

**Document No: 329769****File No: 306/001A****Report To: Council****Meeting Date:** 25 March 2014**Subject:** **Bylaws Review**

### **Purpose of Report**

- 1.1 The purpose of this business paper is to present to Council for consideration the Statement of Proposal and updated versions of the Public Places Bylaw, Dog Control Bylaw, Solid Waste Bylaw and Public Health and Safety Bylaws for release for public consultation.

### **Local Government Act S.11A Considerations**

- 2.1 There are no Section 11A of the Local Government Act considerations relating to this business paper.

### **Background**

- 3.1 The bylaws dealt with in the business paper were last reviewed in 2009. The Local Government Act 2009 (LGA) requires WDC to review bylaws no later than 5 years after the date on which the bylaws was made.
- 3.2 Once the initial review is completed the Bylaws are then reviewed on a 10 year cycle.
- 3.3 Council discussed the bylaws under consideration at a Workshop held on 18 March 2014.

### **Commentary**

- 4.1 At the Workshop on 18 March 2014 elected members agreed to a number of minor amendments to several of the bylaws.
- 4.2 The Statements of Proposal containing the summary of information and the amended draft bylaws are attached to and form part of this business paper.
- 4.3 The following amendments have been made to the bylaws as presented at the workshop.

#### 4.4 Public Places Bylaw

4.5 It was agreed that no changes were deemed necessary to the bylaw at this time. WDC will however take a more proactive approach to bylaw enforcement.

4.6 It is anticipated that more effective enforcement of bylaw provisions together with a tactical response to some of the issues facing our communities will help to alleviate nuisance activities in public places.

#### 4.7 Dog Control Bylaw

4.8 The amendments are:

- a) Title – This Bylaw shall be cited and referred to as the;  
*'Waitomo District Dog Control Bylaw'*
- b) Under interpretation add;  
*'In season' shall mean oestrus or heat cycle of any female dog.*
- c) Period of Confinement (10.00) to read;  
*The owner of every dog shall ensure that the dog is not at large and is securely confined to the owners property or premises at all times unless in the possession of a responsible person and under the proper control. Nothing in this section prevents a person from exercising a dog in a dog exercise area identified in this bylaw or on a leash.*
- d) Number of Dogs Permitted (11.00), 11.3 to read;
  - (i) *The licence shall be issued subject to the applicant meeting the following criteria:*
    - a) *Must have the physical suitability of land to hold more than two dogs*
    - b) *Must meet selected owner criteria*
    - c) *Must have written approval of neighbours on all sides of the applicants property*
    - d) *Must meet such terms or special conditions as the inspecting officer may attach to any licence*
  - (ii) *When owners and dogs change address, a new application must be submitted for the new address.*

#### 4.8 Solid Waste Bylaw

4.9 The Amendments are:

(6.0) Collection of Waste and Recyclables

- a) *add 6.1.3 Every owner or occupier of any premises shall ensure that no accumulation or collection of refuse, except as is herein provided, is permitted or suffered to remain or be in, on or about such premises or any portion thereof without Waitomo District Council consent*
- b) *add 6.1.4 No person shall dispose of household refuse by burying it or burning it in such a manner as to cause a nuisance or in breach of any enactment.*

c) *add 6.5.4 Where in the opinion of Waitomo District Council an accumulation exists on any premises of trade refuse or salvaged material which is, or is likely to be, injurious to health, or offensive, or to harbour vermin, or is likely to create a fire hazard, Waitomo District Council may by notice in writing require its removal and disposal.*

d) Amend 7.4.1 to read:

*Except with the prior permission of the Council ..... brought into the District commercial waste or recyclables.*

#### **4.9 Public Health and Safety Bylaw**

4.10 At the workshop on 18 March 2014 elected members agreed that the Public Health and Safety Bylaw as it is current worded gives WDC the necessary regulatory tools to cover the range of public health/safety activities that could be of concern to the community.

4.11 No amendments to the bylaw are considered necessary at this time.

#### **4.12 Timeframe**

4.13 The timeframe for the process forward is set out in the table below:

<b>Date</b>	<b>Activity</b>
8 April 2014	<ul style="list-style-type: none"> <li>• Public advertising of Statements of Proposals</li> <li>• Copies of reviewed bylaws sent to interested parties</li> <li>• Copies available to general public</li> <li>• Submissions open for reviewed bylaws</li> </ul>
18 May 2014	<ul style="list-style-type: none"> <li>• Submissions close for reviewed bylaws</li> </ul>
22 May 2014	<ul style="list-style-type: none"> <li>• Hearing of Submissions</li> </ul>
5 June 2014	<ul style="list-style-type: none"> <li>• Deliberations by Council</li> </ul>
24 June 2014	<ul style="list-style-type: none"> <li>• Adoption of Bylaws by Council</li> </ul>

### **Recommendation**

5.1 It is recommended that the Statement of Proposal and the reviewed Public Places Bylaw, Dog Control Bylaw, Solid Waste Bylaw and the Public Health and Safety Bylaw be approved for public consultation.

<b>Suggested Resolutions</b>
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- 1 The business paper on Bylaws Review be received.
- 2 The Statement of Proposal and the reviewed Public Places Bylaw, Dog Control Bylaw, Solid Waste Bylaw and Public Health and Safety Bylaw be approved for Public Consultation.



JOHN MORAN  
**MANAGER – REGULATORY SERVICES**

March 2014

- Attachments:
- 1 Public Places Bylaw and Statement of Proposal (doc 329808)
  - 2 Dog Control Bylaw and Statement of Proposal (doc 329809)
  - 3 Solid Waste Bylaw and Statement of Proposal (doc 329810)
  - 4 Public Health and Safety Bylaw and Statement of Proposal (doc 329811)



WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

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# Statement of Proposal

Review of

Waitomo District Council

Public Places Bylaw



# WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

## SUMMARY OF INFORMATION

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### TIMETABLE

Date	Activity
8 April 2014	<ul style="list-style-type: none"> <li>Public advertising of "Statement of Proposal".</li> <li>Copies of Reviewed Public Places Bylaw sent to interested parties</li> <li>Copies available for general public</li> <li>Submissions open for the Reviewed Public Places Bylaw</li> </ul>
8 May 2014	<ul style="list-style-type: none"> <li>Submissions close for the Reviewed Public Places Bylaw</li> </ul>
22 May 2014	<ul style="list-style-type: none"> <li>Hearing by Council</li> </ul>
5 June 2014	<ul style="list-style-type: none"> <li>Deliberations by Council</li> </ul>
24 June 2014	<ul style="list-style-type: none"> <li>Adoption of Public Places Bylaw by Council</li> </ul>



## WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

### SUMMARY OF INFORMATION

This summary is an overview of the information contained in the Waitomo District Council's reviewed Public Places Bylaw. The full Bylaw is attached to this Statement of Proposal.

The reviewed bylaw addresses the perceived problems in public places because it shows where council permission is required to carry out certain activities so as to ensure that they do not cause a nuisance, are safe and minimise the potential for offensive behaviour. Specific examples of how the bylaw addresses the perceived problems are:

- a) **Obstruction:** It defines what obstruction in a public place is. It stipulates safe conditions for locating objects in a public place. It sets standards for activities such as vehicle crossings. It provides a check on encroachments on public land by requiring all encroachments to be licensed.
- b) **Structures:** It sets standards around what constitutes a safe structure in a public place. It makes activities subject to Council approval, so the council can ensure that activities are undertaken safely.
- c) **Damage to public places:** It makes it an offence to damage Council property; this means that Council could take enforcement action against people who damage property. This is in addition to the existing police powers under the Summary Offences Act 1981 and the LGA 02 (which includes powers to recover damages).
- d) **Behaviour:** It regulates behaviour in public places, subject to the considerations of the New Zealand Bill of Rights Act 1990. This reduces opportunity for people to be offended by behaviour in public places.
- e) **Animals.** It sets conditions for people with animals in public places that ensure that the safety risks and nuisance factors associated with animals are minimised.
- f) The clauses relating to stock droving, stock crossings and dairy have been expanded to improve road user safety and address the concerns arising from the increasing conversion of pastoral land to dairy farming.

As a component of this review Waitomo District Council has analysed all the provisions of the Public Places Bylaw. That review has satisfied Council that the Bylaw as it is currently worded is fit for purpose and does not require amendment at this time.

The Statement of Proposal (SoP) is available from:

- Waitomo District Council office in Queen Street Te Kuiti,
- The Mokau Museum Main Road Mokau
- Waitomo Caves Discovery Centre, Waitomo Village
- Councils website [www.waitomo.govt.nz](http://www.waitomo.govt.nz)

It is also available by contacting Council on (07) 878 0800.

**Your feedback and opinions are important** to ensure Council can make decisions with an understanding of what is important to the community.

## Reviewed Public Places Bylaw Submission Form

### How do I make a submission?

Return this form to Council as follows:

 <p><b>Post to:</b></p> <p>Chief Executive Waitomo District Council P O Box 404 TE KUITI 3941</p>	 <p><b>Email to:</b> <a href="mailto:waitomo@waitomo.govt.nz">'waitomo@waitomo.govt.nz'</a></p> <p>(email submissions must include all the information requested on this form)</p>	 <p><b>Fax to:</b> 07 878 7771</p>
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**Remember consultation closes on 8 May 2014**  
**Make sure you have your comments to Council on time**

Submission period: 8 April 2014 – 8 May 2014    Hearing Dates: 5 June 2014

Feedback Form: Tell us what you think		Tick box
Name _____	I wish to speak in support of my submission at the hearing on this proposal in Te Kuiti	<input type="checkbox"/>
Address _____		
_____	I wish to speak for _____ minutes	
_____		
Phone _____	I do not wish to speak in support of my submission	<input type="checkbox"/>
Add extra paper as required		

**Please note:** When making a submission, the submission forms are part of the public consultation process and public record, and as such, **will** be reproduced as an attachment to a publicly available Council Agenda and will remain on Council minute records.



# **Review of Public Places Bylaw**

**2014**



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## 1.0 SCOPE

- 1.1 The Local Government Act 2002 confers general bylaw making powers on Council. The Local Government Act 1974 specifically gives authority to the Council to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. This bylaw controls a diverse range of activities to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this bylaw addresses damage to public facilities such as roads, grass verges, garden places and reserves which may have an adverse effect on other users of these facilities.
- 1.2 Section 145, 146 of the Local Government Act 2002 and Section 684 of the Local Government Act 1974 and other relevant Act e.g. Reserves Act 1977, Health Act 1956, outline some of the powers and requirements of the Council in regard to streets, public places and reserves. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw, and therefore the relevant sections of the Local Government Act, 1974 and 2002 should be read in conjunction with it.

## 2.0 INTERPRETATION

- 2.1 For the purposes of this bylaw the following definitions shall apply:

**AMUSEMENT DEVICE** means an appliance to which the motion of a prime mover is transmitted and which is used, or designed or intended to be used, for the amusement, recreation, or entertainment of persons being carried, raised, lowered, or moved by the appliance, or any part thereof while it is in motion; and includes the prime mover, transmission machinery, supporting structure, and any equipment used or intended to be used in connection therewith:

**AUTHORISED OFFICER** means any person appointed or authorised by Council to act on its behalf and with its authority including a Police Officer.

**BUSINESS SIGN** means any sign displayed on a premises, the sole purpose of which is to indicate the business name of the occupier and the type of business undertaken.

**BUSKER** means any transient street entertainer, performing for donations.

**COUNCIL** means the Waitomo District Council or duly authorised officer of Council.

**DROVER** means any person in charge of stock being moved along a road.

**HAWKER** means any person who carries or takes about any goods, wares or merchandise for sale not in pursuance of any invitation to call with, or of any previous order or request for, such goods and includes a pedlar and any person who exposes for sale any goods, wares or merchandise carried or taken about by him or solicits the custom of any other person; and whether any such person shall cry any such goods, wares or merchandise or not, but does not include any person who uses any vehicle as a mobile or travelling shop.

**ITINERANT TRADER** includes any person who, not having been continuously resident in the district under the jurisdiction of the local authority for a period of at least 6 calendar months immediately preceding, or not owning, or not having entered into a binding lease in writing of his business in such district for a period of at least 6 calendar months, carries on or engages in any business in such district involving the sale or exposure for sale in any premises in the said district, and whether by himself or by any other person employed by him, or any goods, wares or merchandise; but shall not include any hawker as above defined or any keeper of a mobile or travelling shop or any bona fide commercial traveller who deals only with or solicits orders only from persons, firms or companies carrying on business within the district aforesaid, as retailers of, or as manufacturers for sale of, articles manufactured from goods, wares and merchandise similar to those sold by the commercial traveller, or by him on behalf of his employer or employers.

**KEEPER** in relation to any mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of that mobile or travelling shop.

**LICENSED PREMISES** means premises licensed for the sale or consumption of liquor under the Sale of Liquor Act 1989.

**LIQUOR** has the meaning given to it by the Sale of Liquor Act 1989.

**MATERIAL** or **THING** means any material of whatever kind and includes jumbo bins and other containers for waste material, but excludes vehicles.

**MIND ALTERING SUBSTANCE** means a substance whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include:

- a) Medically prescribed substances ingested by the person for whom they were prescribed.
- b) Substances purchased from a pharmacy without a medical prescription;
- c) Nicotine;
- d) Alcohol as defined in the Sale of Liquor Act 1989.

**MOBILE OR TRAVELLING SHOP** means a vehicle, whether self-propelled or not, from which goods, wares or merchandise are offered or exposed for sale in the street, or from which goods, wares or merchandise may be ordered (whether or not in pursuance of any invitation to call with the goods, wares or merchandise) or from which services are offered for sale in the street; but does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares or merchandise pursuant to a prior order placed for the delivery of goods, wares or merchandise.

**NAME-PLATE** means any plate of metal, wood, glass, plastics, or other material fixed to a wall surface or in a sign-case near the entrance to premises to denote the name, business, designation, and agencies of an occupier of such premises.

**PUBLIC PLACE** means every road, footpath and thoroughfare of a public nature or open to or used by the public as of right, reserve, park, domain, walkway, walking track, beach, foreshore, river esplanade and recreational ground under the control of Council.

**RIDE A SKATEBOARD** means having either one or both feet, or any other part of the body or person, on the skateboard when it is moving.

**ROAD** has the meaning provided in Section 315 of the Local Government Act 1974, which includes every berm, bridge, culvert, drain, ford, gate, building or other thing belonging thereto or lying upon the line or within the limits thereof.

**SIGN** includes every advertising device or advertising matter of whatever kind whether consisting of a specially constructed device, structure, erection, or apparatus, or painted, printed, written, carved, inscribed, endorsed, projected onto, placed, or otherwise fixed to or upon any premises, wall, fence, rock, stone, structure, stationary vehicle, or erection of any kind whatsoever if such advertising device or matter is visible from any public place

**SIGN-CASE** means any case, panel, board, or other device attached to any premises to which name-plates are affixed, or for the display of the names, business designations, agencies and addressees of the occupiers of the premises to which it is attached.

**SKATEBOARD** means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, or similar recreational devices. The definition does not include any wheelchair baby or invalid carriage or bicycles.

**SPECIFIED PUBLIC PLACE** means any public place that is within the area described in Schedule C to this Bylaw.

**STOCK** means and includes any cow, bull, ox, heifer, steer, sheep (includes any ram ewe, wether, lamb, goat, or kid), horse, donkey, mule, calf, boar, sow, pig, llama, alpaca or deer of any kind, but excludes any animal that is under harnessed control.

**STREET APPEAL** means coordinated and organised events by organisations that ask for, or seek, any subscription, collection or donation from members of the public.

**STREET PERFORMANCE** means a musical, dramatic or other performance (including busking) involving musical, theatrical or circus performance skills including playing musical instruments, dancing, singing, clowning or juggling, pavement art, poetry or doing other acts of a similar nature in Public Places.

**TEMPORARY SIGN** means a sign to announce or advertise an event, function, sale, or product, erected or displayed on any public place or private premises, and displayed only for such limited period of time as is approved in writing by the duly authorised officer.

**TRADING** means the act of selling or trading or offering to sell or trade goods or services, with or without a vehicle.

**WINDOW-SIGN** means any sign displayed in or painted, printed, written, carved, inscribed, endorsed, or otherwise fixed to or upon any window.

## 3.0 OFFENCES AND PENALTIES

### 3.1 Offences

- 3.1.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this Bylaw without first obtaining that licence or approval and the failure to do so shall constitute a breach of this Bylaw.
- 3.1.2 No application for a licence or authority from Council and no payment of or receipt for any fee paid in connection with such application, licence or authority, shall confer any right, authority or immunity on the person making such application or payment.
- 3.1.3 Everyone commits an offence against this Bylaw who:
- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
  - (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing; or
  - (d) Permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given under this Bylaw; or
  - (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw; or
  - (g) Fails to comply with any notice or direction given in this Bylaw.

### 3.2 Penalties

- 3.2.1 Every person convicted of an offence against this Bylaw shall be liable to the penalties as set out in Section 242 (4) of the Local Government Act 2002 and further if the offence is one to which Section 243 of the Local Government Act 2002 applies (and is therefore an infringement offence) shall be liable to infringement fees as prescribed by Regulations made under Section 259 (b) of the Local Government Act 2002, or where any person is alleged to have committed an offence against this Bylaw; be proceeded against pursuant to any other enactment so empowering Council.
- 3.2.2 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw, shall be deemed to be a continuing offence under this Bylaw.

## 4.0 PUBLIC NUISANCES

- 4.1 Except with the prior permission of Council or an authorised officer a person shall not on any public place:
- a) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place;
  - b) Cause or allow any material or thing to be deposited onto a public place or road.
  - c) Leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
  - d) Solicit any subscription, collection or donation, preach or undertake any busking;
  - e) Distribute any printed or written material advertising any product, service or entertainment;
  - f) Fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
  - g) Consume, inject or inhale any mind-altering substances or offer or sell such substances to any person;
  - h) Play any game or use any object including skateboards, roller blades, roller skates, bicycles or motorised or human propelled scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to persons in the public place, or damage the public place.
  - i) Erect or place any structure on, over or under the public place except in compliance with this bylaw.
- 4.2 Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of an authorised officer could cause damage or injury to persons passing, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.
- 4.3 Notwithstanding the requirement of any other clause of this bylaw a person shall not in any public place:
- a) Light any fire except at fireplaces specially provided, or in an appliance designed for outdoor cooking; subject to any restriction imposed by Council on the lighting of fires;
  - b) Camp in an area not set aside for the purpose. In this context camping shall include the use of any vehicles for sleeping whether or not it is specially set out for sleeping.

