

Chairperson and Committee Members
REGULATORY MANAGEMENT COMMITTEE

12 APRIL 2012

Meeting Status: **Public**

Purpose of Report: For Decision

MINOR AMENDMENTS TO COUNCIL BYLAWS

PURPOSE OF REPORT

- 1 The purpose of this report is to approve minor amendments to some existing Council bylaws to ensure schedules remain up-to-date and clearly referenced.

SIGNIFICANCE OF DECISION

- 2 This report does not trigger the Council's Significance Policy

BACKGROUND

- 3 Section 156 of the Local Government Act 2002 (the Act) allows the Council to make minor editorial changes to operative bylaws without the need to follow the 'Special Consultative Procedure'.
- 4 To qualify as a minor editorial change, amendments have to be of minor effect (i.e. they have to have little or no impact on the intent of the bylaw and its rules).

CONSIDERATIONS

Kāpiti Coast District Council General Bylaw 2010

- 5 The Kāpiti Coast District Council General Bylaw 2010 was adopted in February 2010. This Bylaw makes regulatory provisions which are common to and form part of all other Council bylaws. For example it prescribes how enforcement notices will be served, how licenses will be granted, suspended and revoked, and general offences and breaches common to all Council bylaws.
- 6 The General Bylaw also acts as an index to all Council bylaws. Schedule 1 of the Bylaw lists in numerical order all current Council bylaws and supporting policies. To ensure Schedule 1 remains up-to-date with the introduction of new bylaws and policies or the deletion of old ones, it is necessary to amend the tables in Schedule 1 from time to time.
- 7 It has also been noted that in accordance with section 158 of the Local Government Act 2002 some new bylaws recently adopted need to be reviewed again in five years time rather than the standard 10 years as listed in the Schedule.
- 8 It is recommended that the Committee recommends the Council approves the Schedule 1 changes (highlighted in red) in Attachment 1 to reflect recent

bylaw/policy changes and the requirement under section 158 of the Local Government Act 2002 to review new bylaws within five years of their adoption.

Kāpiti Coast District Council Fire Prevention Bylaw 2010

- 9 The Kāpiti Coast District Council Fire Prevention Bylaw 2010 was adopted on 1 October 2010. The Fire Prevention Bylaw manages the lighting of fires in the open air throughout the Kāpiti Coast District to ensure this activity does not create a nuisance or become a threat to public health and safety.
- 10 Schedule 1 of the Bylaw lists a series of common rules applicable to lighting open air fires in permitted beach zones within the District. Prior to the new Fire Prevention Bylaw these beach fire zones and open air fire rules were generally only made available to the public when applying for a beach fire permit. Schedule 1 was therefore attached to the new Bylaw as an information tool to improve public awareness of the zones and rules surrounding beach fire permits. However, when inserting Schedule 1 a corresponding reference to the Schedule in the body of the bylaw was missed. The result of this omission is that it remains unclear if the rules listed in Schedule 1 apply to the urban area, beach area or both. Schedule 1 rules only apply to the beach area¹.
- 11 It is recommended that a reference to Schedule 1 is added to the footnote on page 4 of the Bylaw. This footnote makes specific reference to beach fire permits and the conditions for lighting fires on the beach. Attachment 2 highlights in red some proposed wording to reference Schedule 1 in the footnote.

Financial Considerations

- 12 There are no financial considerations.

Legal Considerations

- 13 Section 156 of the Local Government Act 2002 states that a local authority may by resolution publicly notified, amend a bylaw by making editorial changes or amendments of minor effect.
- 14 If a proposed change is of minor effect section 156 allows local authorities to refrain from the consultation process as outlined in section 83 of the Local Government Act 2002.

Delegation

- 15 Section B.2.7.11 of the Kāpiti Coast District Council Governance Structure and Delegations 2010-2013 Triennium states that the Committee has:

Authority to review all or any Council bylaws, to approve draft bylaws for public consultation, to hear submissions, and to recommend to the Council amendments to the bylaws.

¹ Report SP-10-964 'Adoption of the Kāpiti Coast District Council Fire Prevention Bylaw 2010', paragraph 8 - explains the purpose of Schedule 1 and what area of the rural fire district it relates to.

Other Considerations

- 16 There are no other considerations for the Committee to consider.

RECOMMENDATIONS

- 17 That the Committee recommends the Council approve the amendments to the General Bylaw 2010 as highlighted in Attachment 1 to report SP-12-500 subject to any further amendments made by the Committee.
- 18 That the Committee recommends the Council approve the amendment to the Fire Prevention Bylaw 2010 as highlighted in Attachment 2 to report SP-12-500 subject to any further amendments made by the Committee.

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ATTACHMENTS:

Attachment 1: General Bylaw 2010

Attachment 2: Fire Prevention Bylaw 2010