

**Chairperson and Committee Members**  
REGULATORY MANAGEMENT COMMITTEE

5 DECEMBER 2013

Meeting Status: **Public**

Purpose of Report: For Decision

## **BYLAWS REVIEW**

### **PURPOSE OF REPORT**

- 1 This report updates the Committee on the status of the Council's bylaws and recommends an approach to reviewing the bylaws as required by the Local Government Act 2002 (LGA 02).

### **SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Significance Policy. However, any substantive amendment to a bylaw requires the special consultative procedure to be used.

### **BACKGROUND**

- 3 Within the requirements for the promulgation and maintenance of bylaws under the LGA02, any bylaw created after 2002 requires a review up to five years after being made (Section 158). A further two years review period is available if required. For example, a bylaw made in 2006 should be reviewed within seven years, ie in 2013. Further reviews of a bylaw must then take place no more than ten years after the bylaw was last reviewed.
- 4 The review requires that council considers whether a bylaw is an appropriate way to deal with the issues being considered; (section 155(1)). Once Council has decided that a bylaw is appropriate to address the issues, it must then determine the bylaw being proposed is:
  - (a) the most appropriate form of bylaw; and
  - (b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.
- 5 No circumstances have arisen that suggest any of the existing bylaws are an inappropriate means of managing the activities each one deals with. Staff are not aware of any issues under the Bill of Rights Act having been raised as a consequence of administering the Council's bylaws. However, understanding whether the existing bylaw is *the most appropriate form* means the bylaw should be reviewed to determine whether it is the best way to manage the activities it seeks to control.
- 6 Council has a number of current bylaws which have been made in the last eight years. Attachment A is a schedule of all current bylaws and proposed review dates.

## CONSIDERATIONS

### Issues

#### Dog Control Bylaw 2008

- 7 The Dog Control Bylaw was promulgated during 2008, was confirmed by Council on 11 December 2008 and came into force on 22 December 2008. The bylaw replaced an earlier 1997 Dog Control Bylaw.
- 8 The bylaw sets an objective to promote better care and control of dogs within the district by supporting the objectives of the Dog Control Policy and complying with national dog control legislation and specifically identifies the requirements under section 20 of the Dog Control Act which give the Territorial Authority (TA) the power to make a bylaw.
- 9 The Dog Control Act enables a TA to create a bylaw for all or any of the following purposes:
  - a) prohibiting dogs from specific places
  - b) requiring dogs to be controlled by leash
  - c) regulating and controlling dogs in any other public place
  - d) designating exercise areas
  - e) prescribing minimum standards for dog accommodation
  - f) limiting dog numbers on any land or premises
  - g) requiring confinement of dogs at specified times
  - h) requiring removal of faeces from dogs by the dog owner
  - i) requiring control of dogs in season
  - j) impounding of dogs
  - k) neutering of dogs not kept under control
  - l) any other purpose that the TA considers desirable for control of dogs
- 10 The existing Dog Control Bylaw encompasses all of these areas as well as a provision for fees.
- 11 It is envisaged the Dog Control Bylaw will be of interest to the community, with the main areas of discussion potentially being around a) to d) above. Those areas proved to be significant topics in the development of the bylaw in 2008. That debate was extensive and took place over a period of many months.

#### Food Safety Bylaw 2006

- 12 The Food Safety Bylaw was promulgated in 2006 and enabled in July 2007. The review of the Bylaw has been delayed because the Food Bill, once enacted, would have revoked all existing food bylaws. The Food Bill was originally proposed to be introduced as an Act approximately four years ago. However there have been significant delays around its introduction.
- 13 Therefore, as the Bill will not be enacted prior to the end of this year, the Council must commence a review of the Food Safety Bylaw.