## 5.0 OBSTRUCTING PUBLIC PLACES

- 5.1 A Person shall not:
- a) Obstruct the entrances to or exits from any public place;
  - b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of an authorised officer and then only in accordance with such conditions as may be imposed;
  - c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;
  - d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed;

- 5.2 No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

## **6.0 DAMAGE TO PUBLIC PLACES**

- 6.1 Except with the permission of the Council or an authorised officer a person shall not in any public place:
- a) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it;
  - b) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities;
  - c) Nothing in clause 6.1(b) shall prevent the Council from supplying or approving the installation of display boards in any public place for the purpose of allowing posters to be displayed announcing forthcoming functions or events or any other use approved by Council;
  - d) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place;
  - e) Damage or interfere with any natural feature, animal or plant;
  - f) Use any vehicle or be in control of an animal in any manner so that it damages any part of a public place;
  - g) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles;
  - h) Remove any sand, soil or other naturally occurring material found in a public place;
  - i) Open any drain or sewer on, or disturb or remove the surface of, any public place.
- 6.2 Any person carrying out authorised works on a public place shall provide reinstatement of the works to a standard approved by an authorised officer.
- 6.3 Any person wishing to gain access to a beach shall use a designated access where this is available.
- 6.4 A person shall not do, cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.

## **7.0 PLACING OF ARTICLES ON PUBLIC PLACES**

- 7.1 A person shall not place or leave or cause or permit to be placed or left any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:
- a) Such action has first been approved by Council or an authorised officer, and then only in accordance with such conditions as he or she may impose; or
  - b) Such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or
  - c) Such action is permitted pursuant to any other part of this bylaw.

## 8.0 ADVERTISING SIGNS

### 8.1 General Requirement for Siting of Signs

- 8.1.1 No person shall display or erect or cause to be displayed or erected any sign except in conformity with this bylaw and with the provisions set out in the District Plan in force within the District under the Resource Management Act 1991 and Council's Policy adopted under the Gambling Act 2003.
- 8.1.2 No person shall display, erect, or maintain or cause or permit to be displayed, erected, or maintained any sign so close to any part of a road, motorway, or to any corner, bend, safety-zone, traffic signs, traffic signal, or intersection as in the opinion of the Engineer would:
- a) Obstruct or be likely to obstruct the view of traffic; or
  - b) Distract unduly or be likely to distract unduly the attention of road users; or
  - c) Constitute or be likely to constitute in any way a danger to the public.
- 8.1.3 No person shall place, display, or permit or suffer to be placed or displayed, or to remain any sign containing any reflective material which tends to reflect vehicle lights, or contains any material dependent for illumination upon the lights of traffic in such a position as in the opinion of the Council would distract or be likely to distract the attention of the driver of any motor vehicle.
- 8.1.4 No person shall place, display, cause, or permit to be placed or displayed on or upon or against any public place, public building, bridge or other structure, any post, pole, or other upright for whatever use including those for the guidance and control of traffic, or any tree or other vegetation, traffic sign, traffic signal, or pavement any sign for advertising of any other purpose unless the prior permission in writing of the appropriate officer of Council has been obtained.
- 8.1.5 No person shall cause or permit any sign other than a name-plate or sign-case to be erected over any public place unless every part of such sign is at least 2.5m above the footpath or 5.5m above the carriage way, and then only with the prior permission in writing of the appropriate officer of Council.
- 8.1.6 No person shall erect any sign-case in such a position as to project over any road, private street, or public place unless the prior permission in writing of the appropriate officer of Council has been obtained.
- 8.1.7 No person shall leave or place, or cause to be left or placed, any advertising sign, notice or placard on or over a road or other public place without the express approval, in writing of the appropriate officer of Council. This part of the bylaw shall extend to include all areas of State Highways over which control of signs has been specifically delegated to the Council by the New Zealand Transport Agency.
- 8.1.8 No person shall leave any vehicle on a road in circumstances where it is used or may be reasonably be assumed to be used, for the purpose of drawing attention to any advertising sign, notice or placard carried upon or affixed to that vehicle. This part of the bylaw shall extend to include all areas of State Highways over which control of signs has been specifically delegated to Council by the New Zealand Transport Agency.

### 8.2 General Requirements for Construction and Maintenance of Signs

- 8.2.1 No sign shall be made, erected, or constructed otherwise than in a good and workmanlike manner of materials approved by Council.
- 8.2.2 Every such sign shall at all times be maintained in good repair and condition to the satisfaction of Council.
- 8.2.3 If any sign shall at any time not be in good order and condition, or if it shall at any time be unsightly or dangerous, the appropriate officer of Council may, by notice in writing signed by him and addressed to the owner or lessee to repair or secure or otherwise put in order or remove such sign within a period stated in such notice, and if such owner or lessee shall fail to

comply with the requirements of such notice within the time therein specified he shall be liable to prosecution for an offence against this bylaw.

### **8.3 Removal of Offending Signs**

- 8.3.1 If any sign, fails to conform to all the provisions of this bylaw, it shall be the duty of the occupier for the time being of the premises on which such sign shall have been displayed or erected, after being served with a notice in writing under the hand of the appropriate officer of Council requiring him so to do, to take down and remove such sign or so much thereof as does not conform to the provisions of this bylaw within the period of time specified in such notice. In the event of failure to comply with such notice, the Council shall be empowered to take whatever steps are necessary for the removal of any such sign. The cost incurred by Council shall be charged to the occupier.
- 8.3.2 If the person on whom such notice has been served fails to comply with the terms of such notice within the time stated therein he shall be liable to prosecution for an offence against this bylaw.

## **9.0 CONTROL OF SKATEBOARDS**

- 9.1 No person shall ride a skateboard in any area defined in Schedule A attached to this Part of the bylaw.
- 9.2 No person shall ride a skateboard on any footpath outside areas defined in Schedule A, without due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath.
- 9.3 The Council may from time to time by resolution publicly notified, amend Schedule A, to add, delete or amend the areas to which the provisions of this bylaw shall apply.
- 9.4 A Police Officer, Council Enforcement Officer or other authorised Officer may enforce the provisions of this Bylaw. Persons in breach of this Bylaw may risk impounding of any skateboard and be required to supply details necessary for infringement registration purposes. The owner of an impounded skateboard may retrieve it from the Council Offices or the Police Station during normal business hours, after the expiry of 10 working days from the date of impounding. A fine not exceeding that detailed in Council's Fees and Charges Manual will apply per impoundment.

## **10.0 AMUSEMENT DEVICES**

No person shall use any land or building or any part of any land or building, structure, or enclosure, or any part of any public place as a site for an amusement device to which the public have admission or access by payment or otherwise, until he/she has obtained from the Council a permit under the Amusement Devices Regulations 1978 to operate such a device. The term of any such permit shall not exceed one year.

### **10.1 Fees**

- 10.1.1 The fee payable for the issue of a permit shall be such sum as is prescribed in the Amusement Devices Regulations 1978 from time to time.

### **10.2 Safety Precautions**

- 10.2.1 In addition to regulations contained in the Amusement Devices Regulations 1978, the proprietor of an amusement device shall, for the prevention of danger from such device:
- a) Cause such amusement device to be so placed as to have about it a clear space from the outermost point covered or which may be overhung by such device, to the satisfaction of Council.
  - b) Cause such amusement device to be erected in a proper manner, and sited on ground able to support the device under full operating conditions without risk of subsidence and to the satisfaction of an authorised officer to inspect such device. Compliance with the authorised officer's directions (if any) in this case will not absolve the proprietor from

the prime responsibility for ensuring that the requirements of this sub clause are carried out.

- c) Cause every part of such amusement device and of the apparatus for driving the same to be maintained at all times in good repair and condition, and to be under proper management and control.
- d) Cause the apparatus for driving such amusement device to be tended and regulated by a competent person responsible for the care and management of such appliance.
- e) Cause such amusement device, if in motion and if any person riding in or upon such device be ill or be desirous of alighting wherefrom, to be stopped as quickly as may be practicable for the purpose of allowing such person to alight or be removed from such device.

### **10.3 Reasonable and Proper Care**

- 10.3.1 The proprietor or any other person for the time being having the management or control of any amusement device or of the apparatus for driving the same, or any part of such device or apparatus, shall, in the exercise of such management or control, take all reasonable and proper care so as to prevent danger to any person or property.

### **10.4 Speed**

- 10.4.1 Such proprietor or other person shall not cause or suffer such amusement device to be driven at any greater speed than shall be consistent with the safety of any person riding in or upon such device and with all other circumstances attending or affecting the use thereof.

### **10.5 Overloading**

- 10.5.1 Such proprietor or other person shall not allow any person to enter or mount upon such amusement device at any time when such device shall be already occupied by the full number of persons for whose accommodation such device shall be constructed or intended or adapted to be used.

## **11.0 AMUSEMENT GALLERIES**

Every amusement gallery shall be located and operated in accordance with the requirements of the District plan and no amusement gallery shall be occupied or used for the purposes of any amusement unless licensed under this part of this Bylaw.

### **11.1 Licence Required**

- 11.1.1 Every amusement gallery premises shall have either an individual licence or be specified on a "multiple site licence" held by a franchise operator, such licence to be in the form approved by Council from time to time.
- 11.1.2 A multiple site licence shall include the name and address of the premises managers and the premises covered by the licence.

### **11.2 Application for Licence**

- 11.2.1 Every application for a licence shall be in writing by the proposed manager of the amusement gallery and shall set forth the name, address and occupation of the applicant, the address of the building sought to be licensed and the type or types of amusements proposed to be engaged in.

### **11.3 Fee**

- 11.3.1 No licence shall be granted except on payment of such fee as may from time to time be prescribed by resolution of the Council.

## 11.4 Character References

11.4.1 Prior to the issue of any licence or the renewal or transfer of any licence, the Council shall be satisfied as to the character of the applicant for such licence renewal or transfer and may call upon the applicant to provide two references from responsible Persons vouching for the applicant's good character and for a police report as to the applicant's suitability.

## 11.5 Duration of Licence

11.5.1 Every such licence shall remain in force from the date of issue until the 30th day of June following and shall be renewed annually. The annual fee for each licence shall be such sum as may from time to time be prescribed by resolution of Council.

## 11.6 Cancellation or Suspension of Licence

11.6.1 The Council may at any time cancel or suspend the licence granted in respect of any amusement gallery if the manager shall be convicted of any Offence against this Bylaw or of any offence touching his or her character or conduct as such manager or if council shall be satisfied that the manager is acting or has acted in a manner contrary to the true intent and meaning of this Part Bylaw. During the period of suspension the amusement gallery shall be deemed to be unlicensed, and shall cease to operate.

## 11.7 Display of Licence

11.7.1 The manager of any amusement gallery shall display a copy of the licence in a suitable and conspicuous position in such room at all times.

## 11.8 Shooting Gallery

11.8.1 In any amusement gallery in which gallery shooting is carried on, the manager shall provide complete protection, to the satisfaction of Council, against danger to every person in or about or outside such amusement gallery. At all times while firearms may be loaded in such gallery the firearms shall be kept directed towards a target and no person shall while firearms may be loaded, remove or permit to be removed, any firearm from such gallery.

## 11.9 No Council Liability

11.9.1 Council shall accept no liability for any injury or damage arising from activities in any amusement gallery licensed under this Bylaw.

## 11.10 Manager's Duty

11.10.1 The manager shall at all times:

- a) Provide sufficient toilets in accordance with the New Zealand Building Code for use by staff and persons using the amusement gallery except where expressly provided by the licence.
- b) Keep the amusement gallery and conveniences in good repair, in clean condition, and well ventilated, to the satisfaction of Council.

## 11.11 Temporary Premises

11.11.1 Premises equipped with amusements and operated for a period not greater than 14 days shall be regarded as Temporary Premises and shall not require a licence. However Temporary Premises shall comply with all other relevant clauses of this Bylaw.

## 11.12 Contrary to True Intent

11.12.1 Where, in the opinion of the Council, the conduct of an amusement gallery is considered contrary to the true intent and meaning of the Bylaw, the Council may require removal of any amusements or take such other action as is deemed appropriate.

### 11.13 Behaviour Controls

11.13.1 From and after the issue of any licence issues pursuant to this Bylaw and while he or she shall be the manager of the amusement gallery, the manager shall be personally responsible for the proper conduct of such amusement gallery and shall personally see that all the provisions or requirements of this Bylaw are duly carried out and observed.

### 11.14 Intoxicated Persons

11.14.1 The manager of any amusement gallery shall not allow any intoxicated person or person under the influence of alcohol or mind altering substance to enter or remain in such amusement gallery nor shall the manager allow any person to use obscene or improper language, or behave in a noisy or improper manner.

### 11.15 Sale of Food

11.15.1 If any food or drink is to be sold or intended to be sold in any amusement gallery, the approval of Council must be obtained before any licence is granted, renewed or transferred and the manager shall comply with all Statutes, regulations and Bylaws relating to premises in which food or drink are sold.

### 11.16 Right of Appeal

11.16.1 Any manager or proprietor of any amusement device or amusement gallery who disagrees with any decision, order or direction given by Council shall have the right of Appeal to the Council. On hearing the Appeal, the Council committee may revoke, confirm or modify any such decision, order or direction.

## 12.0 LIQUOR CONTROL

### 12.1 Acts Prohibited in Specified Public Places within the Waitomo District

12.1.1 Subject to clauses, 12.2, 12.3 and 12.4 the following acts are prohibited at all times:

- a) The consumption of liquor in or at any Specified Public Place
- b) The bringing of liquor into any Specified Public Place
- c) The possession of liquor in or at any Specified Public Place
- d) In conjunction with any of the above prohibited acts, the presence or use of a vehicle in a public place, or other devices for the purposes of carrying liquor.

12.1.2 Specified Public Places are listed in Schedule B.

### 12.2 Exceptions to Prohibition for Residents and their Visitors

12.2.1 Clause 12.1 does not apply to liquor in an unopened container for the purpose of the transport of that liquor from outside a Specified Public Place to premises that adjoin a Specified Public Place:

- a) By, or for delivery to, a resident of those premises or by his or her bona fide visitors or
- b) From those premises to a place outside the Specified Public Place by a resident of those premises or his or her bona fide visitors, provided the liquor is promptly removed from the Specified Public Place

### 12.3 Exceptions to Prohibition for Licensed Premises

12.3.1 Clause 12.1 does not apply:

- a) In the case of liquor in an unopened container, to the transport of that liquor from premises adjoin a Specified Public Place during any period when under the Sale of Liquor Act 1989 it is lawful to sell liquor on those premises provided the liquor is promptly removed from the Specified Public Place.

- b) In the case of in an unopened container, to the transport of that liquor from outside a Specified Public Place for delivery to premises that adjoin the Specified Public Place provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989.
- c) To the possession and or consumption of liquor at any premises within the Specified Public Place in compliance with a licence for the sale and or consumption of liquor under the Sale of Liquor Act 1989 including any footpath area that is defined under the appropriate liquor licence.

## 12.4 Exceptions for Special Licences

- 12.4.1 Clause 12.1 does not apply to any part of the Specified Public Place in respect of which a Special Licence under the Sale of Liquor Act 1989 has been granted for any occasion or event described in the licences.

## 12.5 Offence

- 12.5.1 Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine as provided for in the Local Government Act 2002 which specifies a fine not exceeding \$20,000.

## 12.6 Police Powers

- 12.6.1 Police powers of arrest, search and seizure under this Bylaw are outlined in sections 169 and 170 of the Local Government Act 2002. In summary, where a person is found to be in breach of this Bylaw, liquor is subject to seizure and forfeit to the Crown, if the person is convicted of breaching the Bylaw. A person may be arrested if found to be committing an offence under this Bylaw, or refusing to leave the area or refusing to surrender the liquor.
- 12.6.2 No warrant is required for the police to conduct a search to ascertain if liquor is present in a container or vehicle that is in or entering a Specified Public Place. However prior to exercising the power of search, a person must be informed that they have the opportunity to promptly remove the suspected container or vehicle from the Specified Public Place, and be given a reasonable opportunity to do so.

## 13.0 EXPOSING ARTICLES FOR SALE

- 13.1 Except as provided for elsewhere in this bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

## 14.0 HAWKERS AND KEEPERS OF MOBILE OR TRAVELLING SHOPS

### 14.1 Licence Required

- 14.1.1 No person, whether acting on his/her own account, or as the servant of another person, shall engage in the trade of calling on, or carrying on business in any manner or to any extent as a hawker or keeper of a mobile or travelling shop with respect to goods or articles of any description whatsoever (except as provided in clause 12 and 13 of this part of the Bylaw), without having first obtained a licence from the Council to do so.

### 14.2 Application

- 14.2.1 Every person desirous of obtaining a hawker's or keeper's licence shall make application to the Council on the standard application form for licences and permits in use at that time, and shall with such application furnish such evidence of good character as the Council may require, and in the case of an application for a keeper's licence shall state the number of vehicles to be used.

### **14.3 Sale of Food for Human Consumption**

- 14.3.1 Every application under the last preceding clause shall also state whether the applicant is desirous of hawking or selling from a mobile or travelling shop articles of food for human consumption and whether with or without other goods, wares or merchandise and in any case where a motor vehicle is to be used, shall specify the registered number of that vehicle.
- 14.3.2 If the applicant is desirous of hawking or selling articles of food for human consumption such application shall be accompanied by all licences which the applicant may be required to obtain under the provision of any Act, regulation or bylaw relating to the licensing and regulation of certain trades and businesses.
- 14.3.3 Before issuing any licence for a hawker or keeper of a mobile or travelling shop the Council shall satisfy itself that any motor vehicle to be used in connection with hawking or selling food for human consumption and that any premises to be used for the storage of such food, are suitable for the purpose.

