

25 August 2021

Kia ora

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: 2122-32

I refer to your information request we received on 2 August 2021 for the following:

The analysis and or results of the pre-engagement which informed the recommendations in the Statement of Proposal.

The report for Council, is what I'm after. I realise you likely haven't prepared it yet, I'm just keen to read it before the hearing on Thursday.

On 16 August 2021, you clarified your request with the following:

The 'report' or whatever information the Strategy and Advisory Committee was provided with prior to the hearing of the Animals Bylaw on 5 August as mentioned in point 11 of their Agenda.

The analysis undertaken to inform the Statement of Proposal, it's laid out in points 16 and 17 of the Proposal.

I realise the Officer's Report is still being prepared so I'm happy to receive that in due course along with all the other submitters.

Council response regarding your request

On 4 August we emailed you to advise that the only reports available were the two that we had already provided via links in an email from one of our Council Officers. Further to this, we advised that the report for all submissions and high-level analysis had not yet been prepared. We advised that once it was prepared, it would be published on the appropriate agenda and available for viewing.

We also advised the information to prepare the Statement of Proposal was drawn from a number of sources.

Your request for ***“the analysis and/or results of the pre-engagement which informed the recommendations in the Statement of Proposal”*** is answered below:

The first stage of reviewing the keeping of Animals, Poultry and Bees Bylaw 2010 sought to identify potential issues with, or gaps in, the current bylaw.

The data collection process included collecting and reviewing service requests, speaking with a number of staff across Council, reviewing any Official Information Requests (OIR's under the Local Government and Official Information Meetings Act 1987) and Long-Term Plan submissions (Years - 2018-38).

Feedback was sought from community members through the 'Have Your Say' tool online (note this is publicly available on the Ideas tab ([Review of the Keeping of Animals, Bees, and Poultry Bylaw 2010 | Have Your Say | Kāpiti Coast \(kapiticoast.govt.nz\)](#))). We also sought feedback from iwi (we did not receive a response from our local iwi during this stage of the process), and from key identified stakeholders who our Council Officers had identified during the preliminary stages as those who have a role in managing the keeping of animals within the Kāpiti Coast District.

Council Officers subsequently analysed information received, and from this were able to prepare a draft Keeping of Animals, Bees, and Poultry Bylaw 2021, alongside an accompanying Statement of Proposal which was presented to the Strategy and Operations Committee on 17 June 2021, please visit this link: (https://kapiticoast.infocouncil.biz/Open/2021/06/SAOCC_20210617_AGN_2316_AT_WEB.htm).

The following documents contain the analysis and results from the pre-engagement process:

- Appendix 1 – Preliminary analysis following initial data gathering
- Appendix 2 – SLT and Council briefing on issues identified in the pre-engagement stage (8 & 16 March 2021)
- Appendix 3 – SLT and Council briefing on key issues and proposed options from early engagement (10 May & 11 May 2021).

You will note that our analysis evolved over the development of the Statement of Proposal, with the preliminary analysis (Appendix 1) being amended and refined over time. These changes are a natural progression of policy development and also reflect a number of unrecorded discussions among Council Officers during both the data collection and analysis stages.

The second part of your request, for the **report for Council**, which is for Council to receive all submissions and will include high-level analysis of submissions, will be presented to the Strategy and Operations Committee on 2 September 2021. This report will be released publicly on 27 August 2021. Therefore, for now we must decline your request for this information under section 17(d) of the Act as the information requested will soon be publicly available.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi



Angela Bell

Acting Group Manager Regulatory Services
Te Kaihautū Ratonga Whakaritenga

The Kāpiti Coast District Council (the Council) is undertaking a statutory review of the Kāpiti Coast Keeping of Animals, Bees, and Poultry 2010 Bylaw (Keeping of Animals Bylaw or the Bylaw). The Bylaw sets rules for people who keep animals and focuses on managing animal issues that have been identified in our District, to minimise the potential for **nuisance** and **offensive behaviour**, and protect **public health and safety**.

Animals are subject to a range of central, regional, and local government rules. In Kāpiti, many agencies are responsible for managing animal activities, and not just the Council. Each agency has a different role and responsibilities. This means that, many animal-related issues are out-of-scope for this bylaw review because they are managed by another mechanism and/or agency. For example:

- The welfare of animals is covered by the Animal Welfare Act 1999. The MPI administers the legislation with the SPCA acting as the enforcement body. The Animal Welfare (Care and Procedures) Regulations 2018 and a number of Animal Welfare Codes of Conduct also act as supporting mechanisms for the Animal Welfare Act and the SPCA.
- The management of dogs is covered by the extensive under the Dog Control Act 1996. Dogs are managed locally by the Council under the Dog Control Bylaw 2019 and Dog Control Policy 2019. Where dog welfare issues arise, the Animal Welfare Act applies.
- Wild animals are not kept animals, and are covered by a number of Acts including the Conservation Act 1987 and the Wildlife Act 1953. Most are managed by DOC.
- Pest management is covered regionally, by the Greater Wellington Regional Pest Management Plan 2019-2039. This Plan and its operational requirements are mandatory under the Biosecurity Act 1993.

The Council has some rules on animals that are not included in the Keeping of Animals bylaw. This is because the rules were created for a purpose other than managing animal activity, with animals appearing as a relevant topic. For example:

- Our District Plan has some rules on animals, some of which were created for managing environmental effects.
- Our Beach Bylaw has some rules around horses on the beach, to ensure people share the beach environment safely.
- Our Public Places Bylaw has some rules about animals in public places, designed to protect Council land and infrastructure.

The original basis for developing a bylaw for the keeping of animals was developed under the Local Government Act 2002 which specifically enabled Councils to address issues relating to animals, bees and poultry. This helps explain the structure of the current Bylaw, and its specific reference to bees and poultry. However, the bylaw also provides the general provision to help address any issues relating to the keeping of any animals that may create issues of nuisance or safety.

The Council uses the Keeping of Animals Bylaw as a tool to create special controls and rules around the keeping of animals, if there may be an issue in the District which other legislative mechanisms or agencies don't cover for our purposes. It helps to manage the expected behaviour in our community. The nature and impact of keeping animals can vary depending on the proximity to other people. For this reason, the Bylaw addresses a range of issue that apply generally across the District as a whole, as well as a small number specifically for urban areas that look to address issues and greater potential for nuisance or where impacts may be more acute.

It is important to note that the Council cannot make any Bylaw rules that are inconsistent with the rules or legislation of any other government agencies. For this Bylaw, Council's responsibilities are directed by the Local Government Act and the Health Act.

Under Section 145 of the Local Government Act 2002 a Bylaw can only be used for:

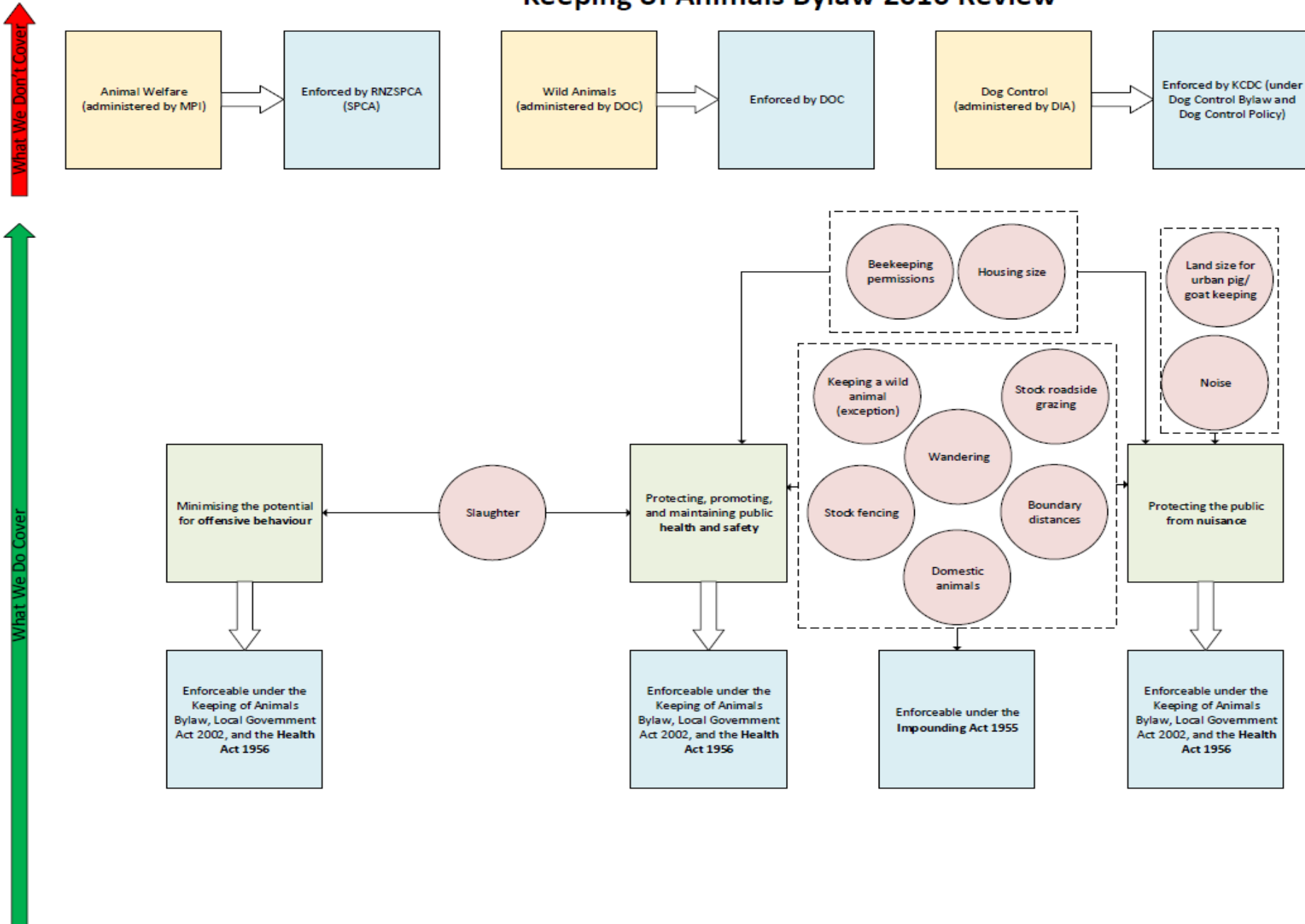
- (a) protecting the public from **nuisance**;
- (b) protecting, promoting, and maintaining public **health and safety**;
- (c) minimising the potential for **offensive behaviour** in public places.

