social wellbeing. Additionally, present and future economic wellbeing will be enhanced due to a Roding Bylaw regulating the expected behaviour on the District's roads, in the interest of enhancing public safety. Reducing the likelihood of vehicle collisions with other vehicles or stock will have a positive impact on economic wellbeing.
- 3.4 Stock droving on road is viewed as a national issue and is presently being addressed by the Road Controlling Authorities Forum. The forum has a working group formulating a Stock Movement Code of Practice, along with a model bylaw.
- 3.5 It is therefore suggested that the Gore District Council await the completion of the forum's standardised documentation and use it with necessary modifications as a specialised Stock Movement Bylaw for the Gore District.

4.0 Contribution to Community Outcomes

The following community outcomes are considered to be positively influenced by the existence of the Gore District Roding Bylaw.

- (c) Safe places in a caring society that is free from crime. From this primary outcome flows an intermediate outcome that has positive relevance to this matter:
 - We have safe roads.

- (b) A treasured environment which we care for and which supports us now and into the future. Intermediate outcomes under this primary outcome which have relevance to this issue are:
 - We have a health, safe and accessible built environment

5.0 CONCLUSION

- 5.1 It is contended that in the interests of public safety, together with positive attributes for social and economic wellbeing and the attainment of community outcomes, a Roding Bylaw is required.

6.0 **RECOMMENDATION**

THAT pursuant to Section 155(1) of the Local Government Act 2002, the Council resolve that a bylaw is the most appropriate way of addressing the perceived and real problems identified in Section 2 of this report.

AND THAT an amended bylaw prepared under the Local Government Act 2002, be submitted for consideration at the March meeting of the Planning and Regulatory Committee.

AND NOTE THAT a dedicated bylaw for stock droving on Council roads will be produced once the Road Controlling Authorities Forum has completed the development of a Model Bylaw.

3. GORE DISTRICT TRADE WASTE BYLAW 2008

(Memo from Chief Executive – 30.01.08)

- 1.0 As part of its deliberations on the previous item, the Committee gave consideration to the issue of whether a Trade Waste Bylaw should be preserved. This report and attachments are submitted for consideration on the assumption that the Committee agreed to maintain a Trade Waste Bylaw.
- 1.1 Section 148 of the Local Government Act 2002 places specific requirements on a local authority in respect of the making of bylaws relating to trade wastes. Section 148(1) dictates that before making a Trade Waste Bylaw, a territorial local authority must send a copy of the proposed bylaw to the Minister of Health for comment. Prior to consulting the Minister however, Section 148(2) requires the Council to give two months public notice of its intention to make a Trade Waste Bylaw stating:
 - (a) the trade waste to which the bylaws will relate;
 - (b) that copies of the draft bylaws may be inspected free of charge at the place specified in the notice and
 - (c) that the territorial authority is prepared to receive and consider any representation about the bylaws made to it in writing by or on behalf of owners or occupiers of trade premises within its District at the time specified in the notice, being not less than two months after publication of the notice.
- 1.2 As the Council's current Trade Waste Bylaw will be automatically revoked on 1 July 2008, time is of the essence to have this customised process completed before that date.
- 1.3 As some Councillors will be aware, the adoption of bylaws requires the Council to undertake a special consultative process. Thankfully, Section 148(7) allows the Council to use a single process to comply with the requirements of Section 148(2) and the special consultative procedure set out in Section 156.

Therefore, please find enclosed:

- (a) A draft Trade Waste Bylaw prepared by the General Manager, District Assets, and
- (b) A Statement of Proposal for the Gore District Trade Waste Bylaw, which will be utilised as part of the consultation process required under Sections 148(2) and 156.

2.0 Appropriateness of the Bylaw

- 2.1 Section 155(2)(a) of the Local Government Act 2002 requires the Council to determine whether the proposed bylaw is the most appropriate form of bylaw.
- 2.2 The proposed new Trade Waste Bylaw is clearer and more up to date than the current Trade Waste Bylaw that will be revoked. The proposed new bylaw is based on the New Zealand Standard Model Trade Waste Bylaw (NZS9201: Part 23: 2004).
- 2.3 As with all New Zealand Standards, the Model Bylaw has undergone an extensive review process. Its production included input from territorial authorities and representatives from a broad range of organisations. Their involvement has ensured that the proposed new bylaw is aligned with current best practice.

3.0 New Zealand Bill of Rights Act 1990

- 3.1 Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine whether the proposed new bylaw is inconsistent with the New Zealand Bill of Rights Act 1990.
- 3.2 The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw.
- 3.3 It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed Trade Waste Bylaw.

4.0 RECOMMENDATION

THAT the Council approve the draft Trade Waste Bylaw and accompanying Statement of Proposal for public consultation, pursuant to Sections 148(2) and 156 of the Local Government Act 2002.

STATEMENT OF PROPOSAL FOR PROPOSED NEW GORE DISTRICT COUNCIL TRADE WASTE BYLAW 2008

1.0 INTRODUCTION

1.1 This statement of proposal is prepared pursuant to Sections 83, 86, 89, 148 and 155 of the Local Government Act 2002.

2.0 THE PROPOSAL

2.1 It is proposed to revoke the Gore District Council Trade Waste Bylaw 2001 (“the current Trade Waste Bylaw”) and substitute it with the proposed Gore District Council Trade Waste Bylaw 2008 (“the new Trade Waste Bylaw”).

2.2 This statement of proposal discusses the proposed form of the new Trade Waste Bylaw and recommends a draft bylaw to undergo the special consultation process as outlined within the Local Government Act 2002. The Local Government Act 2002 requires the Council to consult with the community using the special consultative procedure prior to adopting a Trade Waste Bylaw.