### **14.4 Fees and Expiry of Licence**

- 14.4.1 The Council may issue licences to trade and carry on business as hawkers or keepers of mobile or travelling shops and every such licence, at whatever time of the year the same may be issued, shall terminate on a day and month then next ensuing as may be prescribed by resolution by the local authority, and for every such licence there shall be paid to Council such fee as the Council may by resolution from time to time prescribe for that particular class of licence.
- 14.4.2 The Council may at its discretion issue temporary licences upon payment of such fee whether per day or otherwise, and subject to such conditions as the local authority may impose.

### **14.5 Form of Licence**

- 14.5.1 Every hawker's or keeper's licence shall be in the format in use at the time of issuing and shall take effect according to the tenor thereof.

### **14.6 Production of Licence**

- 14.6.1 Every licensed hawker or keeper of a mobile or travelling shop shall at all times when hawking, or selling from his mobile or travelling shop carry his licence with him and shall show the licence to any constable or authorised officer of the local authority who shall demand production of the licence.

### **14.7 Name to Appear on Vehicle**

- 14.7.1 Every licensed hawker or keeper of a mobile or travelling shop whilst hawking or selling from his mobile or travelling shop or exercising or carrying on his business, trade or calling of hawker or keeper of a mobile or travelling shop in some conspicuous place on the exterior of any vehicle or container in which he takes or carries his goods or wares have his name legibly painted thereon in letters not less than 25mm in height.

### **14.8 Moving On**

- 14.8.1 No hawker or keeper of a mobile shop shall stand or remain stationary in any street save for such reasonable time as is required for the transaction of his business with any one customer.
- 14.8.2 Every licensed hawker or keeper of a mobile or travelling shop shall upon being requested so to do by any any Police officer or authorised officer of the Council and as often as so requested, alter his position and remove from the place in any street or public place where such hawker or keeper of a mobile or travelling shop may for the time being be hawking his goods or selling from his mobile or travelling shop to any other part or parts of such street or place or to any other street or public place indicated by such Police officer or authorised officer of the local authority.
- 14.8.3 Any person who fails to comply with any request made by any Police officer or authorised officer of the Council shall be guilty of an offence under this bylaw.

## 14.9 Council May Prescribe Conditions

14.9.1 The Council may, either upon the issue of any licence to any hawker or keeper of a mobile or travelling shop or at any time by notice in writing served on any licensed hawker or keeper of a mobile or travelling shop:

- a) Prescribe any condition or conditions in compliance with which such hawker or keeper of a mobile or travelling shop must carry on his trade or business and any hawker or keeper of a mobile or travelling shop who shall fail to comply in all respects with any such requirements within any period specified for compliance shall be guilty of an offence against this part of this bylaw; or
- b) Require such hawker or keeper of a mobile or travelling shop to discontinue the use of any vehicle so employed by him.

14.9.2 It shall be a condition of the licence where a vehicle is to be used for the sale of food for human consumption that no vehicle other than that specified in that licence shall be used for the purpose without the approval of the Environmental Health Officer of the Council.

## 14.10 Licence not Transferable

14.10.1 No licence issued under this part of this bylaw shall be transferable to any other person and no such licence shall authorise any person other than the person named therein to carry on the trade or business of a hawker or to keep a mobile or travelling shop.

## 14.11 Cleanliness of Vehicle

14.11.1 Every licensed hawker or keeper of a mobile or travelling shop or any person operating on behalf of such hawker or keeper who takes or carries about any article of food for sale shall keep and maintain every vehicle, box, basket, pack or other container used or connected therewith in a thoroughly clean and sanitary condition to the satisfaction of the Council's Environmental Health Officer.

## 14.12 Exemptions

14.12.1 The provisions of this part of this bylaw shall not apply:

- a) to the owner of a fishing boat registered under the fisheries Act 1983 and in respect of which a boat-fishing permit is for the time being in force, where he or a person appointed by him in that behalf sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed or beached or from a stall (including a vessel used as a stall) within 450m of that place; or
- b) To the sellers of printed books, pamphlets, magazines or newspapers.

## 14.13 State Highways

14.13.1 In the case of a state highway, with the prior consent of the New Zealand Transport Agency, Council may prohibit hawkers, pedlars, keepers of stalls (including vehicles used as stalls), and keepers of mobile or travelling shops to occupy stands:

- a) In specified roads or state highways or parts of specified roads or state highways; or
- b) Where the presence of the stall or stand is likely to cause an obstruction or a danger to traffic, in any public place adjoining specified roads or state highways or parts of specified roads or state highways.

## 15.0 ITINERANT TRADERS

### 15.1 Licence Required

- 15.1.1 No itinerant trader shall sell or offer to expose for sale any goods, wares or merchandise whatsoever without having first obtained a licence from the Council authorising him to do so.
- 15.1.2 Such application shall be on the standard application form for licences and permits in use at that time, and the applicant shall with his application furnish such evidence of good character as the Council may require.
- 15.1.3 Every itinerant trader's licence shall be in the format in use at the time of issuing and shall remain in force for the term of 1 year from the day of issue thereof and no longer.

### 15.2 Licence Fee

- 15.2.1 For every such licence there shall be paid to the Council before the issue of such licence such amount by way of licence fee as is prescribed from time to time by resolution of the Council.

### 15.3 Refund of Licence Fee

- 15.3.1 If during the continuance of any such licence the licensee named therein shall remain continuously in business in the district aforesaid for a period of not less than 6 months, the licence fee paid by him as aforesaid in respect of the licence in force during such period shall be refunded.

## 16.0 STANDS AND STALLS

### 16.1 Permit Required

- 16.1.1 No person shall without having first obtained a permit from the Council so to do:
- a) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place, any stall, structure or contrivance for the purpose of distributing or selling any food or refreshments, newspapers, lottery tickets, textiles, hardware; or
  - b) Stand in or occupy any portion of any public place with, or place or maintain on any portion of any public place any weighing, knife-grinding, automatic vending or slot entertainment machine or any other similar structure, apparatus or contrivance.

### 16.2 Application

- 16.2.1 Every application for a permit shall be on the standard application form for licences and permits in use at that time.

### 16.3 Conditions of Permit

- 16.3.1 Every permit shall be issued by the Council and shall be subject to such conditions as the Council may impose and shall state therein the term of expiry thereof, the portion of any public place on which the applicant is permitted to stand, the hours during which he may so stand, the class of article or goods he proposed and is permitted to sell, and no person shall stand or sell except in conformity with the terms of such permit.

### 16.4 Permit Fee

- 16.4.1 For every such permit there shall be payable to the Council such fee as the Council may by resolution from time to time prescribe.

## 16.5 Transfer

16.5.1 No person shall transfer his permit to any other person neither stand nor sell either under the authority of a permit issued to any other person or at a place not mentioned in his permit or directed by the Council.

## 16.6 State Highways

16.6.1 In the case of a state highway, with the prior consent of the New Zealand Transport Agency, Council may prohibit hawkers, pedlars, keepers of stalls (including vehicles used as stalls), and keepers of mobile or travelling shops to occupy stands:

- a) In specified roads or state highways or parts of specified roads or state highways; or
- b) Where the presence of the stall or stand is likely to cause an obstruction or a danger to traffic, in any public place adjoining specified roads or state highways or parts of specified roads or state highways.

## 17.0 AWNINGS AND BLINDS

17.1 No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an authorised officer. In granting such permission an authorised officer may set such conditions as is deemed appropriate. Any such permission may be revoked at any time by an authorised officer.

## 18.0 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED

18.1 Except where permitted by this bylaw or by Council consent no person shall put any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

18.2 This restriction shall not apply to any veranda or awning erected pursuant to a requirement of a District Plan.

18.3 In any such projection or obstruction as aforesaid has been placed against or in front of any building before the coming into operation of this bylaw and which is contrary to any bylaw in force, Council may give notice to the owner or occupier of such building to remove, or to alter such projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.

18.4 No person shall stand on any veranda erected over a public place except for the purpose of inspection, maintenance or egress in the case of fire.

## 19.0 ROAD AND BUILDING IDENTIFICATION

19.1 The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of the building, the name of the road, private road or public place to which it has frontage.

19.2 Notwithstanding that a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers no less than 50 mm in height for residential buildings and not less than 150mm in height for all other buildings. Numbers shall be as allocated or approved by an authorised officer and displayed in a position so as to be readily visible from the road to which it has frontage. Numbers required by shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

- 19.3 Council shall have power at any time to alter the number of any building where in the Council's opinion it may be necessary or advisable to do so.

## 20.0 VEHICULAR CROSSINGS

- 20.1 Any person wishing to construct, repair, remove or widen any vehicular crossing over any public place shall first obtain a permit from the Council.
- 20.2 A permit issued by the Council may be subject to such conditions concerning dimensions and materials as the Council may consider reasonably necessary to protect the road (including any footpath or berm) adjacent to the vehicular crossing, and to ensure safe and convenient use of the road by pedestrians and vehicles.
- 20.3 No person shall drive, ride, propel, or wheel any motor vehicle across any footpath or water channel in any public place otherwise than upon a crossing properly constructed under the provisions of this bylaw.
- 20.4 If in the opinion of the Council any crossing is in a bad or unsafe state of repair, Council may by notice in writing, require the owner of the land which the crossing provides access to, to repair, reconstruct, or renew such crossing to the satisfaction of Council. Every such owner or occupier who fails to comply with any such notice within the period specified shall commit an offence against their Part of this bylaw.

## 21.0 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCES

- 21.1 Except with the permission of an authorised officer:
- a) No person shall erect or permit to be erected any electrical fencing or barbed wire along, or within 1 metre of any boundary line between any land or building on the one side, and any public place on the other side:
- Provided that this sub-clause shall not prohibit the placing of such barbed wire at a height if not less than 2 metres or electrified fencing not less than 3 metres from the level of the ground of any such public place.
  - Further provided that this Sub-clause shall not apply within any area which has a predominantly rural character under the District Plan prepared by Council, except when the fence abuts or adjoins a footpath; provided that Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

## 22.0 ANIMALS AND STOCK IN PUBLIC PLACES

### 22.1 Public Places

- 22.1.1 No person shall take or allow any animal under their control onto any public place if the Council has by resolution or public notice prohibited entry of that type of animal to that public place.
- 22.1.2 Any person having control of stock or any public place shall ensure that the stock is kept under proper control, with consideration for other persons using the public place.
- 22.1.3 No person shall drive any stock on any road during the periods between half an hour after sunset and half an hour before sunrise unless sufficient warning is provided and maintained by such person by the use of lights or other effective device or means to ensure that other persons using such road shall have adequate notice of the presence of such animals on the road.

22.1.4 No person shall:

- a) Permit stock to be moved across or along any public place unless an alternative route is not reasonably available;
- b) Permit any stock to be on a reserve, beach or other area designated as an areas prohibited to stock without the prior consent of an authorised officer;
- c) The grazing of stock on road reserves in predominantly rural areas is permitted subject to the animals being contained in adequate temporary fences.
- d) Graze stock in any other public place except in accordance with Council policy.

22.1.5 Any person having control of stock in any public place shall ensure that the stock are moved in such a manner and by such points of access to an exit from the road as to ensure that damage is not caused to the public place.

22.1.6 Any person having control of stock being moved on any public place in an urban area shall ensure that excrement; urine or other matter deposited upon the public place from such work is removed, and disposed of in an appropriate manner.

22.1.7 Any person being the owner of, or having control of any horse in a public place in an urban area shall immediately remove any faeces deposited by that horse from the public place.

22.1.8 Subject to the requirements of this section every person being the owner or having the care, custody, or control of any animal shall keep and prevent the same from wandering or being at large without proper guidance on any public place.

## SCHEDULE A: SKATEBOARDS

Areas where riding of skateboards is prohibited on footpaths and other public places are as follows:

- Rora Street, Te Kuiti (between Alexandra Street and Lawrence Street)
- King Street East and Sheridan Street, Te Kuiti (between Rora Street and Taupiri Street) and Moa Street, Piopio (from Kea Street North to Tui Street).

## SCHEDULE B: LIQUOR CONTROL

Specified Public Places:

The part of this Bylaw dealing with Liquor Control applies to the following locations:

- Redwood Park, Te Kuiti
- Rora Street, Te Kuiti
- Lawrence Street, Te Kuiti – between Rora Street and the Esplanade
- Sheridan Street, Te Kuiti - between Rora Street and the Esplanade
- King Street East, Te Kuiti- between Rora Street and Jennings Street
- Alexandra Street, Te Kuiti
- Taupiri Street, Te Kuiti - between Lawrence Street and Alexandra Street
- Both banks of the Mangaokewa River, Te Kuiti between Redwood Park and the Te Kuiti Bowling Club
- RSA Memorial Park, Te Kuiti

Public Places include, but are not limited to, Streets, Service Lanes, Lanes, Footpaths, Carparks and Reserves.

This schedule may be amended from time to time by public notice made by the Waitomo District Council. Such notices shall be made in the public notice section of newspapers as Waitomo District Council sees fit and be made no less than fourteen (14) days before the change is to apply.



WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

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# Statement of Proposal

Review of

Waitomo District  
Council

Dog Control Bylaw



# WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

## SUMMARY OF INFORMATION

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### TIMETABLE

Date	Activity
8 April 2014	<ul style="list-style-type: none"> <li>Public advertising of "Statement of Proposal".</li> <li>Copies of Reviewed Dog Control Bylaw sent to interested parties</li> <li>Copies available for general public</li> <li>Submissions open for the Reviewed Dog Control Bylaw</li> </ul>
8 May 2014	<ul style="list-style-type: none"> <li>Submissions close for the Reviewed Dog Control Policy</li> </ul>
22 May 2014	<ul style="list-style-type: none"> <li>Hearing by Council</li> </ul>
5 June 2014	<ul style="list-style-type: none"> <li>Deliberations By Council</li> </ul>
24 June 2014	<ul style="list-style-type: none"> <li>Adoption of Dog Control Policy by Council</li> </ul>

## SUMMARY OF INFORMATION

This summary is an overview of the information contained in the reviewed Waitomo District Council's Dog Control Bylaw. The full Bylaw is attached to this Statement of Proposal (SoP).

The Bylaw sets standards of control that must be observed by dog owners. It covers matters such as dogs – in public places, wandering dogs, ownership of more than two dogs, nuisances caused by dogs and the operation of Council's dog control pound.

As a component of this review WDC has analysed the provisions of the Dog Control Bylaw and assessed those provisions against other dog control bylaws enforced by territorial authorities in the region. As a result of the exercise several minor amendments have been made to the bylaw including:

- The bylaw title has been amended
- Interpretations have been reviewed and updated
- Clearer requirements are detailed about the confinement of dogs overnight.
- Owners of more than two dogs in areas other than the rural zone will be required to obtain a licence from Council to keep such dogs.
- Additional criteria are established for owners wishing to keep more than two dogs.

The Statement of Proposal (SoP) is available from:

- Waitomo District Council office in Queen Street Te Kuiti,
- The Mokau Museum Main Road Mokau
- Waitomo Caves Discovery Centre, Waitomo Village
- Councils website [www.waitomo.govt.nz](http://www.waitomo.govt.nz)

It is also available by contacting Council on (07) 878 0800.

**Your feedback and opinions are important** to ensure Council can make decisions with an understanding of what is important to the community.



**Reviewed Dog Control Bylaw  
Submission Form**

**How do I make a submission?**

Return this form to Council as follows:

 <b>Post to:</b>  Chief Executive Waitomo District Council P O Box 404 TE KUITI 3941	 <b>Email to:</b> <a href="mailto:waitomo@waitomo.govt.nz">'waitomo@waitomo.govt.nz'</a> (email submissions must include all the information requested on this form)	 <b>Fax to:</b> 07 878 7771
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**Remember consultation closes on 8 May 2014  
Make sure you have your comments to Council on time**

Submission period: 8 April 2014 – 8 May 2014    Hearing Date: 22 May 2014

<b>Feedback Form: Tell us what you think</b>		Tick box
Name _____	I wish to speak in support of my submission at the hearing on this proposal in Te Kuiti	<input type="checkbox"/>
Address _____ _____	I wish to speak for _____ minutes	
Phone _____	I do not wish to speak in support of my submission	<input type="checkbox"/>
Add extra paper as required		

**Please note:** When making a submission, the submission forms are part of the public consultation process and public record, and as such, **will** be reproduced as an attachment to a publicly available Council Agenda and will remain on Council minute records.



~~Dog Control~~

~~Bylaw~~

**Waitomo District Dog Control  
Bylaw**



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## 1.0 Scope

- 1.1 The purpose of this Bylaw is to set standards of control that must be observed by dog owners. It covers matters such as dogs in public places, wandering dogs, ownership of more than one dog, and nuisances caused by dogs. This Bylaw must be read in conjunction with Council's Dog Control Policy.