Under the Health Act 1956, Council can use a Bylaw to protect public health from anything that could be offensive or detrimental to their health and this includes things like the smell, noise, disease or living conditions of animals.

When making or reviewing Bylaws, Section 155 of the Local Government Act 2002 requires Councils to ensure whether the Bylaw is necessary, whether it is the most appropriate form of Bylaw, and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990 (as it may not be inconsistent with this).

The distribution and cross-over of responsibilities in terms of animals is complex. The diagram below attempts to provide some clarity on the intersections and why some issues are out of scope for this Bylaw review.

Keeping of Animals Bylaw 2010 Review



Keeping animals for both companions and for their utility remains hugely popular throughout our country and District, with 64% of New Zealand homes containing at least one companion animal and cats consistently being the most popular since 2011¹. The community's strong interest in animal-related issues across the District makes it important to involve them in this Bylaw review, using the special consultative procedure outlined under the Local Government Act 2002.

After beginning the review, Council officers:

- analysed service requests, emails, and other correspondence (from 17 January 2018 to 17 January 2021),
- reviewed 18 other Council's Keeping of Animals Bylaws,
- sought pre-engagement ideas from the community,
- sought feedback from iwi, and
- sought feedback from other identified stakeholders.

This confirmed that many of the current rules remain appropriate and fit for purpose, but some amendments may be required to improve understanding and clarity around the rules, as well as strengthen the Bylaw protections for our community.

Our early engagement and review work identified some key areas that needed further explanation, consideration, or improvement. These included:

- Confusion about the different jurisdictions of government agencies involved for animal related-issues
- A desire for Council to do more for cat ownership
- Stricter requirements for animal ownership in urban or urban-bordering areas
- Stricter requirements around harbourage and sustenance for feral animals.

We also identified a need for some minor and/or technical changes, including some definitions that needed to be amended or added to improve clarity and understanding.

¹ Companion Animals in New Zealand 2020:

<https://static1.squarespace.com/static/5d1bf13a3f8e880001289eeb/t/5f768e8a17377653bd1eebef/1601605338749/Companion+Animals+in+NZ+2020+%281%29.pdf>

Issues for amendment/addition

During pre-engagement a number of concerns were raised relating to the management and control of cats. A number of these are issues that have been raised in national media over the last few years around the control of cats including microchipping, registering and neutering cats. While there may be strong welfare and environmental protection arguments for microchipping, registering, and de-sexing of cats, the purpose of the Bylaw focuses on nuisance and health and safety. The scope and breadth of outcomes in these areas cuts across a range of roles and responsibilities of a number of organizations. As such, the ability to achieve these broader outcomes through the limited focus of the bylaw alone would be difficult and if this is considered important locally, we would be happy to raise it as an issue seeking a more holistic solution, similar to the Dog Control Act.

Managing the numbers of cats was also raised. The Bylaw currently addresses and places limits on numbers of certain animals (chickens) in urban areas given the potential for health and nuisance issues. Limits on cats could be considered with regards to potential for health and nuisance, particularly in urban areas where the impacts are more acute given denser living spaces. The Bylaw can currently address issues of nuisance or health and safety relating to cats if they are raised under its general provisions and requirements. Typically, these issues would be expected to be connected with a welfare issue, and would be treated from that basis. Current service request data suggests that while there are a small number of nuisance complaints, this does not necessarily relate to having a higher number of cats. While we can look to propose putting a number in place, the impact and effect of a proposal might be limited.

Feral cats were also raised as an issue. Greater Wellington Regional Council currently addresses feral cats as part of its Pest Management Strategy alongside SPCA who address welfare issues. However, the issue of encouraging feral animals is covered later on.

The Council has not identified any issues within the Kāpiti District that would currently require the introduction of any of these clauses for cats, however we may look to introduce one a limit on the number of cats as a preventative to nuisance and health and safety issues, as well as introducing website guidance for responsible cat ownership as expected behaviour setting and helping to prevent future nuisance or public health and safety issues arising.

- a. Including a provision to limit the number of cats per rateable property to 3 (unless a registered breeder, vet, SPCA or similar registered charity, or boarding premise); AND/OR
- b. Introduce guidelines to our website to encourage responsible cat ownership, which could include information on de-sexing, microchipping, and registering.

Bees were another key topic identified during the pre-engagement phase, with a number of people querying the need for a Council approval to keep bees, along with the requirement for neighbour approval. A number of complaints have also been received for nuisance and health and safety issues related to bees.

Under the Biosecurity Act 1993, all bee owners are required to register their bees with The Management Agency, who record apiary information including locations, compliance and reporting documentation, as well as providing beekeepers with specialist support in beekeeping. This registration requirement is a management tool for preventing and containing an aggressive bee pest nationally, and registration information from The Management Agency is not shared locally.

Under our Bylaw, Council require the registration of all apiaries in an urban area within our District. Of the Council's reviewed during the process to date, no other Council's require a license to keep bees on private property except for Kāpiti, however some require neighbour approval which is also a part of our operational process. This requirement from our Council is primarily to prevent health and safety issues arising where individuals have allergies to bees, as well as helping to prevent nuisance issues by ensuring an apiarist involved in the registration process with Council. However, the Bylaw and supporting legislation (the Health Act 1956) do allow for the enforcement for the removal of hives if the hives were already in place, but without registration with Council there is no opportunity to prevent nuisance and health and safety actions, and only an opportunity to take action after something has already occurred.

There is currently no requirement for a minimum distance for apiaries from boundaries, however there is community concern for the proximity of some beehive siting to members of the public. Requiring a minimum distance would reduce the nuisance impact and health and safety risks by providing a distance barrier between bees and community members. As a part of the registration process, apiarists work with registering owners by determining the best location for the bees when considering flight paths, accessibility for bees, etc., and a distance requirement could limit this. Given the community concern for bees near pathways and the health and safety implications however, it may be prudent to introduce this clause.

Council has two options for our draft Keeping of Animals Bylaw 2021:

- To require beehives to be kept more than 5m from any boundary, roadside, public place, or right of way, unless an exemption is provided by Council; AND
- To remove the requirement for Council permission for keeping bees, OR
- To retain the requirement for Council permission for keeping bees, along with the operational requirement for neighbour consideration.

Feral animals were reviewed as a potential issue in both public and private premises. Providing sustenance, harbourage, or comfort to feral animals in either a public or private premise can cause ongoing nuisance and pose health risks to people and other animals if they are encouraged. It has also been suggested that Council include clarity for private property owners, where they are required to remove any feral animals on their property (through manners such as keeping the pet responsibly, responsibly re-homing them, or euthanasia) to abate any nuisance or potential health and safety risks.

The Greater Wellington Regional Pest Management Plan 2019-2039 does assist with the management of some feral animals if they are classified as pest animals under the Plan, however does not address other animals which may be feral and causing a nuisance/health and safety issue, nor does it prevent the encouragement of feral animals in the first instance. Council are proposing to introduce two clauses to the Bylaw to prevent the encouragement of feral animals by:

- Prohibiting persons from providing sustenance, harbourage, or comfort to feral animals, including cats, in a public place, so as to cause them to become a nuisance to other persons; AND,
- Where feral animals, including cats, cause a nuisance the owner of the property from which they emanate shall be required to abate the nuisance caused by the animal(s).

There is also community concern and frustration raised at the noise produced by **roosters and peacocks** in built-up areas which creates a nuisance. Both roosters and peacocks can make significant noise which can be quite disruptive, particularly in urban areas. Similarly to how roosters are currently controlled, Council are looking to ban peacocks in urban areas. Noise and smell nuisances can be dealt with under the Bylaw and the Health Act 1956, and property owners District-wide are required to abate any nuisance, however introducing this clause would act as a preventative to nuisance issues.

Council proposes to:

- Prohibit the keeping of peacocks in an urban area, without an exception license from Council.

Council received feedback that the **space requirements for a poultry coop** and run did not meet the minimum requirements as set out by MPI in the Layer Hens Code of Welfare 2018 as set by MPI. This Code is expected to be updated in the next 2 years, which may again result in an increase in minimum size requirements for poultry coops. The minimum space requirements for poultry are necessary to reduce the likelihood of noise and smell nuisance and health and safety impacts.

Council proposes to:

- Amend section 7.5 of the Keeping of Animals Bylaw to be replaced with “The size of each poultry coop and attached run must meet the minimum standards as set out in the Layer Hens Code of Welfare issued under the Animal Welfare Act 1999”.