2.3 This Statement of Proposal includes a copy of the proposed new Trade Waste Bylaw, the reasons for the proposal; and a report of the relevant determinations by the Council under Section 155 of the Local Government Act 2002.

3.0 BACKGROUND

3.1 Section 146(a)(iii) of the Local Government Act 2002 provides that a territorial authority may make a bylaw for its district for the purposes of regulating trade wastes.

3.2 When the Local Government Act 2002 was passed, Parliament placed a requirement on all local authorities to review their bylaws by 30 June 2008 or within five years from the date of their making, whichever is the later. Once reviewed, the bylaws are to again be reviewed within a further ten years. If a bylaw is not reviewed in accordance with the Local Government Act 2002 it lapses after two years.

3.3 The current Trade Waste Bylaw is subject to review by 30 June 2008.

4.0 LEGISLATION ABOUT THE MAKING AND REVIEWING OF BYLAWS

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

- determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue.
- determine whether the bylaw is in the most appropriate form.
- determine whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. If there are implications under that Act, the bylaw must be amended to remove any inconsistencies.

5.0 THE CURRENT POSITION IN RESPECT OF TRADE WASTES

- 5.1 Gore District Council owns and operates the sewer reticulation system in Gore, Mataura and Waikaka, which collects, treats and disposes of sewage and trade wastes from industry, businesses and other trade activities within the Gore District. Trade waste discharges and activities are currently managed and regulated under the authority of the current Trade Waste Bylaw.
- 5.2 The current Trade Waste Bylaw is based on an outdated version of the New Zealand Standard Model Bylaw. The current Trade Waste Bylaw was made before the adoption of the Local Government Act 2002 and the release of the updated New Zealand Standard Model Bylaw Trade Waste Bylaw NZS 9201: Part 23:2004.
- 5.3 The current Trade Waste Bylaw is outdated and is incapable of being updated as it does not conform with the current legislative requirements of the Resource Management Act 1991.

6.0 PURPOSE

- 6.1 The purpose of the new Trade Waste Bylaw includes but is not limited to the following:
- (a) To ensure the protection of Gore District Council personnel and the general public;

- (b) To protect the ability of the Gore District Council to meet the requirements of the Resource Management Act 1991 and in particular their resource consents for the discharge of treated sewage and also for any future placement of sludge and bio solids on land;
- (c) To provide for an equitable spread of costs between domestic and trade waste discharges;
- (d) To protect the investment in the existing and any future infrastructure, treatment plant and disposal facilities;
- (e) To ensure compatibility between liquid, solid and gaseous phases of trade waste discharges. This compatibility can relate to such matters as meeting landfill acceptance criteria for solids and sludges and meeting resource consents for emissions to air as well as the trade waste discharge itself, into Gore District Council's sewer system.
- (f) To ensure trade waste discharges where appropriate and practicable implement, waste minimisation and cleaner production techniques reducing the quantity and improve the quality of their trade waste discharges, thereby assisting the Gore District Council to meet the targets of the New Zealand Waste Strategy.
- (g) To foster consistency between Wastewater Authorities with respect to trade waste requirements.

7.0 REASONS FOR THE PROPOSAL

The Council is proposing to adopt the new Trade Waste Bylaw to ensure that the Council achieves the following objectives;

- a) To minimise the reception and disposal costs to the community of trade waste sourced wastewater;
- b) To encourage and promote industry to treat trade waste onsite to an appropriate and cost effective level;
- c) To have a fair and equitable trade waste charging policy and to encourage sustainable industry activity throughout the District;

- d) To ensure that industry maintains trade wastewater discharges within agreed and consented flow and contaminate levels; and
- e) To regulate trade waste discharges in order to meet any new or existing resource consent conditions imposed on the Council.

8.0 IS THE PROPOSED BYLAW THE MOST APPROPRIATE FORM OF BYLAW?

- 8.1 The proposed new Trade Waste Bylaw is clearer and more up to date than the current Trade Waste Bylaw which will be revoked. The proposed new bylaw is based on the New Zealand Standard Model Trade Waste Bylaw (NZS 9201: Part 23:2004).
- 8.2 As with all New Zealand Standards, the Model Bylaw has undergone an extensive review process. Its production included input from territorial authorities and representatives from a broad range of organisations. Their involvement has ensured that the proposed new bylaw is aligned with current best practice.

9.0 NEW ZEALAND BILL OF RIGHTS ACT 1990

- 9.1 Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine whether the proposed new bylaw is consistent with the New Zealand Bill of Rights Act 1990.
- 9.2 The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw.
- 9.3 It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed Trade Waste Bylaw.

10. PUBLIC NOTIFICATION AND SUBMISSIONS

- 10.1 The Gore District Council is seeking submissions on the revocation of the current Gore District Council Trade Waste Bylaw 2001 and the making of the proposed new Gore District Council Trade Waste Bylaw 2008. It is proposed to release the proposed bylaw for public comment on Saturday 1 March 2008. The consultation period will run for no less than 60 days with the consultation period closing at 4.00 pm on Friday 2 May 2008.

- 10.2 The Council will acknowledge in writing each application received. It is proposed that submitters who wish to speak regarding their submission will be contacted by the Council with the date and time of the Hearings Committee meeting.
- 10.3 The proposed Gore District Council Trade Waste Bylaw 2008 in its draft form is attached (**Attachment 3**).

A copy of this statement of proposal, along with the proposed bylaw is also available at the Gore District Council.

Website: www.goredc.govt.nz

4. REGULATORY BULLETIN

(Memo from Chief Executive – 30.01.08)

Attached is a schedule of building consents issued for December 2007, together with comparisons with the previous two years.

Also attached are schedules of resource consents issued to 25 January 2008.

RECOMMENDATION

THAT the information be received.