## 2.0 Interpretation

- 2.1 **THE ACT** means the Dog Control Act 1996.
- 2.2 **CONTINUOUS CONTROL** means the owner has sufficient control over the dog to prevent the dog causing a nuisance to other animals and members of the public or damage to property.
- 2.3 **COUNCIL** means the Waitomo District Council.
- 2.4 **DISABILITY ASSIST DOG** means a dog certified by 1 of the following organisations as being a dog trained to assist (or as being a dog in training to assist) a person with a disability:
- (a) Hearing Dogs for Deaf People New Zealand;
  - (b) Mobility Assistance Dogs Trust;
  - (c) New Zealand Epilepsy Assist Dogs Trust;
  - (d) Royal New Zealand Foundation of the Blind;
  - (e) Top Dog Companion Trust;
  - (f) An organisation specified in an Order in Council made under any Regulations made pursuant to section 78D of the Dog Control Act 1996
- 2.5 **DOG CONTROL OFFICER** means a Dog Control Officer appointed by the Waitomo District Council under Section 11 of the Dog Control Act 1996.
- 2.6 **DOG EXERCISE AREA** means a public place which has by resolution of Council pursuant to Section 20 (1)(d) of the Dog Control Act 1996 been designated as a dog exercise area.
- 2.7 **INFRINGEMENT OFFENCE** means an offence specified in the First Schedule of the Dog Control Act 1996.
- 2.8 **IN SEASON** shall mean oestrus or heat cycle of any female dog.
- 2.9 **LEASH** means a lead which is capable of restraining the dog.
- 2.10 **NEUTERED DOG** means a dog that has been spayed or castrated but does not include a dog that has been vasectomised.
- 2.11 **OWNER** means in relation to any dog every person who:
- a) Owns the dog; or
  - b) Has the dog in his/her possession whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purposes of preventing the dog causing injury, damage or distress, or for the sole purpose of restoring a lost dog to its owner; or
  - c) Is the parent or guardian of a person under the age of 16 who:
    - i. Is the owner the dog pursuant to paragraph (a) or (b) of this definition; and
    - ii. Is a member of the parent or guardian's household living with and dependent on the parent or guardian, but does not include any person who has seized or taken custody of a dog under the Dog Control Act 1996 or the Animal Protections Act 1960 or the National Parks Act 1980 or the

Conservation Act 1987 or any other made under this Act or Animal Protections Act 1960.

**2.12 PREMISES** includes any recreation ground, yard, building or enclosed space whether separately occupied or not and whether public or private.

**2.13 PROHIBITED PUBLIC PLACE** means a public place which has by resolution of Council pursuant to Section 20 (1)(a) of the Dog Control Act 1996 been declared a Prohibited Public Place. In all cases it shall mean within 20 metres of any children's playground equipment, and the mown playing surfaces of sports grounds controlled by Council.

**2.14 PUBLIC PLACE** means:

- a) A place that, at any material time, is open to or being owned by the public whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place; and
- b) includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.

**2.15 WORKING DOG** means

- (a) Any DISABILITY ASSIST DOG:
- (b) Any dog
  - (i) Kept by the Police or any constable, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such Department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the Department of State or that constable, officer, or employee; or
  - (ii) Kept solely or principally for the purposes of herding or driving stock; or
  - (iii) Kept by the Department of Conservation or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or
  - (iv) Kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or
    - a) Kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or
    - b) Kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of that Service solely or principally for the purposes of carrying out the functions, duties, and powers of that Service; or
    - c) Certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties, and powers conferred by the Civil Defence Emergency Management Act 2002; or
  - (v) Owned by a security guard as defined in section 4 of the Private Investigators and Security Guards Act 1974 and kept solely or principally for the purposes of carrying on the business of a security guard; or
  - (vi) Declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.

## 3.0 Prohibited And Restricted Areas

### 3.1 General Prohibition

3.2 Any person who takes a dog or allows any dog to go within the limits of any land or premises used as a public school, kindergarten, playcentre, private school, public

swimming baths, (or any other area with the district which Council has by resolution declared to be a prohibited area) commits an offence against this Bylaw.

3.3 It shall be a defence to any charge under this clause that such person had prior written consent of the person or body in charge of such prohibited area to take or allow the dog within the limits of such prohibited area.

#### **3.4 Central Business Area, Te Kuiti**

3.5 Dogs are prohibited from Rora Street, (between Alexandra Street and **the South End loop Road**) and King Street and Sheridan Street (between Rora Street and Taupiri Street). The above section of the bylaw will not apply to any disability assist dog, police dog, dogs attending any veterinary clinic located in the prohibited area or any dog contained within or on any vehicle in the prohibited area and is securely confined within or on that vehicle so as not to constitute a nuisance or endanger any person.

#### **3.6 Flower Pot – Mokau**

3.7 Dogs are prohibited from the area known as The Flower Pot, Mokau, between 1 December each year and 31 March the following year.

### **4.0 Dogs in Public Places Required To Be On A Leash**

4.1 The owner of a dog other than a working dog, being worked shall not allow the dog in any public place (not being a Dog Exercise Area) unless the dog is controlled on a leash.

### **5.0 Dogs On Beaches**

5.1 Any Dog Control Officer or Dog Ranger, may order the owner, or any person in charge of the dog, to remove such dog from any beach or bathing reserve if in the opinion of such Dog Control Officer or Dog Ranger the presence of the dog is likely to cause annoyance, inconvenience, danger or be hazardous to health of the public for the time being using such beach or bathing reserve. Any person who fails to promptly obey such order commits an offence against this Bylaw.

### **6.0 Dog Exercise Areas**

6.1 The Council may declare by resolution any public place to be a Dog Exercise Area.

6.2 Within Dog Exercise Areas the owner of the dog shall ensure that the dog is under continuous control but shall not be obliged to keep the dog on a leash.

6.3 The Council has designated the following areas as dog exercise areas where a dog may be freely exercised however the dog must be under continuous control to the satisfaction of a Council Officer.

- a) The eastern bank of the Mangaokewa River between Lawrence Street and the Te Kuiti Bowling Club.
- b) Ward Street Reserve, Te Kuiti.
- c) Mangaokewa Scenic Reserve

### **7.0 Temporary Designations**

7.1 The Council may from time to time declare any public area not already being a prohibited area to be a prohibited area for a specified time or suspend the designation of a prohibited area for a specified period for a specified occasion or event.

- 7.2 The Council shall give public notice of its intention to declare any area to be a temporary prohibited area or to suspend a prohibited area. Appropriate signs shall be posed in the area and prior notice shall be published in a newspaper circulating in the Waitomo District.

## 8.0 Disability Assist Dogs

- 8.1 Notwithstanding anything in this bylaw prohibiting or regulating the entry or presence of dogs, any disability assist dog accompanying a blind or partially sighted person or a person with any other disability or any person bona fide engaged in training the disability assist dog may enter and remain:
- a) In any premises registered under regulations made pursuant to Section 120 of the Health Act 1956; or
  - b) In any public subject to compliance to any reasonable condition imposed by the occupier or person having control of the premises or public place, as the case may be.

## 9.0 Seizure of Dogs In Public Place In Contravention This Bylaw

- 9.1 A Council Officer may seize and impound any dog at large in a public place, whether or not the dog is wearing a collar having the proper label or disc attached that is found at large in contravention of the bylaw.

## 10.0 Period Of Confinement

~~10.1 The owner of any dog, shall, during the period commencing half an hour after sunset on each day and ending half an hour before sunrise on the next day, keep the dog tied up or otherwise confined. Nothing in this section prevents a person from exercising a dog in a dog exercise area identified in this bylaw or on a leash.~~

- 10.1 *The owner of every dog shall ensure that the dog is not at large and is securely confined to the owners property or premises at all times unless in the possession of a responsible person and under the proper control. Nothing in this section prevents a person from exercising a dog in a dog exercise area identified in this bylaw or on a leash.*

## 11.0 Number of Dogs Permitted

- 11.1 No occupier of land within any area other than that zoned rural, shall keep or allow to be kept on any land more than **two** dogs over the age of three months unless the occupier has been licensed for such purposes by the Council.
- 11.2 Every application for a licence to keep more than **two** dogs shall be in a form as contained in the first schedule to this bylaw and include such additional information as the Council or the Dog Control Officer may request, and must be accompanied by the appropriate fee as the Council may determine from time to time by resolution.
- ~~11.3 Any licence issued by the Council may be subject to such terms and conditions as the Council may consider necessary.~~

*(i) The licence shall be issued subject to the applicant meeting the following criteria:*

- a) Must have the physical suitability of land to hold more than two dogs*

- b) *Must meet selected owner criteria*
  - c) *Must have written approval of neighbours on all sides of the applicants property*
  - d) *Must meet such terms or special conditions as the inspecting officer may attach to any licence*
- (ii) *When owners and dogs change address, a new application must be submitted for the new address.*
- 11.4 The Council may at any time whilst a licence is in force revoke or refuse to renew that licence if it is satisfied that:
- a) The dog or dogs on the land specified in the licence have caused injury or a nuisance to any person engaged in their lawful activity; or
  - b) The keeping such dog or dogs has caused a detrimental effect upon the surrounding neighbourhood; or
  - c) There has been a failure to comply with all or any of the terms, conditions and restrictions of the licence, or any subsequent notice issued by the Council.
- 11.5 Any application by the occupier of any land in respect of which an application was declined or licence revoked by Council pursuant to Clause 10.4 will not be reconsidered by the Council before the expiration of two years after the date of that refusal or revocation.
- 11.6 Nothing in this section shall remove the need for any Land Use Consent if this is required by the District Plan.

## 12.0 Minimum Standards For Accommodation Of Dogs

- 12.1 The owner of any dog shall provide adequate accommodation for the dog. Kennels are to be sited on a hard surface, provide shelter from the elements and be free from dampness. Kennels are to be kept in a clean condition. If a kennel is not provided, dogs are to be confined inside premises with an adequate sleeping area provided.
- 12.2 Every person commits an offence, who, being the owner of a dog keeps it beneath the ground floor of a residential building.

## 13.0 Dogs To Be Kept Minimum Distance From Boundary

- 13.1 No person shall permit or allow a dog to be housed, confined or restrained on any private premises within one metre of the boundary of the premises.
- 13.2 The Council may dispense with the requirements of this clause if the written consent of the affected neighbour has been first obtained.

## 14.0 Mangy Or Diseased Dogs

- 14.1 A person who owns or has control or charge of any mangy or diseased dog shall not take that dog into any public place or permit the dog to enter or remain in any public place or wander free or suffers such dog to remain thereon unless being taken to a veterinary clinic.

## 15.0 Responsibility To Remove Faeces

- 15.1 Every person commits an offence, who, being the owner or person having control of any dog that fouls any public place fails to remove and properly dispose of the dog faeces immediately. Where a public litter bin or similar receptacle is used to dispose of the faeces they must be suitably wrapped or contained to prevent fouling of such receptacle.

## 16.0 Bitch In Season To Be Confined

- 16.1 The owner of any bitch shall keep the dog confined but adequately exercised whilst such dog is in season.

## 17.0 Aggravation Of Dogs

- 17.1 Every person commit an offence who wilfully behaves or acts in such a way so as to cause any dog to become restless or unmanageable, or incites any dog to fight with or attached any other animal or person.

## 18.0 Dogs Becoming A Nuisance Or Injurious To Health

- 18.1 If in the opinion of the Council, any dog or dogs or the keeping thereof on such premises has become, or is likely to become a nuisance or injurious or hazardous to health, property or safety, the Council or Officer may be notice in writing require the owner or occupier of the premises within a time specified in such notice to do all or any of the following:
- a) To reduce the number of dogs kept on the premises.
  - b) To construct, alter, reconstruct or otherwise improve the kennels or other buildings used to house or contain the dogs.
  - c) To require such dog or dogs to be tied up or otherwise confined during specified periods.
  - d) To take such other action as the Council deems necessary to minimize or remove the likelihood of nuisance or hazard or injury to health, property or safety.

## 19.0 Pound

- 19.1 The Council's pound is located at the entrance to the Rangitoto Landfill off William Street, Te Kuiti.
- 19.2 The Council may be resolution change the location of any pound or create additional pounds.
- 19.3 Where any dog is seized for impounding under the provisions of this bylaw, and it is not practicable by reason of time or distances to place that dog in any pound appointed by the local authority for that purpose, a Council Officer may with the consent of the occupier thereof, use any land as a temporary pound for such dog for any reasonable period until its disposal in terms of this bylaw or the Dog Control Act 1996.
- 19.4 No dog shall be released from any pound including a temporary pound until the owner of the dog has paid to the Council a fee which shall include fees for the sustenance of the dog.
- 19.5 No dog which is for the time being not registered in accordance with the Dog Control Act 1996, shall be released until it is registered and the fees payable have been paid.
- 19.6 The Council pound will be opened at times when appointments are made with the Dog Control Officer at the District Council Office between the hours of 8.00 am and 4.30 pm, Monday to Friday (except public holidays).
- 19.7 Any person who enters any Dog Pound established by the Council for the purpose of releasing any dog impounded by a Dog Control Officer, Dog Ranger, or other authorized person, without payment of the impounding, sustenance or other fees, or who is found in

possession of any dog which has been removed by any person from any such dog pound without payment of such fees, commits an offence against this Bylaw.

## 20.0 Disposal Of Impounded Dogs

- 20.1 The Council may dispose of impounded dogs in accordance with the provisions of the Dog Control Act 1996 which provides amongst other things the following:
- a) As soon as practicable after any dog has been impounded, the local authority shall, in the case of a dog wearing a current registration label or disc or where the owner of the dog is known through some other means, give written notice to the owner that the dog has been impounded and that unless to dog is claimed and any fee paid within seven days of the receipt of that notice, it may be sold, destroyed, or otherwise disposed of in such manner as the local authority thinks fit, and after the expiry of that period the local authority may so dispose of the dog.
  - b) Where the owner of the dog is not known and cannot be identified from the dog registration label or disc, the local authority may, after expiration of seven days after the date of seizure of the dog, sell, destroy, or otherwise dispose of the dog in such manner as it thinks fit.

## 21.0 Fees

- 21.1 The Council may by resolution set the fees payable in respect of any matter for which it is authorised to charge a fee pursuant to:
- a) The Dog Control Act 1996; or
  - b) The Local Government Act 2002; or
  - c) This Bylaw

## 22.0 Penalties

- 22.1 Any person who fails to comply with these bylaws commits an offence and shall be liable upon summary conviction to the maximum penalty as provided from time to time in the Dog Control Act 1996 or the Local Government Act 2002 or where any person is alleged to have committed an infringement offence specified in the First Schedule to the Dog Control Act 1996 that person may either:
- a) Be proceeded against summarily for the offence; or
  - b) Be served with an infringement notice as provided in Section 66 of the Act.

<b>Schedule 1</b>
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**Application for Approval to Keep more than one Dog**

Pursuant to the Waitomo District Council Dog Control Bylaws 2008

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The following information must be completed by the dog owner applying for approval.

Please print in BLOCK CAPITALS

1. Name of Applicant
2. Postal Address – property where dogs are kept
3. Contact Phone Number
4. Number of Dogs on Property

Signature of Applicant: .....

Date: .....

---

**OFFICE USE ONLY**

Kennel Facilities:

Property Fenced: YES/NO

Number of Dogs:

Date of Inspection:

**Note for Applicants**

Requirements for a permit are as follows:

1. Dogs to be kept under control at all times
2. Dogs must not create a nuisance (barking, howling etc)
3. Kennels must be kept clean and sited a minimum of 1 metre from the boundary fence
4. All dogs must be currently registered
5. If any further dogs are acquired or any dog disposed of the Waitomo District Council must be immediately notified of the change.



WAITOMO DISTRICT COUNCIL  
P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

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# Statement of Proposal

## Review of

# Waitomo District Council

## Solid Waste Bylaw



# WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

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### TIMETABLE

Date	Activity
8 April 2014	<ul style="list-style-type: none"> <li>Public advertising of "Statement of Proposal".</li> <li>Copies of Reviewed Solid Waste Bylaw sent to interested parties</li> <li>Copies available for general public</li> <li>Submissions open for the Draft Solid Waste Bylaw</li> </ul>
8 May 2014	<ul style="list-style-type: none"> <li>Submissions close for the Draft Solid Waste Bylaw</li> </ul>
22 May 2014	<ul style="list-style-type: none"> <li>Hearing by Council</li> </ul>
5 June 2014	<ul style="list-style-type: none"> <li>Deliberations by Council</li> </ul>
24 June 2014	<ul style="list-style-type: none"> <li>Adoption of Solid Waste Bylaw by Council</li> </ul>



## WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

### SUMMARY OF INFORMATION

This summary is an overview of the information contained in the Waitomo District Council's reviewed Solid Waste Bylaw. The full Bylaw is attached to this Statement of Proposal.

The reviewed bylaw addresses recycling and collection of waste, use of council waste facilities, use of litter bins, waste management for events and licensing of waste collectors.

All the provisions are aimed at reducing and managing the waste stream:

- a) Collection of household waste and recyclables: The bylaw authorises Council to amend the rules governing the collection of waste and recyclables from time-to-time. It makes it compulsory to separate recyclables from household waste. It regulates the types of waste that may be put out, the type of containers to be used and the responsibilities of householders and collectors.
- b) Trade refuse: The bylaw regulates the type of refuse that may be put out for collection and requires the occupier to make arrangements for the removal of trade refuse.
- d) Waste disposal sites and transfer stations: The bylaw regulates entry to and use of waste disposal facilities. It also regulates the types of waste that may be disposed of at Council facilities and defines types of waste that are prohibited from disposal at Council facilities.
- e) Litter bins: The bylaw prohibits interference with litter bins and prohibits the disposal of household waste to these bins.
- f) Waste management for events: The bylaw require organisers of special events in public places to submit a waste management plan as part of the application to use the premises.
- g) The bylaw requires waste collectors to obtain a licence from Council within six months of the bylaw becoming operational and regulates issues relating to licences.

As a component of the review of the Solid Waste Bylaw Waitomo District Council has analysed the provisions of the bylaw and addressed those provisions against other solid waste bylaws enforced by territorial authorities in the region. As a result of the exercise several minor amendments are included in the reviewed bylaw:

- Amendments have been made to prevent owners or occupiers from creating a nuisance by accumulating refuse.
- An amendments has been included that requires the prior approval of Council before commercial quantities of waste from out of district can be taken to Councils waste disposal facilities.

The Statement of Proposal (SoP) is available from:

- Waitomo District Council office in Queen Street Te Kuiti,
- The Mokau Museum Main Road Mokau
- Waitomo Caves Discovery Centre, Waitomo Village
- Councils website [www.waitomo.govt.nz](http://www.waitomo.govt.nz)

It is also available by contacting Council on (07) 878 0800.

**Your feedback and opinions are important** to ensure Council can make decisions with an understanding of what is important to the community.