Minor and Technical

The minor and technical changes identified are listed below:

- The introduction of a provision to **prohibit the siting** of any building housing animals within 1 meter of property boundaries, or within a 4.5 meter set back of the front boundary. Although some boundary set backs are included in the Bylaw with some clauses in relation to specific animal types (which would remain in place i.e. poultry), this is a catch-all clause for all kept animals in the District to reduce nuisance and health and safety risks. This is also a requirement under our District Plan, so will bring the Bylaw into line with this.
- Introducing specific provisions for **birds**, as opposed to only poultry. The District Plan includes a number of provisions specifically related to birds, and this will bring the Bylaw into line with this. Currently some of the species listed under poultry in the Bylaw, are listed under the “birds” provisions in the District Plan, so the definition for poultry will also be amended. The provisions to be introduced are:
 - A bird aviary must:
 - Have a maximum floor area for aviaries of 15m² in an urban area,
 - Be positioned at least 5m from neighbouring primary residences in an urban area,
 - Be positioned a minimum of 1m from side boundaries and 4.5m from the front boundary, and,
 - When storing seed on-site in excess of 10kg, containers must be used for storage;
 - A maximum number of 12 pigeons or doves on an urban property;

- *An exclusion for pigeons and doves from the Ngarara zone (to be added as a note to remain consistent and not as a Bylaw rule, as it is not for nuisance, health and safety, or offense).*
- **Definitions** – to amend and add some additional definitions to provide greater clarity for users of the bylaw.
 - Add:
 - Nuisance – unreasonable interference with the peace, comfort, or convenience of a person, whether by way of excessive noise, or offensive odours, or as defined under the Health Act 1956
 - Authorised Officer – officer specifically designated by Council to administer and enforce aspects of this Bylaw
 - Bird – any live domesticated bird including, but not limited to: pigeon, parrot, budgerigar, canary, dove
 - Council – Kāpiti Coast District Council
 - Slaughter – the killing of animals for food
 - Offence – a breach of this Bylaw
 - Public Place – every thoroughfare of a public nature or open to or used by the public as of right, and, every park, reserve, beach, riverbed, place of public resort or place to which the public has access
 - Feral Animal – an animal in a wild state, not domesticated or tamed, but descended from domesticated specimens
 - Wild Animal – an animal living in a wild state, the is undomesticated and untamed, and normally living in a natural environment
 - Amend:
 - Poultry - means any live domesticated or farmed bird *usually kept for its utility such as meat and eggs, it includes*, but is not limited to: fowl, goose, duck, ~~pigeon~~, turkey, ~~parrot~~, peacock, ~~budgerigar~~, pheasant, ~~canary~~, ostrich or emu.
- The keeping of a **pig or goat in an urban area** under the District Plan is a non-complying activity, and requires a resource consent, which is not mentioned in our Bylaw. Accordingly, we propose to amend clause 6.4 of the Bylaw for keeping goats and pigs in an urban area to include this information, to reduce any confusion and differentiation between the Kāpiti rules.
- An amendment to the breach reporting for Animal Welfare footnote on page 4 of the Bylaw, to change the **reference of MAF** to MPI.

IDEA OR ISSUE	IN/OUT OF SCOPE	BYLAW CLAUSE	WHY	RELATED LEGISLATION/OTHER CONTROLS	POTENTIAL ACTION?
Wandering Stock	In	6.2	Additional provisions are not required than what is already covered by Clause 6.2, as it is covered by legislation	Impounding Act 1955	No – the Act provides sufficient powers to Council officers and the NZ Police when managing wandering stock.
Poultry – nuisance – noise + damage to gardens	In	5.1 a 7.2	The District has a number of poultry related nuisance complaints however these could be managed by current Bylaw rules, current legislation, and other proposed ideas for inclusion.	Health Act 1956 Impounding Act 1955	No – already covered or to be considered elsewhere
Limit the number and/or species of animals kept at a property	In		An increased number of animals can become difficult to manage, and increases the chance of health and safety issues with an increased risk of unsanitary conditions through animal waste and vermin, as well as nuisance issues with smell and noise. Although it cannot be actioned under the Bylaw, animals in hoarding situations are generally expected to suffer through missing out on basic care.	Animal Welfare Act 1999 Health Act 1956	Yes – the Animal Welfare Act provides provisions should there be animal welfare issues, however this does not address health and safety or nuisance issues for the animal owner or their neighbour's. Where animals are hoarded, it is often the case that once removed, they are replaced with new animals. In extreme cases, an animal owner may be taken to court and be banned from owning animals for a certain period of time. It may be beneficial to introduce another tool to be used much earlier in this process to restrict the number and/or species of animal on a property, to decrease the opportunity risk for health and safety or nuisance issues to occur.
No beehives kept less than 5m from any boundary, roadside, public place, or right of way	In		Obligations under health and safety (proximity to third parties who may be allergic or otherwise fearful of bees), as well as for nuisance (increasing the distance between bees and neighbour's will slightly decrease the likelihood of bee poo on housing).	Health Act 1956	Yes – there were a number of complaints from the community regarding health and safety and nuisance for bees. A clause can be added into the Bylaw to require a minimum distance in an effort to decrease these risks.
No nuisance from any noisy animals, birds, or poultry	In	5.1 a	The current clause is a catch all that prohibits the keeping of an animal which may cause a nuisance. The addition of a clause to prohibit nuisance from noise makes it explicitly clear to the District that this behaviour would be unacceptable where it may otherwise be interpreted by users as unclear.	Health Act 1956	Yes – provides additional clarity to users of the Bylaw.
No providing sustenance, harbourage, or comfort in a public place to feral animals	In		Obligations under health and safety and nuisance, with the potential for feral animals to congregate in these select areas, breed, and produce unmanageable quantities of excrement. This can also attract vermin, who also excrete, and exacerbate the issue.	Health Act 1956	Yes – this was suggested from the community as a way to manage feral animals within the District. Although it may not be an issue we are seeing in SRs, it would be a good preventative clause in case any issues arise.
Private property owners are required to abate any nuisance caused by feral animals on their property	In		Obligations under health and safety and nuisance, with feral animals congregating in select areas, breeding, and producing unmanageable quantities of excrement. This can also attract vermin, who also excrete, and exacerbate the issue.	Health Act 1956	Yes - this was suggested from the community as a way to manage feral animals within the District. Although it may not be an issue we are seeing in SRs, it would be a good preventative clause in case any issues arise.
Cats – maximum numbers,	In		Nuisance:	LGA 2002	Yes – Provisions to add these requirements can be added to the Bylaw, or alternatively, a set of expected responsible

microchipping, registering, de-sexing, cat housing boundary distances			<p>Cats need to be better managed to mitigate nuisance behaviours. While the status quo situation is that cats roam freely, this causes a range of public health and nuisance issues, such as fighting & howling (which tends to be sexually related), predation of wildlife and small pets, running across roads, and uncontrolled breeding resulting in unwanted kittens, and stray and feral cats. There is no national legislation to manage undesired effects of cat ownership. The Animal Welfare (Companion Cats) Code of Welfare (2007) is primarily focused on the welfare of cats.</p> <p>Public Health: Wandering domestic cat's toilet on neighbouring properties. Cats spread toxoplasmosis through faeces, which can have serious health implications for humans, especially pregnant women and people with impaired immunity¹. New Zealand has high rates of toxoplasmosis, with more than 40 percent of the population Infected. Some other agencies do have statutory authority to manage cats, including Greater Wellington Regional Council (feral cats – Biosecurity Act 1993) and the SPCA (cat welfare – Animal Welfare Act 1999).</p> <p>Stray Cats: Lost cats become part of the stray cat population which can create cat colonies on reserves and other public places. To assist the management of stray cats, Council officers need to be able to establish whether or not stray cat is owned. The Animal Welfare Act 1999 and Reserves Act 1977 establish that reasonable steps are taken to identify the owners of domestic cats. Cats that are easily identified can be returned to their owners if they are separated.</p>	<p>Animal Welfare Act 1999 Biosecurity Act 1993 Health Act 1956 Reserves Act 1977 Animal Welfare (Companion Cats) Code of Welfare (2007)</p>	<p>ownership guidelines could be added to an educational webpage for this Bylaw. Management of cat nuisance behaviours is not already covered by other legislation, regulation, or agencies. Under the LGA and the Health Act, the Council can make bylaws concerning nuisance and public health. Some other agencies do have statutory authority to manage cats, including Greater Wellington Regional Council (feral cats – Biosecurity Act 1993) and the SPCA (cat welfare – Animal Welfare Act 1999). The Council already works with these agencies where possible. However, complementary measures are needed to reduce the number of stray cats and some way of identifying owned cats will make the process simpler and less time consuming. Requiring microchipping would enable owned cats to be identified. The Ministry of Primary Industry's Companion Cats Code of Welfare already includes micro-chipping as recommended best practice. Cat owners benefit if their cat is microchipped as they can be reunited with their cat if it becomes lost, injured or trapped. <i>Following the February 2011 earthquake in Christchurch, approximately 80 to 85 percent of lost microchipped cats were identified and returned to owners, compared to only 15 percent of cats without microchips.</i> Anecdotal, but a number of posts are made in local Facebook groups regarding missing, stray, or deceased unclaimed cats. Requiring compulsory chipping and registering would ensure all cats were able to be returned to registered owners once located.</p>
Provisions to deal with the slaughtering of animals – nuisance, disposal of waste and odour	In		To provide greater clarity for the Bylaw	Health Act 1956	Yes – it may be beneficial to provide more clarity around slaughter in the District.
Additional definitions for further clarity – what are they	In		Provides clarity for the Bylaw		Yes – additional definitions to be added.

