

Summary of Underpinning Analysis: Public Places Bylaw review 2026

Agency responsible	Western Bay of Plenty District Council
Date finalised	27 August 2026

Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? No

Summary of agency analysis

The bylaw uses plain language, and all relevant considerations are contained in the bylaw. Other than confirming the fees payable from time to time through the Council's Fees and Charges Schedule, there are no supplementary documents or cross referencing of other legislation required to understand or apply the bylaw.

The bylaw is available on the Council website and hard copies can be obtained from Council libraries and service centres.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified? No

Summary of agency analysis

The guidance indicates that this would only be relevant to proposed legislation, however it is also assumed that changes to existing legislation would also require consideration.

There are currently no proposed changes to the Bylaw which would alter the status of any actions of a member of the public as compliant. If changes were proposed a transitional period would be required to maintain consistency with the principles of responsible regulation.

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified? No

Summary of agency analysis

All persons (whether individuals or institutions and whether public or private) are bound by the bylaw. There are no exemptions and the Crown are equally bound by the bylaw.

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified?

No

Summary of agency analysis

The bylaw does not influence, fetter or limit the ability of the judiciary to consider any application which might be made in relation to the actions of Council.

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified?

Yes

Summary of agency analysis

An Authorised Officer has discretion under the bylaw, without a specific set of criteria to assist in decision making. The relevant parts of the bylaw are:

- Clause 2.1 in relation to the condition or state of repair of a wall, fence of land adjacent to a public place with the ability to give notice to the owner to make the land safe.
- Clause 2.3 giving the Authorised Officer the ability to request that an owner or occupier cut back any tree deemed to be (by the Authorised Officer) overhanging a street light in a public place.
- Clause 6.1 (ii) the opinion of the Authorised Officer in relation to signage and the likelihood of it causing undue obstruction to pedestrians, constituting a danger to people or property, or likely to be offensive or cause a detracton from amenity.
- Clause 6.3, 6.5 – the content required for an application and the condition of a advertising device must be satisfactory to an Authorised Officer
- Clause 7.2, 7.4 – whether work carried out on a vehicle crossed is satisfactory to an Authorised Officer and the requirement of a temporary crossing.
- Clause 9.1 – the direction of an Authorised Officer may be required for the marking of a building with relevant numbering

The Authorised Officer has a level of discretion in decision making.

While the bylaw does not limit the ability of an individual to raise an appeal (clause 14), a judicial review or other appropriate process, the bylaw does not specifically prohibit the ability of an applicant to appeal to the courts is available.

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? No

Summary of agency analysis

The bylaw relates to the actions of the community in public places, and does not prevent the public from freedom of choice or action beyond ensuring the safe passage and movement of all members of the public.

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

Inconsistency identified? Yes

Summary of agency analysis

The bylaw provides for the removal of advertising devices from public places, where it breaches the standards or requirements of the bylaw. Such removal would occur on the second breach of the bylaw, and would result in the storing of the advertising device and possible disposal (clause 6.10)

The bylaw specifies the requirements for compliance, and removal and disposal will occur after multiple breaches of the bylaw. Visual amenity, safety, passage and relevance are considered prior to any action being taken. No compensation is proposed.

The bylaw also enables Council to authorise an officer to remove or alter a work or thing constructed in breach of the bylaw (clause 15.1), recovering the costs of any removal or alteration.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1986 (Parliamentary control of taxation)

Inconsistency identified? Not Applicable

Summary of agency analysis

No taxes are raised through the bylaw.

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified? No

Summary of agency analysis

The fees charged reflect the reasonable costs of administering the issue and monitoring of relevant licences and consents. The fees are reviewed annually and set in accordance with Council's Revenue and Financing Policy.

The fees charged do not exceed the cost of administering the activity.

Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

Inconsistency identified? Not applicable

Summary of agency analysis

No levies are charged through this bylaw.

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified? No

Summary of agency analysis

While the bylaw gives discretionary abilities to an Authorised Officer, it expressly provides an appeal process to the Council and does not prevent an applicant from appealing to the court (although not expressly stated).

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?

Yes

Summary of agency analysis

The discretion afforded to an Authorised Officer may be perceived, or have the effect of, affecting rights, liberties and obligations, is not defined in the bylaw (however, it must be within the scope of the bylaw).

There is however a pathway for appeal to the Council expressly provided for in the bylaw.

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified?

Not Applicable

Summary of agency analysis

This principle is not required for existing secondary legislation pursuant to section 19(a) of the Regulatory Standards Act 2025.

Good law-making: 9(j)

The importance of carefully evaluating -

- (i) the issue concerned; and**
- (ii) the effectiveness of any relevant existing legislation and common law; and**
- (iii) whether the public interest requires that the issue be addressed; and**
- (iv) any options (including non-legislative options) that are reasonably available for addressing the issue; and**
- (v) who is likely to benefit, and who is likely to suffer a detriment, from the legislation:**

Inconsistency identified?

No

Summary of agency analysis

The issues concerned remain relevant to the community and/or the Council, and the bylaw aligns with and complements current legislation in meeting the needs of the community.

The bylaw promotes and enables safe public access and enjoyment of public spaces. Our s.155 assessment confirms and aligns with the bylaw being the most appropriate way of addressing the issues relevant to our community.

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified?

Not Applicable

Summary of agency analysis

This principle does not require review for existing secondary legislation pursuant to section 19(a) of the Regulatory Standards Act 2025.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified?

No

Summary of agency analysis

The bylaw ensures safe passage and use of public spaces by the community. A responsive and educational approach is taken to complaints raised, and relationship building with the community and businesses remains a priority through all exchanges.

There is no conclusive way to attribute a financial value to these benefits however the financial contribution by the ratepayer aligns with Council's Revenue and Financing Policy within the current Long Term Plan.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available.

Inconsistency identified?

No

Summary of agency analysis

The bylaw is an effective and efficient tool in ensuring the safe passage and use of public spaces by our community, preventing nuisance.

It provides clear, visible and accessible guidelines to the community, and the Council function in administering the bylaw assists the community in education, support and enforcement.