# **Review of Solid Waste Bylaw**

**2014**



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## PART A: GENERAL

### 1.0 SCOPE

- 1.1 The scope of this bylaw is to:
- (a) To ensure that household waste is reduced, collected and disposed of in the interests of public health and in an efficient and cost effective manner; and
  - (b) To provide for the efficient collection and recovery of recyclable waste; and
  - (c) To ensure that the obstruction of streets and roads by waste for collection is minimised; and
  - (d) To manage waste management facilities for the optimum disposal or recycling of waste.
- 1.2 This bylaw was made pursuant to the Waste Minimisation Act 2008 and the Local Government Act 2002.

### 2.0 INTERPRETATION

- 2.1 For the purposes of this Bylaw the following interpretations shall apply:

**APPROVAL or APPROVED** means Approval or Approved in writing by Council, either by resolution of Council or by an Authorised Officer.

**APPROVED CONTAINER** includes approved bins, approved pre-paid rubbish bags, and approved rubbish bags with prepaid tokens attached.

**AUTHORISED OFFICER** means any person appointed by Council to act on its behalf and with its authority and includes an agent of Council.

**CLEANFILL WASTE** means any inert material that does not undergo any physical, chemical or biological transformation and will not cause adverse environmental effects or health effects once it is disposed of to ground.

**COLLECTION DAY** means the day nominated by Council for the collection of refuse and recyclables from the street Kerb.

**COUNCIL** means the Waitomo District Council.

**DISTRICT** means the district of the Waitomo District Council.

**FEES AND CHARGES MANUAL** means the list of items, terms and prices for services associated with services as adopted and approved by Council.

**FOOTPATH and ACCESSWAY** have the respective meanings given to them by Section 315 of the Local Government Act 1974.

**HAZARDOUS WASTE** means any waste that:

- a) Contains substances defined in Section 2 of the Hazardous Substances and New Organisms Act 1996, which exceed the minimum degree of hazard specified by the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001, or
- b) Meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and the NZ standard 5433: 1999 – Transport of Dangerous Goods on land; or
- c) Is publicly notified by Council from time to time by resolution publicly notified to be hazardous and to require special handling for the purpose of collection transportation or disposal.

**INFRIINGEMENT** means an offence as specified by this bylaw under sections 243 and 259 of the Local Government Act 2002.

**INORGANIC HOUSEHOLD COLLECTION** means a kerbside collection of unwanted household items specifically allowed by Council resolution from time-to time.

**LANDFILL** means land set aside by Council upon which the deposit and disposal of solid waste to ground can lawfully occur.

**LANDFILL CONTRACTOR** means any person or company, employed by Council, engaged in the operation, control or management of a landfill.

**LICENSED COLLECTOR** means any person that has been granted a licence by Council to collect rubbish or recyclables from the street.

**LITTER** shall have the meaning as under the Litter Act 1979.

**LITTER BIN** means a refuse receptacle placed or installed by Council on a street or other public place for public use to deposit litter so as to prevent littering.

**LONG TERM PLAN (LTP)** means the operative Long Term Council Community Plan adopted under section 93 of the Local Government Act 2002.

**OCCUPIER** means the occupier of any property, and in any case where any building, house, tenement or premises is or are unoccupied shall be deemed to include the owner of such building, house, tenement or premises.

**PERSON** includes a corporation sole and also a body of persons, whether corporate or unincorporated.

**PREMISES** means any land, house, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings and places adjoining each other and occupied together shall be deemed to be the same premises.

**PROHIBITED WASTE** means any explosive(s), liquid or viscous fluid, radioactive wastes (excluding domestic smoke detectors), used oil, lead acid battery and refrigerators and/or freezers that have not been professionally degassed.

**PUBLIC PLACE** means every road, footpath and thoroughfare of a public nature or open to or used by the public as of right, reserve, park, domain, walkway, walking track, beach, foreshore, river esplanade and recreational ground under the control of Council.

**RECYCLABLES** means tin cans, aluminium cans, steel cans, plastic products coded "1 or 2", glass, paper, cardboard and such other items as may be publicly notified by the council as recyclable refuse from time to time.

**RECYCLE BIN** means a Council approved bin or other container for the placement of recyclables only for collection.

**ROAD** has the meaning given to it by the Land Transport (Road User) Rule 2004.

**SHARP HEALTHCARE WASTE** means any waste generated by healthcare services that is also sharp and includes a sharp home healthcare waste as defined by NZS 4304:2002 and specifically includes needles:

- a) The meaning of "sharp" shall be the same as included in NZS 4304:2002 under the definition of "sharps".

**SPECIAL WASTE** means any waste whether from a trade premise or any other source which is hazardous, toxic or by its nature requires special disposal because of environmental considerations or landfill operational requirements.

**STORMWATER** means surface water run-off resulting from precipitation.

**STREET** shall have the same meaning as **ROAD** herein.

**TCLP TEST** means a 'Toxicity Characteristic Leaching Procedure' test that estimates the potential for both organic and inorganic constituents to leach from a non-liquid waste. The test results indicate the environmental acceptability of disposing the non-liquid to landfill.

**TRADE REFUSE** means scrap, waste material, any sewerage or liquid, or rubbish resulting from the conduct of any factory, manufacture, process, trade, market or other industrial operation or undertaking.

**TRANSFER STATION** means a facility that receives material for possible segregation consolidation or compaction for bulk transport for resource recovery, treatment, or disposal facilities.

**TRANSFER STATION CONTRACTOR** means any person or company contracted to Council to operate, control or manage or assist in the control or management of a transfer station.

**WASTE** means any solid, material or thing that is discarded, discharged or selected for disposal.

**WASTE COLLECTION CONTRACTOR** means any person or company contracted or licensed by Council for the purpose of the collection of refuse.

**WASTE DISPOSAL SITE** means any landfill or closed landfill operated by or for Council for the disposal or temporary storage of refuse or any specified refuse. It includes those transfer stations owned by and operated for Council.

**RESIDUAL WASTE OR SOLID WASTE** means waste which is not suitable for composting or for recycling and which is not trade refuse.

**WORKING DAY** means any day of the week other than:

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day;
- (b) a day in the period commencing with the 25th day of December in a year and ending with the 2nd day of January in the following year;
- (c) if 1 January falls on a Friday, the following Monday; and
- (d) if 1 January falls on a Saturday, the following Monday and Tuesday.

## 3.0 OFFENCES AND PENALTIES

### 3.1 Offences

- 3.1.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this bylaw without first obtaining that licence or approval and the failure to do so shall constitute a breach of this bylaw.
- 3.1.2 No application for a licence or authority from Council and no payment of or receipt for any fee paid in connection with such application, licence or authority, shall confer any right, authority or immunity on the person making such application or payment.
- 3.1.3 Everyone commits an offence against this Bylaw who:
  - (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this bylaw; or
  - (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this bylaw, ought to be done at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this bylaw he or she is required to refrain from doing; or
  - (d) Permits or suffers any condition of things to exist contrary to any provision contained in this bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given under this bylaw; or

- (f) Obstructs or hinders any officer of Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this bylaw; or
- (g) Fails to comply with or acts in contravention of any provision of this bylaw or any direction given in this bylaw; or
- (h) Breaches the conditions of any consent to discharge granted pursuant to this bylaw.

3.1.4 In all cases Council may recover costs associated with damage to any Council property and/or breach of this bylaw in accordance with Sections 175 and 176 of the Local Government Act 2002 respectively.

### **3.2 Penalties**

3.2.1 Every person convicted of an offence against this bylaw shall be liable to the penalties as set out in Section 242 (4) of the Local Government Act 2002 and further if the offence is one to which Section 243 of the Local Government Act 2002 applies (and is therefore an infringement offence) shall be liable to infringement fees as prescribed by Regulations made under Section 259 (b) of the Local Government Act 2002, or where any person is alleged to have committed an offence against this bylaw; be proceeded against pursuant to any other enactment so empowering Council.

3.2.2 The continued existence of any building, land, premises or thing in such a state or form as to be in contravention of any provision of this bylaw, shall be deemed to be a continuing offence under this bylaw.

## **4.0 EXEMPTIONS**

4.1 Where in the opinion of Council full compliance with any of the provisions of this bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, Council may, on the special application of that person, dispense with the full compliance with the provisions of the bylaw; provided that any other terms and conditions (if any) that Council may deem fit to impose shall be complied with by that person.

## **5.0 FEES**

### **5.1 General**

5.1.1 The fees for the use of Council solid waste disposal facilities, the collection of waste, and any other matter described in this bylaw shall be as set out in Council's Fees and Charges Manual and/or calculated in terms of formulae approved by Council from time to time.

Note: Section 46 of the Waste Minimisation Act 2008 authorises Council to structure its Solid Waste fees and charges without reference to its actual costs to act as incentive or disincentive to promote the objectives of the Solid Waste Management and Minimisation Plan.

### **5.2 Recovery of Costs**

5.2.1 Council may recover costs under Local Government Act 2002 relating to wilful damage or negligent behaviour (section 175) and remedying damage arising from any breach of this bylaw (section 176).

## PART B: SOLID WASTE

### 6.0 COLLECTION OF WASTE AND RECYCLABLES

#### 6.1 Household Waste and Recyclables

- 6.1.1 Council may from time to time amend rules governing the collection of waste and/or recyclable waste by or for Council, including:
- a) The days and hours that an operated transfer station will be available for solid waste disposal and management.
  - b) The days that a collection is to take place.
- 6.1.2 Such rules shall be enforceable under this part.
- 6.1.3 Every owner or occupier of any premises shall ensure that no accumulation or collection of refuse, except as is herein provided, is permitted or suffered to remain or be in, on or about such premises or any portion thereof without Waitomo District Council consent
- 6.1.4 No person shall dispose of household refuse by burying it or burning it in such a manner as to cause a nuisance or in breach of any enactment.

#### 6.2 Separation of Recyclables

- 6.2.1 No occupier of any premises shall cause or allow to be put out for collection from the street any recyclable materials unless the recyclables have been separated from the household waste and are contained in a separate container, except that paper and cardboard need only be secured as a package.

#### 6.3 Use of Collection Service

- 6.3.1 Where Council makes provision for a waste collection service, users of that service must:
- (a) Place approved refuse bags out before 8.00am on the morning of the collection. (Neither Council nor any waste collection contractor or agent employed by Council will accept responsibility for the non-collection of waste if it is not put out for collection by 8.00am on the day appointed for collection in the area concerned, or in the case of special circumstances, the time specified on the notification).
  - (b) Ensure that all waste is in a Council approved rubbish bag.
  - (c) Ensure that the contents of any rubbish bag do not soak or escape there from so as to be injurious or dangerous to health, cause an offensive smell or be a source of litter.
  - (d) Tie each bag securely closed so as to protect contents from the rain, dispersal by wind or ingress of flies and vermin.
  - (e) Must ensure that recyclables are in a recycling bag/bin.
- 6.3.2 No person shall place waste out for collection in a manner where:
- a) The rubbish bag is damaged or otherwise likely to cause injury to the collector; or
  - b) In the opinion of Council or waste collection contractor, the waste is in an unsanitary or in an offensive condition; or
  - c) The waste includes waste prohibited under this bylaw; or
  - d) The bag is not an approved Council rubbish bag; or
  - e) The bag is in a condition that allows spillage of waste; or

- f) The bag or the waste does not comply with the rules under this part in terms of type; or
- g) Any other reason which the waste collector deems would cause a health and safety concern to the waste collection operation.

6.3.3 No person shall put their waste outside another person's property without the prior approval of an authorised officer.

#### **6.4 Prohibition of Certain Materials**

6.4.1 No person shall put out or cause or allow to be put out for collection, whether or not in an approved container:

- (a) Any explosive, hot ashes, highly flammable material, sharp healthcare waste or any other matter or thing other than household or garden rubbish.
- (b) Any liquid or other fluid.
- (c) Any sharp material or thing unless such material or thing is wrapped so as to prevent injury to any person engaged in collection work.

#### **6.5 Trade Refuse**

6.5.1 No person shall cause or permit any undue accumulation of trade refuse to be or remain in, upon or about any trade premises occupied by that person.

6.5.2 Household type waste placed out in an approved container will be collected by Council's waste collection contractor.

6.5.3 The occupier shall make his/her own arrangements either to remove any trade refuse from the premises for disposal, or with the Council or a private collection service to collect and dispose of any trade refuse from the premises.

*6.5.4 Where in the opinion of Waitomo District Council an accumulation exists on any premises of trade refuse or salvaged material which is, or is likely to be, injurious to health, or offensive, or to harbour vermin, or is likely to create a fire hazard, Waitomo District Council may by notice in writing require its removal and disposal.*

#### **6.6 Obstruction of Footpath**

6.6.1 No person shall place any receptacle for rubbish or recyclables, whether full or empty, on a footpath, carriage-way, cycleway or pedestrian way or at any location which would endanger the public and/or restrict visibility.

#### **6.7 Non Collection**

6.7.1 When the waste collector does not remove any bag of waste or recyclables because of non-compliance with this bylaw they are required to place a "Rejected Notice" on the bag to inform the occupier why the waste has been rejected.

6.7.2 The occupier is responsible for any waste not collected because of non-compliance with this bylaw. Any waste or recyclables shall be removed back to the occupier's premises by evening of collection day and alternative arrangements for disposal shall be made by the occupier as soon as practicable.

#### **6.8 Responsibility for Litter-Free Collection**

6.8.1 Except in the case of any litter resulting from an occupier's failure to comply with clause 6.3 and/or 6.4 above, the waste collector must ensure that all of the waste or recyclables put out for collection by that collector is collected and that no consequent litter remains once the relevant waste collection or recyclables collection has been completed.

#### **6.9 Inorganic Collection**

6.9.1 No person shall place any household items such as white ware, furniture or any other objects out for collection other than on a day determined by Council by special resolution and publicly notified.

## **6.10 Interference with or Removal of Waste or Recyclable Materials**

- 6.10.1 The interference with or removal of waste or recyclables from any public place by anyone other than either the occupier or owner of the property from which the waste or recyclables were generated, or a person authorised by Council to remove such waste or recyclables, is prohibited.

## 7.0 WASTE DISPOSAL SITES AND TRANSFER STATIONS

### 7.1 General Provisions

- 7.1.1 All persons entering any waste disposal site, transfer station or landfill shall observe and comply with all erected signs, or any instructions given by an authorised officer with regard to operational and safety matters relating to the site or the depositing of waste or recyclable waste therein.
- 7.1.2 No person shall at any waste disposal site or landfill site:
- a) Enter other than for the purpose of depositing waste and/or recyclables and only during such hours as the site is open.
  - b) Dispose any special waste without the written consent of an authorised officer and in accordance with whatever conditions may be imposed in relation to the nature of the disposal required, or any charges that may be imposed.
  - c) Tip, throw, or deposit any waste in any manner at any place on any waste disposal site which is not intended for that purpose.
- 7.1.3 An authorised officer may refuse to accept, at any waste disposal site any waste for which fees or charges have not been paid or which, in his or her opinion:
- a) May cause undue hazard to the health and safety of the public or to any operator of the site, or
  - b) May damage the environment; or
  - c) Cannot be adequately treated or handled by the normal methods used on that site.
- 7.1.4 No person shall remove any deposited waste, article or materials from any waste disposal site without the consent of an authorised officer, provided that this shall not apply to any person authorised by Council to remove articles or materials for recycling or reuse.
- 7.1.5 All waste, garden waste, recyclable waste unwanted articles or other things deposited and left at any waste disposal site shall be deemed to be the property of Council which may dispose of such materials by recycling or in such other manner as it sees fit.
- 7.1.6 The person so depositing and leaving such waste shall be deemed to have abandoned all claims to ownership thereof but shall not be relieved of any liability for damage flowing in any way from such action nor from the penalties provided for offences against this part.
- 7.1.7 No person shall take any animal on to any waste disposal site or allow any stock to wander or graze thereon without the prior consent of an authorised officer.
- 7.1.8 An authorised officer may require any person to leave any waste disposal site, with or without any waste brought by that person for disposal, who is on the site contravening the provisions of this part.
- 7.1.9 All waste to be transported by vehicle through, over or upon any road or public place, is to be sufficiently and adequately covered to prevent the waste from falling or otherwise escaping on to any road or other public place.

### 7.2 Council Transfer Stations

- 7.2.1 All persons using any transfer station facilities shall ensure that:
- a) All waste is separated into recyclable refuse and residual waste categories.
  - b) All waste is off-loaded at the place and in the manner directed by the site operator.
  - c) All reasonable steps are taken to assist in the minimisation of waste.
  - d) All reasonable steps are taken to protect the health and safety of all of those persons on site including site staff.

- e) No prohibited waste is off-loaded.
- 7.2.2 No person shall deposit any special or hazardous waste in any place except at the hazardous waste facility at Waitomo District Landfill, and persons using the hazardous waste facility must before using the facility:
- a) Complete all Health and Safety documentation.
  - b) Pay any applicable fee for the disposal of commercial quantities of hazardous waste.
- 7.2.3 No person shall:
- a) Deposit any general waste in any place, facility or container designated for the deposition of recyclables.
  - b) Disregard any reasonable instruction of an authorised officer to separate recyclables from general waste and to deposit them as directed.
  - c) Wrongly or unlawfully dispose of non-recyclable waste or hazardous waste through the recycling system.
- 7.3 Council Landfill**
- 7.3.1 The minimum opening hours for the Council landfill shall be approved by resolution publicly notified.
- 7.3.2 The following types of general waste will be accepted at the Council landfill:
- a) Municipal or domestic waste collected for disposal.
  - b) End of life tyres.
  - c) Non-hazardous commercial and industrial refuse acceptable for co-disposal with municipal or domestic waste.
  - d) Clean fill if authorised as acceptable material by an authorised officer.
- 7.3.3 No person shall deposit any special waste, other than listed below, at the landfill:
- a) Asbestos (acceptable only if provided in accordance with the Asbestos Regulations 1998); or
  - b) Small quantities of solids and liquid waste suitable for co-disposal with municipal refuse; or
  - c) Hydrocarbon contaminated material; or
  - d) Non hazardous liquid waste and waste from commercial grease interceptors which cannot be disposed of at the Te Kuiti Waste Water Treatment Plant; or
  - e) Non-hazardous commercial and industrial refuse; or
  - f) Screenings from approved waste water treatment plants; or
  - g) Small quantities of waste products containing potentially hazardous materials that is not likely to have adverse effects when contained within the residential refuse collection; or
  - h) Landfill leachate; or
  - i) Other such waste which when tested by a TCLP test shows that the leachate concentrations will not affect the landfill's trade waste consent conditions.
- 7.3.4 No person shall dispose of special waste without first having obtained the written permission of Council and unless all relevant documentation has been completed and submitted to the weighbridge operator.