Specifically list powers of Authorised Officers, Offence and Penalty, Power of Seizure	In		Provides clarity for the Bylaw and outlines what actions can be taken to enforce the Bylaw	LGA 2002 Health Act 1956 RMA 1999 Impounding Act 1955	Yes – additional information to be added.
Siting any building housing animals within 1 metre of property boundaries, or within a 4.5 metre set back of the front boundary (DP)	In		To provide consistency with the District Plan	RMA 1999	Yes – additional setbacks to be amended/added into the Bylaw
Provisions for birds – maximum floor area, property boundary & neighbouring primary residence distances, seed storage, maximum numbers, exclusion zone (DP)	In		Currently there are no separate provisions for birds in the Bylaw while specific provisions exist in the District Plan. Adding these into the Bylaw would create consistency; alternatively, we could add these sections to an educational webpage outlining the Bylaw and requirements under the DP. These provisions work to decrease the risk of nuisance and health and safety offences.	Health Act 1956 RMA 1999	Yes – the DP is more enforceable than the Bylaw and the Bylaw cannot be inconsistent with it. The Bylaw will either need to incorporate the same provisions as the DP, or alternatively we will need to create an educational webpage and include these DP provisions there.
Provisions for cats – exclusions from certain zones (DP)	Out		Exclusions are based entirely on wildlife protection purposes. A Bylaw under the LGA cannot be used for this purpose.	LGA 2002	No – the KOA Bylaw cannot be used for wildlife protection purposes.
Removing the urban area minimum size for keeping any pig or goat	In		To be consistent with the District Plan we must prohibit any pigs or goats being kept in an urban area	RMA 1999	Yes – remove the minimum size for keeping pigs or goats in an urban area.
Keeping (or prohibiting the keeping of) outdoor fish and pest species	Out		Covered by legislation and is not covered by S145 of the LGA 2002 where a Bylaw can only be used for nuisance, health and safety, or offensive behaviour. There have also been zero identified issues/ideas within our District relating to outdoor fish.	Conservation Act 1987 Unwanted Organisms (Biosecurity Act 1993) Noxious Fish (Freshwater Fish Regulations 1983)	No – the named Acts fully cover all illegal releases of fish into waterways, and an Act is a much stronger instrument than a Bylaw.
Keeping animals adequately contained and not intentionally releasing	In	6.2	This is already covered in the current Bylaw, and is partially covered under legislation.	Unwanted Organisms (Biosecurity Act 1993) Animal Welfare Act 1999 Wildlife Act 1953 Greater Wellington Regional Pest Management Plan 2019-2039 Impounding Act 1955	No – a specific provision exists under the Bylaw to keep animals adequately contained; it is also an offence to release kept animals under different legislation.
Identification markers – pet pigs and goats	In		This would only be applied to urban areas and would allow wandering pigs or goats to be returned home quickly once captured. This would minimise disruption and nuisance caused by wandering animals.	RMA 1999 Impounding Act 1955 Animal Welfare Act 1999	No – in order to be consistent with the District Plan we must remove the minimum land area allowance for keeping a pig or goat within an urban area. There will therefore be no pigs or goats to require identification markers for.
Guidelines on keeping pigs and goats	Out		Guidelines are not appropriate for a Bylaw, and we will be prohibiting the keeping of pigs	Animal Welfare Act 1999	No

			and goats in urban areas to align with the DP. The Animal Welfare Act 1999 also covers this.		
Requirement to seek permission to keep bees including neighbours permission operational requirement – removal or change	In		Beehives are regulated by legislation and all hives must be registered with The Management Agency. Council being aware of the location of hives has not provided any significant benefit, and requires both user and Council time in submitting, processing, and assessing applications.	Biosecurity Act 1993	Yes – this requirement could be removed as it has not provided benefit to Council as we have the same powers to act on complaints under the Bylaw as we do to refuse the permit in the first place.
Animal welfare	Out	-	Covered by legislation and is not covered by S145 of the LGA 2002 where a Bylaw can only be used for nuisance, health and safety, or offensive behaviour.	Animal Welfare Act 1999	No – the Animal Welfare Act 1999 fully covers all animal welfare issues, and an Act is a much stronger instrument than a Bylaw.
Tethering	In			Animal Welfare Act 1999	
Poultry requirements	In			Animal Welfare Act 1999	
Peacocks/roosters in built up areas (i.e. rural residential)	In		Peacocks are currently included in the definition of poultry and it is permitted to have up to 12 poultry. Peacocks are a nuisance animal as they create a noise nuisance, as well as moving easily between properties and causing damage nuisance.		Yes – prohibit peacocks from urban areas. Roosters in rural residential???
Urban stock keeping – increase land size to 5000m2 from 2000m2	In				No – prohibiting allowing pigs or goats in an urban environment to align with the DP.
Road frontage grazing – changing from all frontage to only Council-owned frontage	In	6.3	Currently it is prohibited to use a public road frontage for the permanent grazing of stock without prior written permission of Council. Amending this to only Council-owned frontage and allowing public-owned to be permanently grazed would be within the mandate of the Bylaw.	Impounding Act 1955	None – the Bylaw is enforceable regardless of who owns the frontage. Ownership does not remove the ability of Council to enforce District-wide provisions. There is a risk of having stock on the road-side, where there is no buffer between the road and the grazing area, which increases the risk to health and safety of persons should the animal/s escape.

Rules on cats

Council	Bylaw Name	Number of Cats	Microchipped	Desexing	Registered with NZCAR	Other
Marlborough	Animals Bylaw 2017	4				
WCC	The Wellington Consolidated Bylaw 2008: Part 2 - Animals (amended 2016)		Required	Guidelines		Guidelines - Indoors
Wairarapa (Carteron, Masterton, South Wairarapa)	Wairarapa Consolidated Bylaw 2019	3				
Horowhenua District Council	Animal Nuisance and the Keeping of Pigs, Poultry, and Bees Bylaw 2014	Where the number becomes offensive, threat to public health, or endangerment to neighbouring animals				
PNCC	Animals and Bees Bylaw 2018	3	Required	Required	Required	Housing not within 1.8m of boundary
Manawatu	Manawatu Bylaw 2019	4 (on rateable property with more than one dwelling - 1)		Required		
Wanganui	Keeping of Animals, Bees, and Poultry Bylaw 2015					Nuisance not abated - cats can be removed or limit on number imposed
Napier	Animal Control Bylaw 2014					Environmental health issue - number of cats may be limited

Summary of Other Proposed Changes	
Interpretation	A range of terms are newly defined or amended to: I) Make the overall intent and scope of the Bylaw clearer, and/or II) Align with definitions in other legislation.
Limits on Animal Numbers	This is a new clause stating that a person who has not complied with any reasonable request to abate or prevent nuisance, may have a limit imposed on the number and/or species of animals they may keep at the property.
Boundary Requirements	This is a new clause stating that a person shall not site any building housing animals within 1 metre or property boundaries, or within a 4.5m set back of the front boundary. This will align with the District Plan. Note: Additional distance requirements are also stated for stock, poultry, and bees.
Urban Stock Keeping Land Size	An amendment to remove the minimum land size in an urban area to allow the keeping of pigs or goats, to align with the District Plan.
Poultry Coop Set Back	An amendment to add a 4.5m front boundary set back for poultry housing, to align with the District Plan.
Birds	This is a new section to introduce a number of new clauses, to align with the provisions under poultry and the District Plan. To be included: I) A maximum floor area for aviary's of 15m ² ; II) A minimum distance of 2m to property boundaries, dwellings, or buildings where food is stored for human consumption, and a 4.5m set back from the front boundary; III) A minimum distance of 5m to neighbouring primary residential buildings; IV) A requirement for containers for the storage of seed when storing more than 10kg on-site; V) A maximum of 12 pigeons or doves in any urban area, unless a license has been granted by Council; VI) The prohibition of pigeons or doves in the Ngarara zone, unless a license has been granted by Council.
Bees	A new clause to require hives to be situated 10m or more from any boundary, roadside, public place, or right of way. The addition of a note to advise of the legal requirement to register any hives within 30 days with the relevant agency.
Cats	A new section with a number of new to align with the District Plan, prohibiting the keeping of cats without a license granted by Council within: Waikane North Development Zone, Ferndale Area, Ngarara Zone, Ngarara Precinct.
Noise	A new clause to specifically prohibit nuisance to neighbours from noise caused by animals, birds, or poultry.
Slaughter	A new section to create greater clarity around nuisance, offense, and health and safety issues around slaughter. To be included: I) Slaughter and the disposal of waste shall be carried out so that no nuisance is created, and the procedure is not offensive to persons nearby; II) All waste is to be immediately removed; III) No person shall dispose of the body, any part of the body, or any bodily fluids, or effluent of any animal, in a manner that will produce odour, cause a nuisance, or a threat to public health. A note will also be included to advise that it is an offence under the Health Act 1956 to leave animals, or animal carcasses, in a state where they are offensive or injurious to public health, and that it is an offence under the Resource Management Act 1991 to contaminate waterways with animal remains.
Powers of Authorised Officers	A new section to provide greater clarity to Council Officers and the public on some of the actions Council Officers can take to enforce the Bylaw. To include: I) An Authorised Officer may enter land for the purpose of detecting a breach or offence under the LGA 2002, if there are reasonable grounds for suspecting this has occurred or is occurring; II) An Authorised Officer, where they have reasonable grounds for suspecting a nuisance exists, may by written notice, require someone to take such action as considered necessary to mitigate or eliminate the nuisance within a specified timeframe; III) An issuing officer (as per the Search and Surveillance Act), may issue a warrant for an Authorised Officer to enter private property involved in an offence, and seize or impound property; IV) An Authorised Officer may seize or impound any animal found at large which is causing a nuisance; V) The Council may claim the actual cost from the owner or occupier of the land or premise for carrying out the abatement. These costs are additional to any costs incurred for the impounding or sustenance of the animal(s) seized or impounded.
Offence and Penalty	Carried over from the 2010 Bylaw with the following amendments: I) Adds that Council may apply to the District Court for an injunction to restrain a person from committing or continuing to commit a breach; II) Adds that nothing in the Bylaw prevents the Council from exercising its powers under the Health Act 1956 or the Resource Management Act 1991 to abate nuisance without notice.
Power of Seizure	Adds an advice notice to provide greater clarity to Council Officers and the public on where the power of seizure is granted to Council from.

To: Senior Leadership Team

From: [REDACTED]

Date: 8 March 2021

SUBJECT: UPDATE ON THE REVIEW OF THE KEEPING OF ANIMALS, BEES, AND POULTRY BYLAW 2010

PURPOSE OF REPORT

- 1 The purpose of this report is to provide an update on the review of the Keeping of Animals, Bees, and Poultry 2010 Bylaw (Bylaw).