- 14 The purpose of the Food Safety Bylaw is to:
- a) ensure that food is available in all food premises throughout the district
  - b) require that all food premises employ staff who are adequately trained in food hygiene
  - c) allow the council to close premises that are insanitary
  - d) recognise food premises that have exhibited standards of excellence; therefore creating a motivation to improve standards and achieve a higher grading
- 15 This Bylaw only relates to food premises that must be registered under the Food Hygiene Regulations 1974 and does not relate to food stalls at any market or event; which are covered by the Policy for Approval of Food Stalls at Markets, Events and Other Sites.

## Financial Considerations

- 16 There are no financial considerations.

## Legal Considerations

- 17 A special consultative procedure is required for any bylaw review whether or not the council looks to make changes to the bylaw. The consultation process must follow the provisions under the Local Government Act 2002.

## Delegation

- 18 The committee has authority to consider this matter under the following section of the Governance Structure:

### **Section B.2 Bylaws**

- 7.12 *Authority to review Council bylaws, to approve draft bylaws for public consultation, to hear submissions, and to recommend to the Council amendments to the bylaws.*

## Consultation

- 19 There is no requirement at this stage for consultation. Consultation requirements during review of a bylaw are stated elsewhere in this report.

## Policy Implications

- 20 There are no policy implications arising from this report. Any policy changes identified in the bylaw review process will be reported to the Council or appropriate committee.

## Tāngata Whenua Considerations

- 21 There are no Tāngata Whenua considerations associated with this report. Considerations identified in relation to any bylaw will be addressed at the point of review.

## Publicity Considerations

- 22 Both of the bylaws being considered for review are likely to be of interest to the community. However, the process will take some months and immediate interest may only be minor. More detailed communications planning will be part of each individual review process.

## RECOMMENDATIONS

- 23 That the Committee notes the schedule of bylaw reviews to take place over the next two years (included as attachment A to this Report CS-13-050) and notes the reviews of the Food Safety and Dog Control Bylaws will be reported back to the Committee in the first half of 2014.

**Report prepared by:**

**Approved for submission by:**

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Tamsin Evans

**Environmental Standards Manager**

**Group Manager Community Services**

## ATTACHMENTS:

Attachment A – Schedule of bylaws and proposed review dates

### Attachment A – Schedule of bylaws and proposed review dates

|    | Kāpiti Coast District Council Bylaw        | Date Made      | Review Date <sup>(1)</sup> |
|----|--|----------------|----------------------------|
| 1  | Beach Bylaw                                | May 2009       | May 2014                   |
| 2  | Cemetery Bylaw                             | January 2010   | January 2015               |
| 3  | Control of Alcohol in Public Places Bylaw  | June 2013      | June 2023                  |
| 4  | Dog Control Bylaw                          | December 2008  | December 2013              |
| 5  | Fire Prevention Bylaw                      | September 2010 | September 2015             |
| 6  | Food Safety Bylaw                          | March 2007     | December 2013              |
| 7  | General Bylaw                              | January 2010   | January 2015               |
| 8  | Keeping of Animals, Bees and Poultry Bylaw | June 2010      | June 2015                  |
| 9  | Public Places Bylaw                        | June 2010      | April 2015                 |
| 10 | Solid Waste Bylaw                          | April 2010     | June 2015                  |
| 11 | Speed Limits Bylaw                         | June 2005      | June 2010 <sup>(2)</sup>   |
| 12 | Trade Waste Bylaw                          | November 2007  | December 2017              |
| 13 | Traffic Bylaw                              | June 2010      | June 2015                  |
| 14 | Water Supply Bylaw                         | August 2013    | June 2023                  |

Notes:

- (1) Within the requirements for the promulgation and maintenance of bylaws under the LGA02, any bylaw created after 2002 requires a review up to five years after being made (Section 158). A further two years review period is available if required. For example, a bylaw made in 2006 should be reviewed within seven years, i.e. in 2013. Further reviews of a bylaw must then take place no more than ten years after the bylaw was last reviewed.
- (2) Officers understand that the particular review regime in the Land Transport Rule applied to this bylaw. In undertaking this review project, officers have identified a potential issue which is that the review regime in the Local Government Act 2002 also applies. Officers are seeking legal advice to clarify this matter.