7.3.5 Prohibited wastes shall not be accepted at any landfill.

#### **7.4 Out of District Waste**

7.4.1 Except of with the prior permission of the Council, no person shall be allowed entry to any waste management and minimisation facility who has bought into the District **commercial** waste or recyclables for the purpose of depositing such waste or recyclables, whether in its original or some other form.

## **8.0 LITTER BINS**

8.1 No person shall interfere with, or remove any litter bin erected or placed on any road or other public place for the depositing of litter by the general public, or the contents thereof other than an employee or agent of the person or organisation responsible for the emptying, cleansing or repair of that receptacle.

8.2 No unauthorised person shall remove, relocate, damage, deface, write or place any sign or in any way interfere with any litter bin being the property of Council.

8.3 No person shall dispose of household or commercial waste into any street litter bin.

## **9.0 WASTE MANAGEMENT FOR EVENTS**

9.1 The organiser of a special event held in a Public Place shall at the time of making application to Council for consent to the use of the Public Place provide, to the satisfaction of Council, a Waste Management Plan produced for the special event.

9.2 The Waste Management Plan shall identify:

- a) An estimate of the types and volumes of waste to be generated by the event;
- b) Any opportunities for waste minimisation;
- c) The steps to be taken to maximise the use and collection of recyclables or re-useable materials;
- d) The waste and recyclables collection, storage and transportation equipment to be provided;
- e) The method of and person responsible for the collection and disposal of waste generated by the event;
- f) The arrangements made for the provision of post-event waste analysis and reporting of that information to Council.

## **10.0 LICENSING OF WASTE COLLECTORS**

### **10.1 Obligation to Obtain Licence**

10.1.1 All waste collectors operating or intending to operate within the District must within six months from the date that this Bylaw becomes operational obtain a licence from Council to do so.

### **10.2 Application for Licence**

10.2.1 Applications for licences, permissions or approvals under this part of bylaw must be made in the prescribed form as determined by Council from time to time and be accompanied by any application or processing fee and such further supporting information as Council requests.

10.2.2 No application made under Section 10.2.1 and no payment of or receipt for any fee paid in connection with such an application, shall confer any right, authority or immunity on the person making the application.

### 10.3 Granting of Licence

10.3.1 Licences, permissions or approvals shall be granted at the discretion of the Council, and may be subject to such terms and conditions as Council thinks fit.

10.3.2 In considering whether to grant a licence to any person to carry on a trade or business that involves the collection of any waste or recyclables from the street, Council may take into account any matters bearing on the suitability of the applicant to hold the licence and the need for and suitability of the collection including but not limited to the following matters:

- (a) The extent to which the licensed activities will promote public health and safety and achievement of Council's waste management and minimisation plan and zero waste philosophy;
- (b) The type of waste or recyclables proposed to be collected;
- (c) The type and specification of vehicles, equipment and containers proposed to be used for the collection services;
- (d) The frequency and location of the proposed services;
- (e) The proposed manner of treatment (if any) and disposal of the waste and recyclables.
- (f) The applicant's experience, reputation and track record in the waste industry;
- (g) The applicant's financial position;
- (h) The terms of any contracts or proposed contracts between the applicant and the occupiers of premises, and in particular contractual provisions relating to:
  - (i) Waste minimisation;
  - (ii) Containers not obstructing footpaths, carriageways, cycleways or pedestrian ways or otherwise causing an obstruction that would endanger the public.

10.3.3 The terms and conditions upon which a licence to carry on a trade or business that involves the collection of any waste or recyclables from the street may be granted will include but are not limited to the following matters:

- (a) The term of the licence;
- (b) The licence fee;
- (c) The provision to Council of a works performance bond or security for the performance of the work licensed, of an amount determined by Council from time to time;
- (d) Compliance with any relevant Council standards and policies for the collection, transportation and/or disposal of refuse or recyclables;
- (e) Provision of services on the days and times and at the locations, specified in the licence;
- (f) The identification and display by the collector of a telephone number free of charge to callers from the District;
- (g) The holding of public liability insurance acceptable to Council;
- (h) Provision to Council of information as specified by Council from time to time relating to:
  - (i) The quantities and types of waste and recyclables collected; and
  - (ii) The source and destination of the waste and recyclables collected.

### 10.4 Suspending or Revoking Licences

10.4.1 Council may revoke or suspend a licence granted under this bylaw if it reasonably believes the licence holder:

- (a) Has acted or is acting or is proposing to act in breach of the licence; or
- (b) Is unfit in any way to hold or retain such a licence.

- 10.4.2 Council may require the licence holder to attend a hearing to explain why the licence should not be revoked or suspended. Council may revoke or suspend the licence at its discretion, if either;
- (a) The licence holder does not attend the hearing; or
  - (b) If after the hearing the Council is satisfied that either of the grounds in clause 10.4.1 existed beyond a reasonable doubt.
- 10.4.3 Council may suspend any licence granted under this bylaw for a period not exceeding 72 hours during the staging of any special event, by giving the licence holder 15 days notice in writing. Council may suspend any such licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.



WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

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# Statement of Proposal

Review of

Waitomo District Council

Public Health and Safety  
Bylaw



# WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

## SUMMARY OF INFORMATION

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### TIMETABLE

Date	Activity
8 April 2014	<ul style="list-style-type: none"> <li>Public advertising of "Statement of Proposal".</li> <li>Copies of Reviewed Public health and Safety Bylaw sent to interested parties</li> <li>Copies available for general public</li> <li>Submissions open for the Reviewed Public Health and Safety Bylaw</li> </ul>
8 May 2014	<ul style="list-style-type: none"> <li>Submissions close for the Reviewed Public Health and Safety Bylaw</li> </ul>
22 May 2014	<ul style="list-style-type: none"> <li>Hearing by Council</li> </ul>
5 June 2014	<ul style="list-style-type: none"> <li>Deliberations by Council</li> </ul>
24 June 2014	<ul style="list-style-type: none"> <li>Adoption of Public Health and Safety Bylaw by Council</li> </ul>



## WAITOMO DISTRICT COUNCIL

P O Box 404, Te Kuiti 3941 Ph. (07) 878 0800 Fax. (07) 878 7771

### SUMMARY OF INFORMATION

This summary is an overview of the information contained in the reviewed Waitomo District Council's Public Health and Safety Bylaw. The full Bylaw is attached to this Statement of Proposal.

The bylaw addresses the perceived threats to public health and safety by regulating certain activities so as to ensure that they do not cause a nuisance, are safe and minimise the potential for public harm. Specific examples of how the bylaw addresses the perceived problems are:

- a) Scaffolding and Deposit of Building Materials: It sets standards around what constitutes the safe erection of scaffolding and deposit of building material in a public place. It provides rules to prevent harm to pedestrians and property.
- b) Fires in the Open Air: It provides for open, restricted and prohibited seasons for making fires in the open air. It also requires the storage of combustible materials in such a way as to prevent the spread of fires
- c) Keeping of Animals Poultry and Bees: It regulates the keeping of animals in urban areas so as to reduce the probability of animals causing nuisance and prohibits the keeping of pigs and stallions in urban areas.
- d) Body Piercing: It requires the licensing of body piercing establishments, including tattoo parlours, and regulates their operation to prevent the spread of infection and diseases.
- e) Food Safety: It sets minimum qualifications for food handlers and sets standards to ensure that safe food is available from premises in the District that sell food.
- f) Prostitution: It identifies areas where premises for commercial sexual services may establish and areas where it is prohibited. It regulates signage for such premises and prohibits soliciting.
- g) Commercial accommodation: It requires providers of commercial accommodation establishments to ensure that minimum standards of cleanliness and hygiene are maintained and prescribes minimum standards for kitchen and dining facilities.

As a component of this review Waitomo District Council has analysed the provision of the Public Health and Safety Bylaw.

The Bylaw as it is currently drafted provides Council with the necessary regulatory tools to cover the range of public health and safety activities that could be of concern to the community and does not require amendment at this time.

The Statement of Proposal (SoP) is available from:

- Waitomo District Council office in Queen Street Te Kuiti,
- The Mokau Museum Main Road Mokau
- Waitomo Caves Discovery Centre, Waitomo Village
- Councils website [www.waitomo.govt.nz](http://www.waitomo.govt.nz)

It is also available by contacting Council on (07) 878 0800.

**Your feedback and opinions are important** to ensure Council can make decisions with an understanding of what is important to the community.



## Reviewed Public Health and Safety Bylaw Submission Form

### How do I make a submission?

Return this form to Council as follows:

 <b>Post to:</b>  Chief Executive Waitomo District Council P O Box 404 TE KUITI 3941	 <b>Email to:</b> <a href="mailto:waitomo@waitomo.govt.nz">'waitomo@waitomo.govt.nz'</a> (email submissions must include all the information requested on this form)	 <b>Fax to:</b> 07 878 7771
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**Remember consultation closes on 8 May 2014  
Make sure you have your comments to Council on time**

Submission period: 8 April 2014 – 8 May 2014    Hearing Date: 22 May 2014

<b>Feedback Form: Tell us what you think</b>		Tick box
Name _____	I wish to speak in support of my submission at the hearing on this proposal in Te Kuiti	<input type="checkbox"/>
Address _____ _____	I wish to speak for _____ minutes	
Phone _____	I do not wish to speak in support of my submission	<input type="checkbox"/>
Add extra paper as required		
<p><b>Please note:</b> When making a submission, the submission forms are part of the public consultation process and public record, and as such, <b>will</b> be reproduced as an attachment to a publicly available Council Agenda and will remain on Council minute records.</p>		



# **Review of Public Health and Safety Bylaw**

**2014**



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## 1.0 SCOPE

- 1.1 The Local Government Act 2002 (LGA 2002) confers general bylaw making powers on Council. The Local Government Act 1974 specifically gives authority to the Council to adopt bylaws to regulate activities which can be carried out in roads, public places and reserves. This bylaw controls a diverse range of activities to ensure that acceptable standards of public health and safety are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular this bylaw addresses a wide range of issues that could have an adverse effect on the health and safety of the public by regulating Scaffolding and Deposit of Building Materials, Fire Prevention, Keeping of Animals, Food Safety, Body Piercing, Hostels and Prostitution.
- 1.2 Sections 145 and 146 of the LGA 2002 and other relevant Acts e.g. Forest and Rural Fires Act 1977, Health Act 1956 and Prostitution Reform Act 2003 outline some of the powers and requirements of the Council in regard to public health and safety. Areas of control so prescribed by this legislation are not necessarily repeated within this bylaw and therefore the relevant sections of these acts should be read in conjunction with the Bylaw.

## 2.0 INTERPRETATION

- 2.1 For the purposes of this bylaw the following definitions shall apply:

**ACCEPTABLE MEANS OF FIRE SUPPRESSION** means a hose connected to a reticulated water supply or an alternative means of fire suppression approved in writing in a particular case by Council.

**ACCOMMODATION ESTABLISHMENT** means a building in which accommodation is provided in consideration of payment for a single night or longer for one or more persons who are unrelated by blood or marriage (or by or through a civil union or a de facto relationship) to the person providing the accommodation, with or without a common right to the use of common cooking, dining and laundry facilities. An accommodation establishment includes but is not limited to:

- (a) A boarding house;
- (b) A guest house or bed and breakfast establishment;
- (c) A rooming house;
- (d) A private hotel;
- (e) A motel;
- (f) A residential club;
- (g) A backpacker's accommodation

but does not include:

- (a) Any premises in respect of which a licence under the Sale of Liquor Act 1989 is in force;
- (b) Any hospital or residential care facility as defined in section 2 of the Health and Disability Services (Safety) Act 2001;
- (c) Any home for aged persons required to be licensed under section 120A of the Health Act 1956;
- (d) Any residence for the purposes of the Children, Young Persons, and Their Families Act 1989;
- (e) Any child care centre required to be licensed by regulations made under the provisions of the Education Act 1989;
- (f) Any camping ground required to be licensed under regulations made under section 120B of the Health Act 1956.

**ADJOINING** means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.

**ANIMAL** means stock, poultry and any other vertebrate animal of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance.

**APPROVED** means approved by Council or by any officer authorised by Council to act on its behalf.

**AUTHORISED AGENT** means any person who is not an employee of the Council but is authorised by Council to act on its behalf under the relevant legislation.

**AUTHORISED OFFICER** means any person appointed or authorised by Council to act on its behalf and with its authority.

**BARBECUE** means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

**BODY PIERCING** any process involving piercing, cutting and puncturing the skin or any other part of the human body, or applying a dye or other substance for the purposes of colouring part of the skin. Body piercing includes such processes as acupuncture, pedicure, epilating (hair removal), body piercing, hair restoration and tattooing.

**BROTHEL:** means any premises kept or habitually used for the purposes of prostitution; but does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

**BYLAW** means a Bylaw of Council for the time being in force, made under the provisions of any Act or authority enabling Council to make Bylaws.

**CERTIFICATE** means a certificate in Food Safety that meets unit standards prescribed by the New Zealand Qualifications Authority or alternatively any certificate that has been approved by the Council.

**CHILDREN AND YOUNG PEOPLE** means individuals under 18 years of age.

**COMMERCIAL SEXUAL SERVICES** means sexual services that-

- a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
- b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).

**COUNCIL** means the Waitomo District Council or any Officer authorised to exercise the authority of the Council.

**DISTRICT** means the district within the jurisdiction and under the control of the Council.

**DISTRICT PLAN** means the Waitomo District Plan or any subsequent amendments.

**DWELLING OR DWELLINGHOUSE** includes any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation, and includes the land appurtenant to a dwelling.

**ENGINEER** means the Group Manager: Assets or his or her representative appointed by Council.

**ETHNIC COOKING FIRE** means any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.

**EXEMPTED FOOD HANDLER** means:

- (a) Any person employed in any food premises that is not involved in the manufacture, preparation or packing of food but does handle pre-packaged foodstuffs at the point of sale or in storage.
- (b) Any other person employed in food premises or who works in connection with any food premises who in the opinion of an Authorised officer is an exempted food handler.
- (c) Exempted food handlers may include:
  - (i) Supermarket checkout operators.
  - (ii) Persons employed exclusively in the handling of packaged goods in storage or the carriage of goods to and from storage.
  - (iii) Persons employed exclusively in the delivery of packaged goods to and from food premises.
  - (iv) Persons employed predominantly in the wholesale or retail sale of fruit or vegetables.

**FIRE PERMIT** means a permit to light a fire in the open air granted in accordance with clause 6.2.4 of this Bylaw.

**FOOD** shall have the same meaning as it has in section two of the Food Act 1981.

**FOOD HANDLER** means any person employed in or on any food premises that at any time may be involved in the manufacture, preparation or packing of food.

**FOOD PREMISES** shall have the same meaning as in the Food Hygiene Regulations 1974 but shall not include occasional food premises as defined in that Regulation.

**GANTRY** means a framework of steel bars raised on side supports to bridge over or around something.

**GUEST** means a person for whom any room or part thereof or rooms in a hostel is or is provided as lodging or for his/her use or occupation in consideration of payment and to whom whole or partial board may also be supplied.

**HOARDING** means a temporary wooden fence around a building or structure under construction or repair.

**HOURS OF DARKNESS** means:

- a) Any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or
- b) Any other period of time when any hoarding or scaffolding within 2.5m of the ground is not clearly seen.

**INCINERATOR** means a container used for burning of waste material, which is made of non-combustible materials and which has a grate and a lid or spark arrester.

**INCINERATOR FIRE** means a fire within an incinerator.

**KEEPER** means the person, whatever may be the nature or extent of his interest in the premises or the agent or manager appointed by that person, by whom or on whose behalf an accommodation establishment is operated or who for the time being receives or is entitled to receive the proceeds or profits arising from providing accommodation in consideration of payment.

**LICENSED** means holding a licence under this Bylaw or under any statute.

**LOCAL AUTHORITY** means the Council, person, or group of persons authorised by any Act to make Bylaws, and which has made this Bylaw, and includes the body corporate on behalf of which any such Council, person, or group acts.

**MARAE** means land and buildings of premises that are used as a traditional Maori place of meeting.

**OCCUPIER** means the inhabitant occupier of any property, and in any case where any building, house, tenement, or premises is or are unoccupied shall be deemed to include the owner as hereinafter defined.

**OFFENCE** includes any act or omission in relation to this bylaw for which any person can be punished either on indictment or by summary process.

**OPEN AIR** means in the open either on or above ground level.

**OPEN FIRE SEASON** means a period of time, whether fixed or indefinite during which the lighting of fires in the open air is permitted.

**OWNER** of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, or who would be so entitled if the same were let to a tenant at a rent, and where any such person is absent from New Zealand, shall include their attorney or agent.

**PERMITTED BROTHEL AREA** means the commercial and industrial area in any of the urban settlements in the District where Brothels may be located and includes a rural area.

**PERSON** includes a corporation sole and also a body of persons, whether corporate or unincorporated.

**PIT** means a hole excavated in the soil to such a depth that any live cinders, embers or ashes placed therein are at least one metre beneath mean ground level.

**PLACE OF WORSHIP** means land and buildings of premises that are used as a place of religious worship and are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.

**PORTICO** includes every awning, porch, verandah, shed, shade, or covering upon, across, or over any public footway or part of a road, street, private street, or accessway for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be attached.

**POULTRY** means any domesticated bird including fowl, ducks, geese, turkeys, guinea fowl, pheasants and pigeons.

**PREMISES** means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

**PRINCIPAL ADMINISTRATIVE OFFICER** means the chief executive of Council, irrespective of the designation given to that officer, and includes any person for the time being appointed by Council to perform the duties or a particular duty of the principal administrative officer.