BACKGROUND

- 2 The current Bylaw was adopted in June 2010, and was due to be reviewed by June 2020, with the two-year extension period of June 2022, at which stage the Bylaw will be automatically revoked.
- 3 The current Bylaw covers kept animals, but does not cover dogs (Dog Control Bylaw 2019), or animal welfare (Animal Welfare Act 1999).
- 4 Initial scoping of the Bylaw was undertaken in 2020, before resources were diverted to focus on the Beach Bylaw. Work recommenced on the review in December 2020.
- 5 Pre-engagement work is currently underway. This includes:
- Analysing service requests (for the last 3 years), emails, and other correspondence;
 - Comparison against 18 other Councils with a similar Bylaw;
 - Seeking community feedback on the current bylaw via Councils “have your say” page (open until 5 March);
 - Seeking key stakeholder feedback including DOC, GWRC, and the Wellington Beekeepers Association.
- 6 We have also heard back from Te Ātiawa Whakarongotai who have signalled interest to provide feedback on the Bylaw and we will look to work flexibly to reflect this where we can ahead of consulting on a draft.
- 7 The review of service requests included looking at all animal related complaints between 17 January 2018 to 17 January 2021, with a total of 871 service requests identified during this time.
- Overall no wide-spread issues identified
 - SR numbers: 58 bees, 175 poultry (chicken, rooster, peacock, duck, dove, bird), 21 rabbits & guinea pigs, 501 stock (cows, cattle, horse, goat, sheep, stock, alpaca, pig), 116 cats.
 - A number of complaints regarding nuisance – noise from poultry, damage from wandering poultry & stock, and dead animals requiring removal
 - A number of animal welfare complaints regarding dogs chasing/attacking animals
 - There were 10 complaints regarding horse manure left in public places

8 **Key Issues Identified to Date:**

Community and stakeholder feedback

- Cats are the most discussed topic for maximum numbers, microchipping, registering, de-sexing, banning near reserves, wandering, and control of feral cats;
- Bee keeping has also been a highly discussed topic, with a number of community members requesting the removal of the operational requirement for neighbour approval, and others wanting the removal of Council approval altogether;
- Nuisance in built up areas was also discussed, with some wanting no peacocks or roosters in built up areas where they are currently allowed (i.e. rural residential);
- Along with introducing obligations on the owners of private property to take action on feral animals residing there.

Comparison to other Councils

- Drawing from other Bylaws, we may wish to consider introducing the below clauses:
- Limiting the number and/or species of animals to be kept on a property;
- Providing sustenance, harbourage, or comfort in a public place to feral animals not to be allowed;
- Private property owners to be required to abate any nuisance caused by feral animals on their property;
- Slaughter and disposal not to cause nuisance/offense, waste from slaughter to be immediately removed, and disposal from slaughter not to produce odour, cause a nuisance, or a threat to public health and safety; and,
- Add the powers of Authorised Officers to enforce the Bylaw and their powers of seizure, along with the offenses and penalties for breach of the Act.

The District Plan

- Includes number of provisions not included in or not consistent with the Bylaw:
 - i. Siting buildings housing animals within certain distances of property boundaries
 - ii. Provisions for birds – maximum floor area, property boundary & neighbouring primary residence distances, seed storage, maximum numbers, exclusion zone
 - iii. Provisions for cats – exclusions from certain zones
 - iv. Removing the urban area minimum size for keeping a pig/goat

Next Steps

9 We propose to brief Councillors on the review and initial findings on the 16 March 2021. Following this we will look to identify changes and draft a bylaw for consultation in April and complete the review by July 2021.

10 We will look to update and discuss the draft bylaw with SLT ahead of time.

RECOMMENDATIONS

11 That the Senior Leadership Team:

- (a) **Note** the feedback provided during the pre-engagement phase of the Keeping of Animals, Bees, and Poultry 2010 Bylaw review.
- (b) **Note** the Mayor, Councillors, Community Board Chairs, and TWoK will be provided with a briefing on the pre-engagement feedback for the Keeping of Animals, Bees, and Poultry 2010 Bylaw review on 16 March 2021.

Prepared by:

Approved for submission by:

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ATTACHMENTS:

- Keeping of Animals, Bees, and Poultry Bylaw 2010

Keeping of Animals, Bees, and Poultry Bylaw 2010 Review

Briefing

Background

- The current Keeping of Animals, Bees, and Poultry Bylaw was adopted in June 2010.
- The 10 year review was due by June 2020 - now within a two year extension period.
- The Bylaw will be revoked automatically if the review is not completed by June 2022.
- The Bylaw was scheduled to commence in March 2020, but delayed due to the priority of the review of the Beach Bylaw.

What can a Bylaw do?

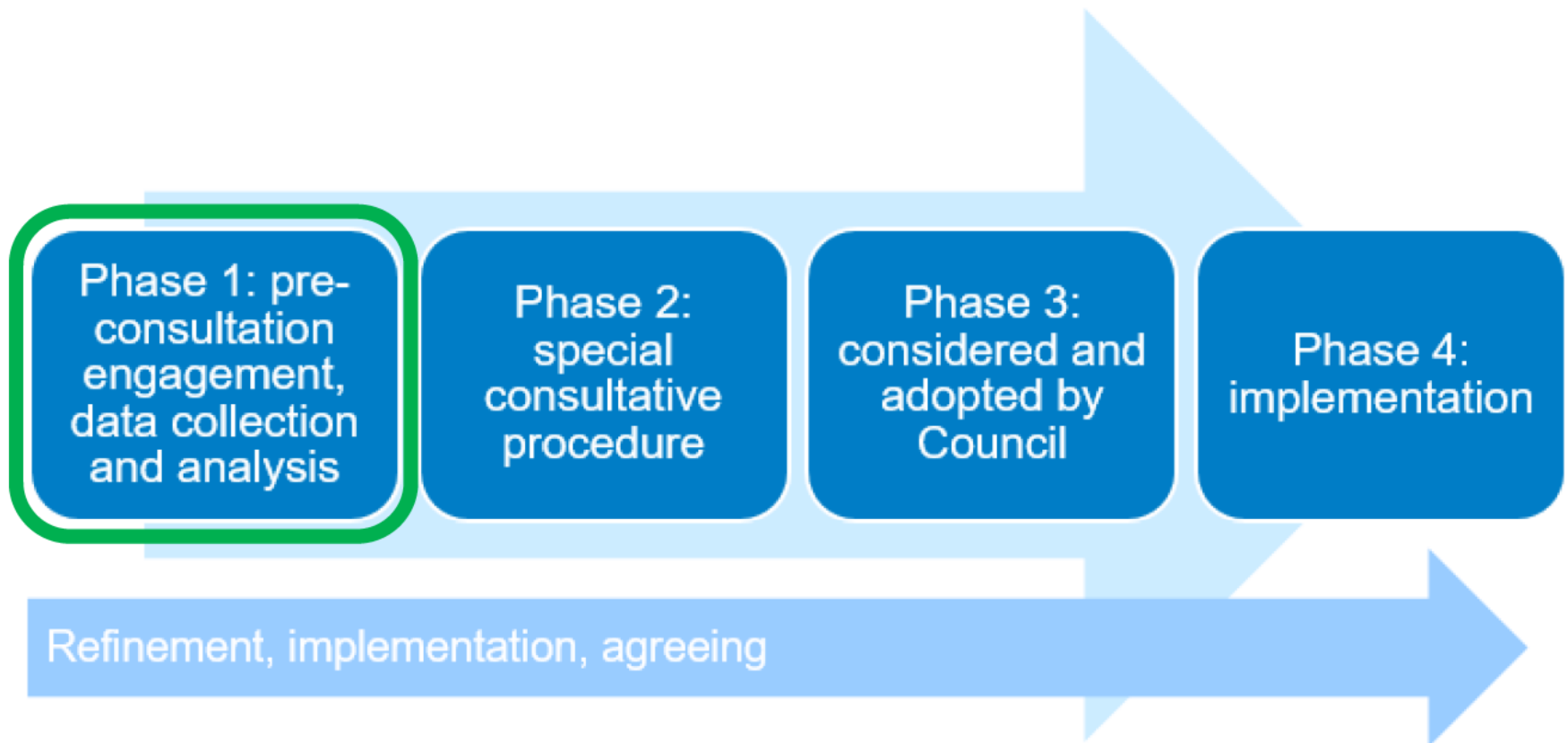
Under Section 145 of the LGA 2002 a Bylaw can be for:

- (a) protecting the public from **nuisance**;
- (b) protecting, promoting, and maintaining public **health and safety**;
- (c) minimising the potential for **offensive behaviour** in public places.

The Current KCDC Bylaw

- Covers kept animals (mammals, birds, or any other member of the animal kingdom)
- Creates special controls and rules around the keeping of animals
- Does not cover:
 - Dogs
 - Animal Welfare
 - Wild Animals

Phases of a Bylaw Review



Phase 1: Pre-consultation data collection and analysis

- Seeks to identify issues or potential changes and improvements to the Bylaw.
- Council officers have:
 - Analysed service requests, emails, and other correspondence (from 17 January 2018 to 17 January 2021);
 - Carried out a review of other Councils' Keeping of Animals Bylaws;
 - Carried out pre-engagement with the community to seek ideas;
 - Sought feedback from iwi and key stakeholders.
- Data collection and analysis will continue.

Official Information Act Requests

- Two related:
 - Removing deceased pets from public land and associated identification processes (October 2017)
 - Neighbour's chicken coop – boundary compliance (July 2019)

Service Requests (Jan 2018 to Jan 2021)

	ANIMAL WELFARE	HEALTH AND SAFETY	NUISANCE	OTHER	RULES	WANDERING/ LOOSE	TOTAL SR'S
BEE							
NUMBER	0	14	11	15	17	1	58
%	0	24.1	19	25.9	29.3	1.7	6.7
POULTRY - CHICKEN, ROOSTER, PEACOCK, DUCK, DOVE, BIRD							
NUMBER	21	10	44	39	22	39	175
%	12	5.7	25.1	22.3	12.6	22.3	20.1
RABBIT + GUINEA PIG							
NUMBER	10	0	2	7	0	2	21
%	47.6	0	9.5	33.3	0	9.5	2.4
ALL STOCK - COWS, CATTLE, HORSE, GOAT, SHEEP, STOCK, ALPACA, PIG							
NUMBER	54	13	85	53	26	270	501
%	10.8	2.6	17	10.6	5.2	53.9	57.5
CATS							
NUMBER	38	0	43	23	4	8	116
%	32.8	0	37.1	19.8	3.4	6.9	13.3

What Other Councils Have

- Limit on the number and/or species of animals kept at the property
- No apiary shall be kept less than ten metres from any boundary, roadside, public place, or right of way
- No nuisance from noisy animals, birds, or poultry
- No providing sustenance, harbourage, or comfort in a public place to feral animals
- Private property owners are required to abate any nuisance caused by feral animals on their property

What Other Councils Have (2)

- Cats – maximum numbers, microchipping, registering, de-sexing, cat housing boundary distances
- Additional definitions that help provide further clarity
- Provisions to deal with the slaughtering of animals – nuisance, disposal of waste and odour

What Other Councils Have (3)

- Specifically list:
 - Powers of Authorised Officers – entering land to detect a breach, require an owner/person to take action to mitigate or eliminate a nuisance, enter property with a warrant to seize/impound property, seize or impound any animal found at large causing a nuisance, Council may claim costs for carrying out the abatement
 - Offence and Penalty – application for an injunction, exercising powers under the Health Act 1956 and Resource Management Act 1999
 - Power of Seizure – as listed under S165, 166, 167 and 168 of the LGA 2002

District Plan Rules

- Siting any building housing animals within 1 metre of property boundaries, or within a 4.5 metre set back of the front boundary
- Provisions for birds – maximum floor area, property boundary & neighbouring primary residence distances, seed storage, maximum numbers, exclusion zone
- Provisions for cats – exclusions from certain zones
- Removing the urban area minimum size for keeping any pig or goat

Iwi and Key Stakeholders

- Pre-engagement with:
 - Local iwi
 - Police
 - Regional Public Health
 - DOC
 - GWRC
 - MPI
 - Apiculture New Zealand (APINZ)
 - Wellington Beekeepers Association
 - SPCA, Waikanae
 - Federated Farmers

Issues – Key Stakeholders

- Microchipping and registering of cats
- Keeping of outdoor fish and pest species (or not keeping them)
- Keeping animals adequately contained and not intentionally releasing
- Identification markers – pet pigs and goats
- Guidelines on keeping pigs and goats
- Operational requirement to seek permission to keep bees – removal or change
- Animal welfare
- Tethering
- Poultry requirements
- Definitions

Issues - Community

- Beehives - away from the boundary/public places
 - neighbour approval
- Feral animals on private property
- Cats – maximum numbers, microchipping, registering, de-sexing, banning near reserves, wandering, feral
- Peacocks/roosters in built up areas (i.e. rural residential)
- Urban stock keeping – land size
- Definitions – poultry coop, nuisance
- Road frontage grazing

Looking Ahead

- Briefing on options ahead of draft SOP (early April)
- Seeking Council approval to consult (late April)
- Formal consultation (April-May)
- Hearing and deliberations (late May)
- Council briefing for final analysis (June)
- Adoption of new Bylaw (July)

Questions?

Good afternoon Mayor and Councillors.

BACKGROUND

The Keeping of Animals, Bees, and Poultry Bylaw was adopted in 2010 to manage the keeping of animals, bees, and poultry throughout the District. After 10 years of the current Bylaw being in place, and in accordance with legislation, we are reviewing the Bylaw to make sure it is fit-for-purpose for the next decade. Under the LGA 2002, if a Bylaw is not reviewed within 10 years, there is a two-year extension period which we are currently within. By June 2022 we must have a new Bylaw adopted or the 2010 Bylaw will automatically be revoked.

WHAT CAN A BYLAW DO?

The LGA 2002 states that a Bylaw can be used for protecting the public from **nuisance**, protecting, promoting, and maintaining public **health and safety**, and minimizing the potential for **offensive behaviour** in public places.

THE CURRENT KCDC BYLAW

Our Bylaw has a number of rules which work to create controls on the keeping of animals, bees, and poultry as they have the potential to cause problems in our District, particularly in urban areas. It covers animals as any live member of the animal kingdom that is a mammal or bird, or any mentioned under the Animal Welfare Act 1999, as well as having specific mentions for poultry, roosters, bees, and stock. Our Bylaw does not cover dogs as they are covered by the Dog Control Bylaw 2019, animal welfare as this is covered by the Animal Welfare Act 1999, or wild animals as they are not kept animals.

PHASES OF A BYLAW REVIEW

There are four phases of the Bylaw review and we are currently in stage 1, which is the pre-engagement, data collection and analysis stage. Phase 2 is planned for June, and Phase 3 is planned for September, with implementation to follow.

With that groundwork laid, today I am going to take you through what we have done for this review so far and advise on what we have found, along with what we have heard about what people want to change.

PHASE 1: PRE-CONSULTATION DATA

During stage 1 we have reviewed and analysed emails, other correspondence, and service requests related to animals between January 2018 and January 2021, carried out a review of 18 other Council's Keeping of Animals Bylaws, carried out pre-engagement with the community to seek ideas through the Have Your Say tool, and sought feedback from iwi and key stakeholders.

OFFICIAL INFORMATION ACT REQUESTS

There wasn't much to find under the Official Information Act requests, with only 2 identified relating to our processes for removing and identifying deceased animals, and whether a neighbour's chicken coop was compliant with the boundary rules.

SERVICE REQUESTS

Of the 871 service requests reviewed across the three-year period we didn't identify any District-wide pressing issues.

- 14 SRs or 24% of the SR's related specifically to bees were to do with health and safety concerns, usually where people were concerned about swarming bees and the potential for being stung. 19% were related to nuisance, with people requesting bees be removed with or without identified locations for hives and from private and public property, and some related to flight paths or bee poo being left by passing bees.
- For poultry, nuisance was the most pressing concern at 25% of SR's, where damage was being caused to gardens from escaped poultry or there were noise or smell complaints.
- For stock the biggest issue was wandering animals at almost 54% of stock-related SRs, with some due to open gates or damage to fences allowing escape, however a number were also due to inadequate fencing. 17% of stock SRs were nuisance related, however most of these were due to dead animals in public places requiring removal and 11 related to cow or horse manure in public places (1 cow, 10 horse).
- For cats we had 37% of their SRs identified as nuisance complaints, however similarly to stock, almost all were due to dead animals in public places requiring removal.
- Animal welfare also features across four of the five animal categories, with almost all of these related to attacks or harassment of the animal, rather than concerns about health or living conditions.

WHAT OTHER COUNCILS HAVE

We had a look at 18 other Councils with similar Keeping of Animals Bylaws and found a number of provisions across them that we don't have in our own but may wish to consider incorporating. These included:

- limiting the number and/or species of animals kept at a property;
- the distance for bee hives to private and public boundaries;
- a specific provision mentioning the prohibition of nuisance from noisy animals, birds, or poultry;
- the prohibition of providing sustenance, harbourage, or comfort in a public place to feral animals where doing so would cause a nuisance to other persons;
- a requirement for property owners to abate any nuisance caused by feral animals on their property through avenues such as keeping the animal as a pet to abate any nuisance or permanently removing it so it stops causing a nuisance;

WHAT OTHER COUNCILS HAVE (2)

- requirements for maximum numbers, microchipping, registering, de-sexing for cats, along with a minimum distance for cat housing boundary distances;
- additional definitions that provide additional clarity such as Council (KCDC), offence (being a breach of the Bylaw), and slaughter (the killing of animals for food and does not include euthanizing animals for welfare purposes), amongst others;
- more specific provisions mentioning the slaughtering of animals – for nuisance, disposal of waste, and odour; and finally,

WHAT OTHER COUNCILS HAVE (3)

- some Councils specifically list a number of items to assist in the enforcement of the Bylaw which can provide benefit to Council officers – these include:
 - the Powers of Authorised Officers such as entering property to detect breaches or seize/impound property or animals,

- Offences and Penalties including injunctions, abatement notices, and in extreme cases the imposition of fines through the Courts, and
- where the Power of Seizure is given such as S165 of the LGA 2002 for seizure of property from private land.

DISTRICT PLANT RULES

Our District Plan also has a number of animal related provisions, some of which are not mentioned in or are inconsistent with our current Bylaw. It:

- prohibits the siting of any building housing animals within 1 metre of property boundaries, or within a 4.5m set back of the front boundary. Although minimum distances are mentioned for some animal types in our Bylaw such as poultry for their coops, this only mentions a minimum distance from the property boundary, along with the same minimum distance from a dwelling or building where food is stored for human consumption, and does not mention the front boundary distance at all;
- it also includes provisions for birds as separate to poultry, and states a maximum floor area for aviaries, minimum distances from property boundaries and neighbouring primary residences for aviaries, requirements for seed storage if a person is keeping more than 10kg of seed on-site, a maximum of 12 pigeons or doves on an urban property, and a ban on pigeons and doves in the Ngarara zone;
- cats are mentioned in the District Plan, with a ban on cats in the Waikanae North Development Zone, Ferndale Area, Ngarara Zone, and Ngarara Precinct without permission from the Council;
- and finally, pigs and goats are banned in any urban area under the District Plan, however the Bylaw states they are permitted on an urban property which is 2000m² or larger.

IWI AND KEY STAKEHOLDERS

During our pre-engagement process, we have reached out to iwi and key stakeholders for their views on the Bylaw, and to see if they have identified any animal-related issues which we can address through the Bylaw. Te Ātiawa ki Whakarongotai have signalled that they will be providing feedback later this month, prior to the closure of the pre-engagement phase. We have received a response from 7 of the 9 key stakeholders identified, and will keep both iwi and our key stakeholders informed as we progress to the next stage of our Bylaw review.

ISSUES – KEY STAKEHOLDERS

Feedback and issues raised so far by key stakeholders include:

- Introduce a requirement for all cats over the age of 12 weeks to be microchipped and registered;
- Introduce rules on the keeping of outdoor fish, including banning species to align with Government legislation (Biosecurity Act) and regulation;
- Animals to be kept contained, and to specify that no person can intentionally release them;
- Introduce a requirement for identification markers on pet pigs and goats such as an RFID tag;
- Guidelines to be provided for keeping pet pigs and goats; and,

- The operational requirement to seek permission to keep bees in an urban area has been raised, both to completely remove it, and to enhance it by adding additional requirements such as boundary setbacks for hives.
- A desire for the introduction of animal welfare clauses to the Bylaw to ensure their behavioural, social, environmental, health, and physical needs are met.
- A ban on tethering stock to prevent the use of tethering over adequate fencing, along with causing tethering nuisance should animals become alarmed.
- Changes to increase the poultry coop sizing requirements to align more closely with the Codes of Welfare – Layer Hens.
- Adding or amending definitions – including poultry and nuisance.