**PROHIBITED FIRE SEASON** means the period of time, whether fixed or indefinite during which the lighting of fires in the open air is prohibited in accordance with section 6.3 of this Bylaw.

**PROSTITUTION** means the provision of commercial sexual services.

**PUBLIC NOTICE** shall have the meaning assigned to it from time to time by the Local Government Act 2002.

**PUBLIC PLACE** means any place that, at any material time, is under the control of the Council and is open to or being used by the public, whether free or on payment of a charge; and includes any road whether or not it is under the control of the Council. It also includes every reserve, park, domain, beach, foreshore and recreational grounds under the control of the Council.

**RESTRICTED FIRE SEASON** means a period of time whether of fixed or indefinite duration during which period permits or authorities are required for the lighting of fires in the open air in accordance with section 6.2 of this Bylaw.

**ROAD** shall have the same meaning as in the Local Government Act 1974 and shall where the context requires include a street.

**SCHOOL / LICENCED EARLY CHILDHOOD CENTRE** means a parcel or adjoining parcels of land that contain a school as defined in section 2 of the Education Act 1989 or a licenced Early Childhood Centre as defined in section 308 of the Education Act 1989.

**SENSITIVE SITE** means a site that is a school / Licensed Early Childhood Centre/ Kindergarten or, a place of worship or, a marae.

**SEX WORKER** means a person who provides commercial sexual services.

**SOLICIT** means any person who, in any public place offers any commercial sexual service not in pursuance to any invitation.

**STALLION** means a male horse which has not been wholly castrated.

**URBAN AREA** means any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without (an) ancillary commercial building(s).

- 2.2 For the purposes of this Bylaw the word "shall" refers to practices that are mandatory for compliance with this Bylaw, while the word "should" refers to practices which are advised or recommended.

### **3.0 OFFENCES AND PENALTIES**

#### **3.1 Offences**

- 3.1.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this Bylaw without first obtaining that licence or approval and the failure to do so shall constitute a breach of this Bylaw.
- 3.1.2 No application for a licence or authority from Council and no payment of or receipt for any fee paid in connection with such application, licence or authority, shall confer any right, authority or immunity on the person making such application or payment.
- 3.1.3 Everyone commits an offence against this Bylaw who:
- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
  - (b) Omits, or neglects to do, or permits, or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done at the time and in the manner therein provided; or
  - (c) Does not refrain from doing anything which under this Bylaw he or she is required to refrain from doing; or
  - (d) Permits or suffers any condition of things to exist contrary to any provision contained in this Bylaw; or
  - (e) Refuses or neglects to comply with any notice duly given under this Bylaw; or
  - (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw: or
  - (g) Fails to comply with any notice or direction given in this Bylaw.

#### **3.2 Penalties**

- 3.2.1 Every person convicted of an offence against this Bylaw shall be liable to the penalties as set out in Section 242(4) of the LGA 2002 and further if the offence is one to which Section 243 of the LGA 2002 applies (and is therefore an infringement offence) shall be liable to infringement fees as prescribed by Regulations made under Section 259 (b) of the Local Government Act 2002, or where any person is alleged to have committed an offence against this Bylaw; be proceeded against pursuant to any other enactment so empowering Council.
- 3.2.2 The continued existence of any work, building, land, premises or thing in such a state or form as to be in contravention of any provision of this Bylaw, shall be deemed to be a continuing offence under this Bylaw.

### **4.0 FEES AND CHARGES**

- 4.1 The fees for any certificate, authority, approval, consent given, inspection made or service given by Council and any other matter described in this Bylaw shall be as set out in Council's Fees and Charges Manual from time to time.

### **5.0 SCAFFOLDING AND DEPOSIT OF BUILDING MATERIALS**

#### **5.1 Objectives of this part of the Bylaw**

- 5.1.1 To ensure that scaffolding erected in public areas does not pose a risk to public safety or public and private property.

- 5.1.2 To limit the disruption of vehicular or pedestrian traffic flow due to unmanaged depositing of building materials or use of engines or concrete mixers in public areas.

## **5.2 Authority required for scaffolding and deposit of materials**

- 5.2.1 No person shall, without first obtaining permission from the Council:

- a) Erect or cause to be erected any scaffold, gantry, hoarding, or barricade on or over any public place or any part thereof; or
- b) Deposit any building material or building rubbish on, or make or maintain a hole or excavation in, or disturb the surface of any public place or any part thereof; or
- c) Prepare building materials on any public place or part thereof.

## **5.3 Shutting of fence or hoarding**

- 5.3.1 No person shall erect or demolish any building, or alter, add to, repair, plaster, or cause to be altered, added to, repaired, plastered, painted, or cleaned, the walls, roofs, or other external part of any building abutting on any street or public place, or the footway thereof, unless or until he shall have erected a fence or hoarding so as to shut off and render safe the traffic passing or which may pass along such street, public place, or footway, or otherwise shall have obtained approval from the Council to dispense with such fence or hoarding.

## **5.4 Security for possible damage**

- 5.4.1 Council may grant approval for the work to be undertaken subject to the provisions of this part of the Bylaw to ensure the safety and convenience of the public and protection of the street. An applicant must deposit with the Council such a sum as Council shall direct, to be held as security for the making good by the applicant of any damage that may be caused to the public property by such work or act. If the applicant does not make good such damage Council may repair or make good to the original standard, and charge the cost of such work to the applicant or deduct the cost needed aforesaid.
- 5.4.2 Council shall not grant approval until satisfied that the applicant has taken out insurance under a public liability policy in respect of injury to persons and damage to property arising out of the work involved for such sums and in such form as the Council may require.

## **5.5 Works required to be carried out for protection of the public**

- 5.5.1 Where in the opinion of the Council it is necessary in the public interest, the person intending to erect any scaffolding shall, before commencing the erection of the scaffold, form a gantry over the public footway, so as to allow pedestrians to pass beneath it. Such gantry shall be substantially constructed to the approval of the Council, and so constructed as to prevent tools, dust, rubbish, materials, or water falling upon the pedestrians, vehicular traffic and adjoining properties, and the applicant receiving the consent of the Council to erect such scaffold shall keep the public way beneath it clean to the satisfaction of the Council.
- 5.5.2 Where gantries are not required over the footway, the lower stage of the scaffold shall be close-boarded, such close-boarding to extend to a line with the outside edge of the kerb, or such other precautions taken as the Council may require so as to prevent tools, dust, rubbish, materials, or water falling upon the public.
- 5.5.3 No material shall be deposited under any scaffold on any portion of a footway used by the public.
- 5.5.4 Where needed, or where required by the Council, a boarded platform not less than 1m wide with stout post rails and wheel-kerbs on the outside of it shall be constructed outside the scaffold or enclosure.
- 5.5.5 In all cases where street channels are covered over, the person to whom the permit is issued shall prevent the obstruction of such channels during the currency of the permit.

## **5.6 Hoardings, etc, to be lighted**

- 5.6.1 All scaffolds and hoardings shall be well and sufficiently lit to the satisfaction of the Council during the hours of darkness.

## 5.7 Construction of Hoardings

- 5.7.1 Builders' hoarding shall be not less than 2m in height; they shall be constructed in a substantial and workmanlike manner of approved material, the ends shall be splayed, and the outside sheeting, whatever the material, shall be left with a smooth and even surface and when required by the Council, any hoarding or any part thereof encroaching on any street or footway shall be painted white or other appropriate colour.
- 5.7.2 Openings in hoardings shall be provided with sliding panels, hung with approved hangers, and shall slide inside the line of hoarding, or such openings may be provided with a door fixed so as not to swing outwards. No such hoarding shall be used for advertising purposes.
- 5.7.3 All fire hydrants shall be left unenclosed in recesses formed of such size and in such a manner as to enable the hydrant to be easily accessible.
- 5.7.4 Access shall be provided to all underground services within the enclosed area.
- 5.7.5 Street lamps shall not be enclosed without the permission of Council. When such enclosure is permitted, the applicant shall put a lamp or lamps temporarily outside the scaffold so that the public way may be properly lit.

## 5.8 Guarding against injury to traffic

- 5.8.1 Every person erecting, adding to, altering, repairing, plastering, painting, cleaning, or demolishing any building shall, during the operations or works necessary for such erection, additions, alterations, repairs, plastering, painting, cleaning, or demolishing, use all such other or further precautions for guarding against injury to persons using or passing along any street or public place as may be necessary or as may be directed by the Council.

## 5.9 Erection of engine or concrete mixer

- 5.9.1 No person shall, without the written permission of the Council, place, erect, or use any stationary engine, concrete mixer, air-compressor, crane, hoist, or other machinery on any public place or part thereof in such a way as to cause an obstruction.

# 6.0 FIRES IN THE OPEN AIR

## 6.1 Objectives of this part of the Bylaw

- 6.1.1 To prevent nuisances from fires in the open air.
- 6.1.2 To prevent the spread of vegetation fires.
- 6.1.3 To prevent fires from combustible materials damaging nearby buildings.

## 6.2 Fires In The Open

- 6.2.1 No person shall in any open fire season light any fire in the open air including a barbecue, ethnic cooking fire, or an incinerator fire under the following conditions:
- (a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:
    - (i) A danger to any person or property; or
    - (ii) Out of control or spread beyond the limits of the premises on which it is lit; or
    - (iii) A smoke or ash nuisance to any person
    - (iv) An odour or fumes nuisance to any person.
  - (b) Within three metres of any part of a building, tree, hedge, fence or other combustible material; or
  - (c) Without continuous supervision being maintained at all times; or
  - (d) Without an acceptable means of fire suppression being available where the fire is located on residential premises, or land adjoining such premises.

### 6.3 Restricted Fire Season

- 6.3.1 An authorised officer may at any time prescribe a restricted fire season or seasons within the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.
- 6.3.2 Any person wishing to obtain a fire permit during a restricted fire season shall apply to the Authorised Officer.
- 6.3.3 The Authorised Officer may from time to time prescribe a form of application for the purposes of 6.3.2.
- 6.3.4 Upon receiving an application under 6.3.2 an authorised officer may issue a fire permit and may impose such conditions and restrictions in respect of the permit as the authorised officer considers reasonably necessary having regard to:
- (a) Any cultural requirements or practices;
  - (b) The location, terrain, natural vegetation, and the existence of buildings or other structures and any other fuels; and
  - (c) Protection of the safety, health and convenience, of persons on the premises in respect of which the permit is issued and adjoining lands and premises.
- 6.3.5 Nothing in section 6.3 shall apply to an ethnic cooking fire, an incinerator or a barbecue. Provided that Council may in certain circumstances include the above where it considers it necessary to do so.

### 6.4 Prohibited Fire Season

- 6.4.1 An authorised officer may at anytime prescribe a prohibited fire season or seasons within the District or in any specified part or parts thereof, and may at any time cancel or vary such a prescription.
- 6.4.2 In a prohibited season no person shall light any fire in the open air including an ethnic cooking fire, an incinerator or a barbecue, and no person being the occupier of any premises shall cause, permit or suffer any fire to be lit or continue to burn in the open air on those premises.
- 6.4.3 Nothing in 6.4.2 applies to the use of gas fire barbecues. The authorised officer may in certain circumstances prohibit the use of gas barbecues.

### 6.5 Public Notice Of Restricted Or Prohibited Fire Season

- 6.5.1 Public notice of the prescription of a restricted or a prohibited fire made under 6.3.1 or 6.4.1 or the cancellation or variation of prescription, shall be made by:
- (a) Broadcast or other similar means within the District; or
  - (b) By a notice inserted in a daily or community newspaper within the District.
  - (c) By any effective means.

### 6.6 Revocation Or Suspension

- 6.6.1 Subject to 6.6.2, every fire permit issued in accordance with 6.3.4 shall remain in force from the date of issue until the expiry of the period, date or time specified in the permit, unless a prohibited fire season is declared.
- 6.6.2 Notwithstanding any other provisions in this bylaw, any permit issued under this Part of this bylaw maybe revoked or suspended by an authorised officer at any time, or suspended for such periods of time on such terms and conditions, as the authorised officer may consider reasonable in the circumstances.

### 6.7 Council May Extinguish Fires

- 6.7.1 Where a fire has been lit or allowed to burn in:
- (a) An open fire season in breach of section 6.2.1; or
  - (b) A restricted fire season in breach of the conditions of a fire permit issued in accordance with 6.3.4; or

- (c) A prohibited fire season, in breach of 6.4.2;

any officer or agent of the Council (including the New Zealand Fire Service) may extinguish any such fire or direct the occupier of the premises on which the fire is located, or the person who lit the fire, to extinguish such fire.

- 6.7.2 Where an authorised officer or agent of the Council has extinguished a fire pursuant to 6.7.1, the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, or the person who lit the fire.
- 6.7.3 Where any occupier of premises upon which a fire in the open air is located, or person who lit such a fire, disregards a Council direction under 6.7.1 to extinguish the fire, the authorised officer may authorise an agent of the Council (including the New Zealand Fire Service) to extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect the premises, or any other property.
- 6.7.4 The Council may recover from the occupier of the premises, or the person who lit the fire, any costs incurred by it as a result of its officer or agents taking any action authorised by the authorised officer under 6.7.3.

## **6.8 Live Ashes**

- 6.8.1 No person shall place any live cinders, embers or ashes in or upon any premises other than:
- (a) In a container made and constructed of concrete or other similarly fire resistant material to prevent the transmission of heat to any combustible material; or
  - (b) In a pit or upon any fire-resistant substance in a manner which will prevent the spreading of fire or heat by the action of wind or otherwise.
  - (c) As part of an ethnic cooking process including hangi and umu.

## **6.9 Removal Of Gorse And Other Growth**

- 6.9.1 No occupier or any other person having the control of any land shall allow any broom, gorse, bushes, scrub, dry grass, or similar growth to exist within 6 metres of any building or adjoining premises, in such a condition or state that it is likely to become a source of risk from fire.
- 6.9.2 An authorised officer of the Council may by written notice require an occupier or person having control of any land to remove any dangerous growth.
- 6.9.3 The Council may cut down or otherwise eradicate and remove any tree, broom, gorse, bushes, scrub, dry grass or similar growth to which 6.9.1 applies, after giving oral notice to the occupier or where there is no occupier, to the owner of the land, if life, property or any road is in imminent danger. The cost of the work shall be a charged against the land.
- 6.9.4 Should the owner or occupier fail to comply with the written request of the Council to remove the dangerous growth then the Council may arrange the removal of such growth and recover the cost of removal from the owner or occupier.

## **6.10 Storage Of Combustible Materials**

- 6.10.1 Except as provided in 6.10.2 no occupier of any premises shall permit the storage or stacking in the open of any combustible material, unless the distance of the stack from any boundary other than a street boundary is at least equal to the height of the stack, but in any case not less than 1.5 metres.
- 6.10.2 A stack may, with the written approval of the adjoining property owner, be placed closer to the boundary than specified in 6.10.1 where any of the following conditions continue to exist:
- (a) Where there is a brick, stone or concrete wall without openings situated on the adjoining property and within 1.5 metres of the common boundary; or
  - (b) Where there are no buildings on the on the adjoining land; or
  - (c) Where there is no danger of a stack adjacent to a boundary increasing the risk of the spread of fire.

## 7.0 THE KEEPING OF ANIMALS, POULTRY AND BEES

### 7.1 Objectives of this part of the Bylaw

- 7.1.1 To prevent nuisances arising from the keeping of animals poultry and bees in urban areas.
- 7.1.2 To prevent nuisances for nearby residences occurring from intensive animal husbandry.

### 7.2 Pig Keeping

- 7.2.1 No pigs shall be kept in any urban area within the District.

### 7.3 Stock In Urban Areas

- 7.3.1 Any person keeping stock in an urban area shall ensure that premises where stock is kept meet such conditions as may be prescribed by an authorised officer.
- 7.3.2 No person, shall, without having first obtained the written approval of Council keep, have in his possession or control any stallion within any urban area.

### 7.4 Feedlots And Stock Standoff Areas

- 7.4.1 No feedlot or stock standoff area shall be operated within 30m from the boundary with adjacent property not in the ownership of the same person on whose land such facilities are operated or within 150m from any residence on an adjoining site.

### 7.5 Poultry Keeping

- 7.5.1 No poultry caged or otherwise (which shall include geese, ducks, pigeons, turkeys, and domestic fowls of all descriptions) shall be kept in an urban area except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nib wall, to which a poultry run may be attached.
- 7.5.2 Except with the written consent of Council not more than 12 head of poultry and no roosters shall be kept in any urban area.
- 7.5.3 No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10m from any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 m of the boundary of adjoining premises.
- 7.5.4 Every poultry run in an urban area shall be enclosed to confine the poultry.
- 7.5.5 Every poultry house and poultry run shall be maintained in good a clean condition free from any offensive smell or overflow and vermin.

### 7.6 Noise From Animal, Bird, Or Fowl

- 7.6.1 No person shall keep on any premises in a predominantly urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.

### 7.7 Bee Keeping

- 7.7.1 No person shall keep bees in a predominantly urban area if in the opinion of an authorised officer the keeping of bees is, or is likely to become a nuisance or annoyance to any person or potentially dangerous to health.
- 7.7.2 An authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place within an urban area of the District.

## 8.0 BODY PIERCING

### 8.1 Objectives of this part of the Bylaw

- 8.1.1 To promote the health and safety of clients of persons practicing body piercing for jewellery, tattooing or other purposes.
- 8.1.1 To ensure that practice of body piercing is only carried out in premises licensed for this purpose.

### 8.2 Application of Bylaw

- 8.2.1 This Part of the Bylaw does not apply to body piercing carried out in the practice of medicine, dentistry, nursing, physiotherapy or podiatry by:
  - (a) A medical practitioner registered under the Medical Practitioners Act 1968.
  - (b) A dentist registered under the New Zealand Dental Act 1988.
  - (c) A nurse registered under the Nurses Act 1977.
  - (d) A physiotherapist registered under the Physiotherapist Act 1949.
  - (e) A Pharmacist registered under the Pharmacy Act 1970.
  - (f) An Acupuncturist who is a member of the New Zealand Register of Acupuncturists Incorporated.
  - (g) A person acting under the direction or supervision of any such medical practitioner, dentist, nurse, physiotherapist or podiatrist.