ISSUES - COMMUNITY

Our community raised a number of issues through the Have Your Say tool online. We have had over 300 visits to the Keeping of Animals, Bees, and Poultry Bylaw review page with 63 contributions made by 19 contributors. Feedback and issues raised included:

- Requiring a minimum distance for beehives to be situated from property boundaries and public places;
- Wanting a requirement for private property owners to remove feral animals from their land;
- Removal the operational requirement for neighbour approval for a beehive in an urban area;
- Wanting the introduction of a number of measures around cats – maximum numbers per property, microchipping, registering, de-sexing, banning ownership of cats near reserves, stopping cats from wandering from their properties, and in the scenario that a domestic cat becomes feral and the owner can be located for the owner to be fined;
- Removal of roosters and peacocks from built up areas – peacocks are currently permitted in urban areas and roosters are not;
- Wanting the urban stock keeping land size area to be moved up from 2000m² to 5000m²;
- Requesting additional definitions such as nuisance to be added (advised under the Health Act); and,
- An amendment to the road frontage grazing requirement to add Council into the clause – making the clause “No person shall use a COUNCIL owned public road frontage for the permanent grazing of stock unless they have received the prior written approval of the Council”.

LOOKING AHEAD

Where to from here? I will be looking to do a second briefing in May to discuss potential options, ahead of bringing the draft SOP to Council to seek approval to consult later in May. We then intend to begin formal consultation in June. Hearings and deliberations are planned for July, with a briefing for final analysis and recommendations in August. Council adoption of the 2021 Bylaw is planned for September.

Questions.

To: Senior Leadership Team

From: [REDACTED]

Date: 10 May 2021

SUBJECT: OPTIONS FOR THE KEEPING OF ANIMALS, BEES, AND POULTRY DRAFT 2021 BYLAW

PURPOSE OF REPORT

- 1 The purpose of this report is to provide an update on the review of the Keeping of Animals, Bees, and Poultry 2010 Bylaw (Bylaw), which includes proposed changes for the Keeping of Animals, Bees, and Poultry 2021 Bylaw.

BACKGROUND

- 2 Pre-engagement work has been concluded. This started in early January, and included analysing service requests, reviewing other Council's Bylaws, and seeking community and stakeholder feedback.
- 3 We have not had any feedback on the Bylaw from local iwi, however Te Ātiawa Whakarongotai have signalled interest to provide feedback on the draft Bylaw once it goes out for formal consultation.
- 4 Our review did not identify any large pressing issues in the District, however did identify that there are some proposals which may provide benefit and may help to mitigate some issues in the District.
- 5 We are briefing Councillors on proposed changes for the Bylaw on 11 May 2021. Key proposals we will be looking to discuss are outlined below. These have been identified from pre-engagement and further analysis and discussion with the project team.

Bees

- 6 Removing the requirement to seek Council permission to keep bees, and requiring beehives to be kept more than 5m from any boundary, roadside, public place, or right of way (unless an exemption is granted by Council) was raised during the pre-engagement process.
- 7 We are not proposing to change the need for Council permission to keep bees as it is an important process to help manage potential issues around nuisance and health and safety, and its removal would decrease those protections and increase the risks.
- 8 The current registration process includes an assessment by an apiarist which includes the appropriate siting of potential hives. We **propose** to ensure this process also considered appropriate siting in proximity to public areas.

Feral animals

- 9 We **propose** a provision to prohibit persons from providing sustenance, harbourage, or comfort to feral animals, including cats, so as to cause them to become a nuisance to other persons is proposed.

- 10 This addition may help to decrease the encouragement of feral animals and the likelihood of nuisance and health and safety issues caused by feral animals across the District.

Peacocks and roosters

- 11 There was community concern and frustration at the noise produced by both roosters and peacocks in built-up areas. Similar to how roosters are currently controlled, we **propose** to ban peacocks from urban areas (with the ability to apply for an exemption license). This will act as a preventative to noise nuisance issues.

Poultry Coops

- 12 The current space requirements set out in the Bylaw for a poultry coop do not meet MPI's Layer Hens Code of Welfare 2018. The sizing requirements are used to manage nuisance and health and safety risks. We **propose** to amend Section 7.5 of the existing Bylaw to "The size of each poultry coop and attached run must meet the minimum standards as set out in the Layer Hens Code of Welfare issued under the Animal Welfare Act 1999".

Cats

- 13 There has been considerable public and media commentary in recent years over the management of cat behaviour and the environmental impacts, including extensive lobbying from the Morgan Foundation and several Councils attempting to address cat issues through bylaws.
- 14 Cats are covered under the general provisions of our current bylaw, which requires that animals cannot be a nuisance or threat to public health and safety. The management of feral cats is covered by Greater Wellington Regional Council's Regional Pest Management Plan 2019-2039, and welfare issues managed by the SPCA under MPI's Animal welfare codes.
- 15 While there is minimal information identifying cats as a substantive issue for Kapiti residents that could be used to justify creating additional undertakings for Council through the bylaw, a number of cat related issues were raised during pre-engagement.
- 16 Microchipping, registering, and neutering were issues raised during pre-engagement. These measures focus on a broader concerns relating to animal welfare and environmental impacts. They are not a good fit with the purpose of bylaws, being managing nuisance, health and safety, and offensive behaviour. It would also be hard to justify a bylaw as being the most appropriate means of addressing the underlying welfare and environmental issues.
- 17 Limiting the number of cats per property to limit the potential impact of cats was raised. We could develop a proposal to limit the numbers of cats per property however, again, without evidence indicating this is a substantial issue for Kapiti, a bylaw rule would not really be purposeful or appropriate.
- 18 Developing Guidelines on responsible cat ownership was also raised. We **propose** to provide additional information and links to on our website to help provide and guidance to cat owners as part of implementation of the Bylaw. This will help support residents understanding across the various roles and responsibilities and help encourage some of the issues and practices raised from pre-engagement, including information on de-sexing, microchipping, and registering.

Alignment with the District Plan

- 19 We propose a number of changes to align the provisions of the Bylaw with those under the current Proposed District Plan. This includes:
- The introduction of a clause prohibiting the siting of any building housing animals within 1 metre of property boundaries, or within a 4.5 metre set back of the front property boundary. This aligns with Bylaw with the District Plan.

- identifying specific provision for birds, as opposed to only poultry. Currently some of the species listed under poultry in the Bylaw, are listed under the “birds” provisions in the District Plan, so the definition for poultry will also be amended.
- The keeping of a pig or goat in an urban area under the District Plan is a non-complying activity, and requires a resource consent.

Technical changes to definitions

- 20 There are also a number of minor or technical changes that are being proposed to definitions to provide greater clarity for users of the Bylaw. These include, defining feral animal, outlining the definition of nuisance under the Local Government and Health Act and Poultry to differentiate against birds as defined in the Proposed District Plan.

Next Steps

- 21 Following the briefing on 11 May we will look to finalise a draft Statement of Proposal and seek Council permission to formally consult on the 2021 draft Keeping of Animals, Bees, and Poultry Bylaw on 3 June 2021 and consult on the draft from late June – July 2021.
- 22 We will look to discuss the draft Statement of Proposal and 2021 Keeping of Animals, Bees, and Poultry Bylaw with SLT ahead of time.

RECOMMENDATIONS

- 23 That the Senior Leadership Team:
- (a) **Note** the options determined from the pre-engagement phase of the Keeping of Animals, Bees, and Poultry 2010 Bylaw review.
 - (b) **Note** the Mayor, Councillors, Community Board Chairs, and TWoK will be provided with a briefing on the options for the draft Keeping of Animals, Bees, and Poultry 2021 Bylaw review on 11 May 2021.

Prepared by:

Approved for submission by:

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ATTACHMENTS:

- Keeping of Animals, Bees, and Poultry Bylaw 2010

Keeping of Animals, Bees, and Poultry Bylaw 2010 Review:

Key issues and options from early engagement

Briefing to Council

11 May 2021

Keeping of Animals, Bees, and Poultry Bylaw

Review: Background

The pre-engagement stage of the Review is being concluded. This started in early January, and included reaching out to stakeholders directly as well as our 'Have Your Say' ideas board.

The work has identified a number of issues in relation to our Keeping of Animals, Bees, and Poultry (Keeping of Animals) Bylaw. Some relate to:

- provisions in the Keeping of Animals Bylaw (current or suggested), and
- operational matters such as supporting information.

A number of proposed changes have been identified to address or mitigate the issues and challenges.

Some technical changes to the Keeping of Animals Bylaw have also been identified. These are considered minor.

Keeping of Animals Bylaw Review: topics

There are six key topic areas we are seeking your input on.



Keeping Bees



Poultry Coops



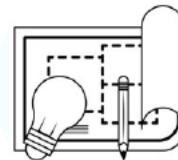
**Nuisance from
Feral Animals**



Cats



**Peacocks and
Roosters**



**Alignment with the
Proposed District
Plan**

1. Keeping Bees



Topic A – Bees

During pre-engagement, the community queried the need for apiary registration.

There was also community concern noted for nuisance and health and safety purposes, with bees being sited too closely to members of the public.

We **propose** to retain the existing process to register hives with Council in urban areas, which we require for health and safety purposes.

The current assessment process supporting the license current looks at siting by an apiarist. We **propose** to review the operational process to ensure any siting of beehives takes into account proximity to public areas.

We **propose** to introduce a siting requirement for *non-urban* areas, requiring that bees are kept more than 5m from public places, without an exemption license from Council.

2. Nuisance from Feral Animals



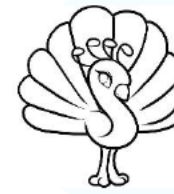
Topic B – Feral Animals

There is community concern and frustration at the feeding and encouragement of feral animals within the District.

We **propose** to introduce an amendment prohibiting the feeding or care of feral animals to reduce the likelihood of nuisance caused by feral animals.

This would decrease the likelihood of nuisance and health and safety issues caused by feral animals across the District.

3. Peacocks and Roosters



Topic C – Peacocks and Roosters

There is community concern and frustration at the noise produced by peacocks and roosters in built up areas.

The Bylaw states that roosters are banned from urban areas unless an exemption license has been granted by Council. Peacocks are currently classified as poultry, and it's possible to keep up to 12 in an urban area.

We **propose** to introduce the same restriction for peacocks as roosters in an urban area to reduce the likelihood of nuisance.

4. Poultry Coops



Topic D – Poultry Coops

The current minimum size requirements listed in our Bylaw for a poultry coop do not meet the standards set by MPI in the Layer Hens Code of Welfare.

We **propose** to amend section 7.5 of the Bylaw to align with the Layer Hens Code of Welfare to continue to help avoid potential nuisance and health and safety issues caused by inadequate space in poultry in coops and runs.

5. Cats



Topic E – Cats

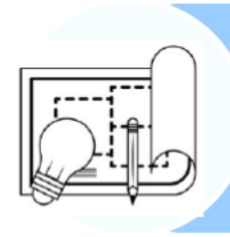
Several concerns were raised by the community and stakeholders regarding the management and control of cats, including microchipping, registering, and de-sexing. However, the scope and breadth of some outcomes in these areas falls outside Council's and the Bylaw's responsibilities.

While Council could look to introduce an amendment limiting the number of cats per property, evidence does not indicate this as a significant issue.

We **propose** to retain the existing provisions that provide the ability for any issues relating to nuisance or health and safety to be addressed by Council if and when they are raised.

We **propose** to add information and links on our website to support wider understanding of the roles and services to support cats.

6. Alignment with the Proposed District Plan



Topic F – PDP Alignment

A number of changes are also proposed to help align the provisions of the Bylaw with those under the current Proposed District Plan. This includes:

- The siting of any building housing animals within 1 meter of property boundaries, or within a 4.5 meter set back from the front property boundary.
- Identifying birds, as distinct to poultry (the Bylaw currently recognises them collectively).
- The keeping of a pig or goat in an urban area as a non-complying activity, requiring resource consent.

7. Technical changes to definitions

A number of minor or technical changes are also proposed to be made to definitions to provide greater clarity for users of the Bylaw.

These include:

- Adding definitions, including on feral and wild animals, as well as nuisance; and
- Differentiating between poultry and birds, as defined in the Proposed District Plan.

Next steps

Our next steps are to:

- Complete the Statement of Proposal and draft Bylaw (incorporating any of the feedback we have received from you today)
- Take a paper to the Strategy and Operations Committee with the draft Statement of Proposal and draft Bylaw, seeking approval to move to formal consultation - on 3 June 2021

We intend to conduct formal consultation through June and July this year, and present a new 2021 Bylaw for Council adoption in September 2021.

Minor and Technical

Subject	Proposed Change
Siting of buildings housing animals	The introduction of a clause prohibiting the siting of any building housing animals within 1 meter of property boundaries, or within a 4.5 meter set back of the front property boundary. This aligns with Bylaw with the District Plan.
Provisions for birds	<p>Introduce:</p> <ul style="list-style-type: none"> A maximum floor area for aviaries of 15m² in an urban area Aviary positioning must be at least 5m from neighbouring primary residences in an urban area Aviary positioning a minimum of 1m of side boundaries and 4.5m from the front boundary Seed storage on-site in excess of 10kg requires containers for storage A maximum of 12 pigeons or doves on an urban property <p>This aligns the Bylaw with the District Plan.</p>
Interpretation	<p>To amend and add some additional definitions to provide greater clarity for users of the Bylaw.</p> <p>Add:</p> <ul style="list-style-type: none"> Nuisance – unreasonable interference with the peace, comfort, or convenience of a person, whether by way of excessive noise, or offensive odours, or as defined under the Health Act 1956 Authorised Officer – officer specifically designated by Council to administer and enforce aspects of this Bylaw Bird – any live domesticated bird including, but not limited to: pigeon, parrot, budgerigar, canary, dove Council – Kāpiti Coast District Council Slaughter – the killing of animals for food Offence – a breach of this Bylaw Public Place – every thoroughfare of a public nature or open to or used by the public as of right, and, every park, reserve, beach, riverbed, place of public resort or place to which the public has access Feral Animal – an animal in a wild state, not domesticated or tamed, but descended from domesticated specimens Wild Animal – an animal living in a wild state, the is undomesticated and untamed, and normally living in a natural environment <p>Amend:</p> <ul style="list-style-type: none"> Poultry - means any live domesticated or farmed bird <i>usually kept for its utility such as meat and eggs, it includes</i>, but is not limited to: fowl, goose, duck, pigeon, turkey, parrot, peacock, budgerigar, pheasant, canary, ostrich or emu.
Keeping of a pig or goat in an urban area	The keeping of a pig or goat in an urban area under the District Plan is a non-complying activity, and requires a resource consent. Amendment of clause 6.4 of the Bylaw for keeping goats and pigs in an urban area to include the resource consent requirement information, to reduce any confusion and differentiation between the Kāpiti rules.
MAF to MPI	An amendment to the breach reporting for Animal Welfare footnote on page 4 of the Bylaw, to change the reference of MAF to MPI.

Keeping of Animals – Options Briefing 11/05/2021

The KOA Bylaw review is well-underway and our pre-engagement stage is almost concluded. We are reviewing the Bylaw as it is required by legislation, and the KOA Bylaw can be used for the prevention of nuisance and offensive behaviours, and for health and safety purposes.

Last time we were here – everything we had found and what people had said during pre-engagement; did not find any significant issues in Kāpiti.

Refined suggestions down to what we are proposing today to go forward into the SOP and draft Bylaw. These proposals are to reduce nuisance or health and safety risks within the District.

We are seeking your input today on 6 key topics: notably on bees, feral animals, peacocks, and cats.

Following today, I will be coming back to you on 3 June with the drafts, seeking permission to begin formal consultation.

Bees

During pre-engagement the community queried the need to register urban hives with Council.

This process helps Council to manage potential issues around nuisance and health and safety, and its removal would decrease those protections and increase the risk, so we are not proposing to remove this requirement. The operational process for urban hives does include an assessment by an apiarist which includes the appropriate siting of potential hives, we are proposing that this assessment also considers appropriate siting in proximity to public areas for health and safety purposes.

We are also proposing that for those in non-urban areas, we introduce a clause to prohibit siting within 5m of public places, without an exemption granted by Council. This would decrease nuisance and health and safety risks for those accessing public areas next to private properties containing beehives.

Feral Animals

We heard during the process that there was concern and frustration at the feeding and encouragement of feral animals within the District. (i.e. Chickens at local reserve).

We propose to introduce an amendment prohibiting persons from providing sustenance, harbourage, or comfort to feral animals, including cats, so as to cause them to become a nuisance to other persons.

This addition may help to decrease the encouragement of feral animals and reduce the likelihood of nuisance and health and safety issues caused by feral animals across the District.

Peacocks and Roosters

There was community concern and frustration at the noise produced by both roosters and peacocks in built-up areas.

Currently, roosters are prohibited from urban areas without an exemption license from Council however you are permitted to have up to 12 poultry. Peacocks are classified as poultry under the current Bylaw, so you may have up to 12 on any urban property. We propose to align peacocks with roosters, and prohibit peacocks from urban areas (with the ability to apply for an exemption license).

This will act as a preventative to noise nuisance issues.

Poultry Coops

Amend to “The size of each poultry coop and attached run must meet the minimum standards as set out in the Layer Hens Code of Welfare issued under the Animal Welfare Act 1999”

Cats

There has been considerable public and media commentary in recent years over the management of cat behaviour and environmental impacts; unsurprisingly it was also raised as an issue during our pre-engagement process.

Cats are currently covered in our Bylaw under the general provisions, which requires that animals cannot be kept in a manner which is likely to cause a nuisance or be a threat to public health and safety. We found minimal evidence during our pre-engagement process that identified cats as a substantive issue for Kapiti residents that could be used to justify creating additional undertakings for Council through the Bylaw.

The management of feral cats is covered under the GWRC Regional Pest Management Plan 2019-2039, with welfare issues managed by the SPCA under MPIs Codes of Welfare.

Microchipping, registering, and de-sexing were all issues raised, however these measures are justified under environmental impacts and animal welfare issues. They are not a good fit with the purpose of the Bylaw, being managing nuisance, health and safety, and offensive behaviour. It would therefore be hard to justify a Bylaw as being the most appropriate means of addressing the underlying welfare and environmental issues.

Limiting the number of cats per property was also raised, however this measure could be justified under animal welfare concerns if a larger number of cats were neglected, which is not appropriate under the Bylaw and is covered by the Animal Welfare Act. It would also be hard to justify a specific number to limit them by, as one person may have 10 cats in perfect condition while another may have 2 that are neglected. Similarly to microchipping, registering, and neutering, there was no evidence that we have an issue in Kapiti with the number of cats per property, so a Bylaw rule would not really be purposeful or appropriate.

We do propose to introduce information to our Council website on cat ownership, including information on where to go for support and services - such as if there is a welfare concern to call the SPCA.

Alignment with the District Plan

We propose a number of changes to align the provisions of the Bylaw with those under the current District Plan as outlined on the screen. This is to reduce confusion and create awareness of the additional rules that Council has on the keeping of animals in the District.

Technical Changes to Definitions

There are also a number of minor or technical changes that are being proposed to definitions to provide greater clarity for users of the Bylaw. These include defining feral and wild animals, as well as nuisance; as well as amending poultry and introducing birds as a definition, as birds are separately defined under the District Plan.

Next Steps – draft SOP and draft Bylaw. 3 June approval to consult.