### 8.3 Licensing

- 8.3.1 A person must only carry out body piercing on a premises licensed by Council for that purpose.
- 8.3.2 A person must apply for a body piercing licence if they are the owner or manager of premises used or intended to be used for body piercing. Council will process an application for a body piercing licence if it is made by a natural person or persons, is on the form prescribed and includes all information requested by the Council and the required licence fee.
- 8.3.3 A body piercing licence will be granted by Council, if and only if the Council is satisfied that the premises and the proposed body piercing service will comply with:
  - (a) The requirements of all relevant Acts and Regulations.
  - (b) The relevant provisions of any District Plan.
  - (c) Relevant New Zealand and Australian Standards including AS 4031:1992, AS 2182:1994, AS 2773:1985, NZS 4303:1990, AS/NZS 3816:1998, and AS/NZS 4261:1994.
  - (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 8.3.4 Council may require the person applying to complete a test to show that they are familiar with these documents.

### 8.4 Transfer of Licence

- 8.4.1 A body piercing licence may not be transferred to another person or to another premise.
- 8.4.2 The person holding the body piercing licence will be responsible for ensuring that the provisions of this part of the Bylaw are complied with and that all persons working on the premises of the body piercing operation are adequately trained and supervised to prevent any breach of the requirements of this part of the Bylaw.
- 8.4.3 A body piercing licence must be displayed in a part of the premises to which the licence relates. The licence must be displayed in an area where the public has access to so that any member of the public or authorised officer can easily see it when visiting the premises.
- 8.4.4 Council will specify the date that the licence expires; this date will be recorded on the licence. The licence holder must apply for a renewal of expired licences, if body piercing is to continue. Applications for renewal of licences will be assessed as if it were a new application.
- 8.4.5 Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any special terms and conditions specified in the licence in addition to the general requirements for body piercing set out below.

## 8.5 General Requirements

- 8.5.1 The person holding the licence must comply with the standards in 8.3.3 (c) and (d) above to the extent that they are relevant to the body piercing premises and service.
- 8.5.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.
- 8.5.3 Body piercing must not be carried out on any person less than 16 years of age without the written permission of that person's parent or guardian.
- 8.5.4 A notice must be displayed in a prominent place within the public part of the premises asking customers to inform the licence holder if they have any communicable or infectious disease, which is likely to have an effect on body piercing.
- 8.5.5 If the licence holder or any other employee at the body piercing premises knows or suspects that they or any other staff member, whether paid or unpaid is suffering from or is carrying a skin infection or a communicable disease, or associated condition, body piercing must not be carried out, without first taking adequate precautions to prevent the transmission of that infection, disease or condition.
- 8.5.6 Before beginning body piercing on a customer, the customer must be advised of the risks associated with body piercing and the potential for infection to occur during and after the process. Written advice appropriate to the procedure to be undertaken must be given, in relation to precautions and post-piercing procedures, which should be followed by the customer.
- 8.5.7 Before any piercing of the skin is commenced, all potential customers must sign a consent form recording the following:
- (a) Whether they have any reason to believe they have a communicable disease or skin disease.
  - (b) Whether they have a history of haemophilia (bleeding).
  - (c) Whether they are taking any medication, such as anticoagulants, which thin the blood or interfere with blood clotting.
  - (d) Whether they have a history of allergies or adverse reactions to pigments, dyes or other skin sensitivities, or a history of epilepsy or seizures.
- 8.5.8 Any customer who knows or suspects that he or she has any of the above diseases or conditions is required to inform the person who appears to be in charge of the premises before the body piercing begins.
- 8.5.9 The licence holder may decline to carry out any body piercing on such a person, or may agree to carry out the body piercing subject to such conditions and safeguards that are considered appropriate by the licence holder in the circumstances. Nothing in this Part of the Bylaw requires the licence holder to perform body piercing on any person.
- 8.5.10 The licence holder must keep records of the names, phone numbers and addresses of any person who undergoes body piercing at the premises, the date on which the body piercing was carried out, the nature of the body piercing, and the location on the body where the body piercing was undertaken. Those records must be kept for at least three years and made available to an Environmental Health Officer, Health Protection Officer or a Medical Officer of Health as defined in the Health Act 1956 who is carrying out any investigation pursuant to Part III of the Health Act 1956 or the Health (Infectious and Notifiable Diseases) Regulations 1966.
- 8.5.11 A copy of this part of the Bylaw and the Ministry of Health's current Guidelines for the Safe Piercing of skin must be kept on the premises and must be freely available for reading by any person employed on the premises and by any person attending the premises for the purpose of undergoing any body piercing.
- 8.5.12 Where Council is satisfied that compliance with any requirement of this part of the Bylaw would be impractical or unreasonable having regard to the premises and body piercing service in question, Council may grant a written exemption from the requirement. The exemption will be granted on such terms and conditions, as are consider desirable in the interest of public health.

## 8.6 Exemptions from Licensing Requirement

- 8.6.1 The requirement to obtain a licence for body piercing premises does not apply to:

- (a) Carrying out acupuncture at a person's home where the person wishing to undergo acupuncture is unable to attend the licensed premises because of injury, infirmity or medical emergency, if the acupuncture is carried out in compliance with the general requirements in this part of the Bylaw, or
- (b) Carrying out any body piercing in any temporary structure or premises for a maximum period of five days in any 30 day period, if the person carrying out the body piercing complies with all conditions specified by Council.

8.6.2 The written approval of Council and the payment of any fee for any inspection required and payment for Council's time to consider the matter may be required before an exemption from the licensing requirement is granted.

## 9.0 FOOD SAFETY

### 9.1 Objectives of this part of the Bylaw

9.1.2 To set requirements so that all premises, where food is prepared for sale, employ persons that are adequately trained in food hygiene. The Bylaw also allows Council to close premises that are insanitary.

9.1.3 To ensure that safe food is available in all food premises throughout the District.

### 9.2 Compulsory Training for Food Handlers

9.2.1 All food premises are required to have food handling staff that have passed or are in the process of acquiring an NZQA approved basic food hygiene or food safety certificate, with the exception of those premises that have a Food Safety Programme or Food Control Plan approved by the Food Safety Authority.

9.2.2 It shall be the duty of the occupier of every food premise to ensure that food handling staff have passed an NZQA or are in the process of acquiring an NZQA approved basic food hygiene or food safety certificate.

9.2.3 Every food premise shall have at least one person employed in a supervisory and staff training capacity who is trained to the standard required, provided that Council may grant an exemption or partial exemption where full compliance may be unreasonable having regard to the site and the nature of the premises.

9.2.4 In the case of food premises which consist of separate departments or sections, each of which functions more or less in isolation from the others; at least one person shall be appointed to act in a supervisory position within each separate department or section.

9.2.5 The occupier of every food premise shall ensure that adequate records are kept relating to staff training and that copies of all certificates gained by staff are kept on the premises for perusal by any authorised officer upon request.

### 9.3 Closure of Premises

9.3.1 Where any food premise or part of any food premises or any appliance, fitting or fixture or other equipment on any food premises by reason of their situation, construction, disrepair, or state are in such a condition that any food in the food premises may become unfit for human consumption, an authorised officer may serve a notice in writing on the occupier of the premises requiring him/her:

- (a) To cease using the premises as food premises, and/or to clean or reconstruct or to repair the premises, or part of the premises. and/or
- (b) To cease using, or to clean, reconstruct, or repair any appliance, fittings, fixture or other equipment on those premises in accordance with the requirements and within the time specified in the notice.

9.3.2 Where an occupier has been directed to cease to use any food premises the occupier shall not recommence use of those food premises until permission has been given in writing by Council.

## 10.0 PROSTITUTION

### 10.1 Objectives of this part of the Bylaw

- 10.1.1 To support the purpose and intent of the Prostitution Reform Act 2003.
- 10.1.2 To enable commercial sexual service providers to operate within Waitomo District in a manner that both meets community demand for services and addresses community concerns and sensitivities.
- 10.1.3 To allow the establishment of brothels in areas where the effects associated with the operation can be readily controlled.
- 10.1.4 To limit the exposure of children and young people to commercial sex activities.
- 10.1.5 To control the establishment of signage associated with brothels to minimise community harm or offence.
- 10.1.5 To control the soliciting of commercial sexual services in Waitomo District.

### Location of Brothels

#### 10.1 Permitted Areas of Operation

- 10.1.1 Brothels are permitted to locate and provide commercial sexual services from premises located within the permitted brothel area, subject to meeting other conditions in the Bylaw.

#### 10.2 Proximity to Sensitive Sites

- 10.2.1 Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site.
- 10.2.2 Where a sensitive site establishes within 100m of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

#### 10.3 Signage of Commercial Sexual Services

- 10.3.1 Signage of commercial sexual services must conform with the provisions of the Waitomo District Plan and the additional limitations set out in 10.3.2 to 10.3.4 below.
- 10.3.2 Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.
- 10.3.3 Only one sign is permitted per premises.
- 10.3.4 Signs must not:
  - contain neon lighting or include or be lit by flashing lights; or
  - contain words reasonably considered to be sexually explicit or offensive by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
  - contain any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

#### 10.4 Soliciting of Commercial Sexual Services

- 10.4.1 No person shall solicit within the Waitomo District area including in any street, road, footpath, road reserve or public place.
- 10.4.2 No person shall solicit within the Waitomo District area where that person is, or may be visible from any public place or reserve.

## 11.0 ACCOMMODATION ESTABLISHMENTS

### 11.1 Objectives of this part of the Bylaw

- 11.1 To ensure that establishments providing commercial accommodation services are maintained in a clean and hygienic condition.
- 11.2 To set requirements so that cooking and dining facilities for the use of guests in commercial accommodation establishments are of an acceptable standard.

### 11.1 Responsibilities of Keeper

- 11.1.1 The keeper of an accommodation establishment shall maintain all of the building and all appliances, fixtures fittings and bedding in the building in good repair and in a clean and hygienic condition and cause all rooms, passages, stores, floors, ceilings, windows, doors and walls of the building to be kept clean and free from vermin;
- 11.1.2 The keeper of an accommodation establishment shall not:
- (a) At any time permit to be occupied any room in an accommodation establishment wholly or partly as a sleeping room unless such room has at least the area specified in the first column of the Second Schedule to the Housing Improvement Regulations 1947 for the number of persons sleeping in such room calculated in accordance with the second column of such schedule.
  - (b) Permit any room that is not approved for use as a bedroom to be occupied or used for that purpose;
  - (c) Permit equipment for the cooking or heating of food to be provided or used in any room except a kitchen.

### 11.2 Kitchen Standards

- 11.2.1 Where a kitchen and a dining room is provided in an accommodation establishment it shall be to the following minimum standards for the preparation of meals for guests or where guests can provide their own individual meals:
- (a) All floors, walls and ceilings in the kitchen shall be kept in good repair, and finished to provide smooth, impervious, easily cleanable surfaces. All walls and ceilings shall be finished in a light colour.
  - (b) All parts of the kitchen and dining room shall be maintained in a clean, hygienic and tidy condition, free from foul odours and vermin;
  - (c) The kitchen shall be provided with a sufficient number of sinks and other sanitary fittings reasonably necessary for the cleansing of crockery, utensils and appliances used in the preparation, service and consumption of food. Every such sink shall be supplied with a piped supply of hot and cold water.
  - (d) A wash-hand basin supplied with piped hot and cold water shall be located within the kitchen or within close proximity to the kitchen. The wash-hand basin shall be supplied with soap, a nail brush and hand-drying equipment.
  - (e) All benches, shelves, tables, cupboards, appliances and equipment shall be constructed and finished so that they are capable of being easily cleaned;
  - (f) Adequate means of preparing food and of cooking food, both by boiling and by baking, sufficient for the numbers of guests, shall be provided in the kitchen;
  - (g) Adequate refrigerated and frozen storage shall be provided sufficient for the numbers of guests, for the storage of perishable and readily perishable foods. All refrigerated storage shall operate at 4°C or below and frozen storage at -18°C or below.
  - (h) Adequate space for the storage of food shall be provided, so placed, fitted and ventilated as to protect the food from flies, dust, and other contamination and from the direct rays of the sun;
  - (i) Adequate tables and chairs and utensils in the dining room for the consumption of food.

### 11.3 Exemptions

- 11.3.1 Where an authorised officer is satisfied that compliance with the requirements of this Part of the bylaw would be unreasonable or impractical, an exemption in respect of any particular requirements may be granted in whole or in part, with such modifications and subject to such conditions including such time limitations as are desirable in the circumstances.

Document No: 329627

File No: 400/010/3

**Report To: Council****Meeting Date:** 25 March 2014**Subject:** **Progress Report: Civil Defence Emergency Management Executive Group Minutes****Purpose of Report**

- 1.1 The purpose of this business paper is to provide Council with information relating to the Co-Ordinating Executive Group meeting of 14 February 2014.

**Background**

- 2.1 Council is represented on the CEG by the Group Manager – Community Services.
- 2.2 The Co-ordinating Executive Group (CEG) for Civil Defence has requested that all minutes for the CDEMG and CEG be circulated to Council Members in an endeavour to increase the profile of Civil Defence in our Region.

**Commentary**

- 3.1 Attached to and forming part of this business paper are the minutes of the CEG meetings of 14 February 2014.

**Suggested Resolutions**

The Progress Report: Civil Defence Emergency Management Executive Group Minutes be received.

A handwritten signature in blue ink, appearing to read "John De Luca".

JOHN DE LUCA  
**GROUP MANAGER – COMMUNITY SERVICES**

March 2014

Attachment: 1 CEG Minutes – 14 February 2014 (doc 329628 )

## MINUTES

## CDEM Coordinating Executive Group Meeting

Friday, 14 February 2014  
9.00 am – 12:00 pm  
150 Victoria Street, Hamilton

**Members in Attendance:**

Group Controller	Lee Hazlewood
Group Recovery Manager	Greg Ryan
Hamilton City Council	Blair Bowcott
Hauraki District Council	Langley Cavers (Chair)
Matamata-Piako District Council	Dennis Bellamy
MCDEM	Suzanne Vowles
Otorohanga District Council	Andrew Loe
South Waikato District Council	Sharon Robinson (apologies for lateness)
St John	Stuart Cockburn
New Zealand Fire Service	Roy Breeze
Taupo District Council	Brian Fox
Thames-Coromandel District Council	Marion Smith
Waikato District Council	Sue Duignan
Waikato District Health Board	Trevor Ecclestone
Waikato Lifeline Utilities Group Chair	Howard Mitchell
Waikato Regional Council	Scott Fowlds
Waipa District Council	David Hall
Waitomo District Council	John De Luca
Welfare Coordination Group Chair	Te Rehia Papesch

**Members Apologies Received:**

New Zealand Police	Karen Henrikson
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**Staff in attendance:**

Group Emergency Management Office	Andrea Taylor (minutes)
	Irving Young
	Sharon Cousins-O'Donnell
Waikato District Council	Kelly Newell
Western Waikato EOA	Martin Berryman

**CDEM Staff apologies:**

South Waikato District Council	Ian Wellings
Taupo District Council	Phil Parker
Thames-Valley EOA	Gary Talbot
Group Emergency Management Office	Derek Phyn

L Cavers informed the meeting that he would be leaving the meeting early and B Bowcott agreed to Chair the meeting after his departure.

S Cockburn noted that he would be leaving the meeting earlier for another commitment.

Agenda Item	Discussion / Action Point
	<p><b>Apologies:</b></p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p><b>Motion:</b></p> <p>That the CEG note the apologies as received for the meeting held 14 February 2014.</p> <p><b>Carried</b></p> </div>
1	<p><b>Confirmation of Agenda:</b></p> <p>The agenda was confirmed with no additional items.</p>
2	<p><b>Minutes from Previous Meeting:</b></p> <p>The minutes from the previous meeting (25 October 2013) were confirmed as a true and accurate record.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p><b>Motion:</b></p> <p>That the CEG approve the minutes of the meeting held 25 October 2013.</p> <p><b>Moved:</b> B Bowcott  <b>Seconded:</b> B Fox  <b>Carried</b></p> </div> <p>For an update on actions from previous meetings please see end of these minutes.</p>
3	<p><b>GEMO Report</b></p> <p>The GEMO Report was received for information. The following key items were noted/discussed:</p> <ul style="list-style-type: none"> <li>• GEMO Activities: <ul style="list-style-type: none"> <li>○ It was noted that that level of effort for the GEMO is as it was anticipated and the recovery area is now being addressed.</li> </ul> </li> <li>• 2013/14 Financial Update (1<sup>st</sup> half 2013/14): <ul style="list-style-type: none"> <li>○ Expenditure is slightly under in the labour budget and a re-allocation of is budget being addressed. Direct costs also being re-allocated where required.</li> </ul> </li> <li>• GEMO Project Report: <ul style="list-style-type: none"> <li>○ Project Plan exceptions discussed included:  Earthquake prone building project – project on hold at present.  Local recovery plan templates – A draft will be available at next CEG meeting.  ITF – this project is running slightly behind, however the focus on training is underway for the foundational course and a contractor has been identified for intermediate course development.  Mystery creek agreement is hoping to be finalised within the next week.</li> <li>○ GEMO Recruitment:  Julian Snowball, Operations Coordinator, was introduced to the CEG members.  The Welfare Manager role has been included in the WRC annual plan which is now out for public consultation. It was recommend that the CEG members put in submissions of support.</li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
4	<p data-bbox="323 152 667 185"><b>CEG Sub-group Reports</b></p> <p data-bbox="323 221 1418 286">The Sub-group report was received for information and decision making purposes. The following key items were noted/discussed:</p> <ul style="list-style-type: none"> <li data-bbox="323 322 1050 356">• <b>Management and Governance (31/1/14 meeting)</b> <ul style="list-style-type: none"> <li data-bbox="379 356 1418 824">○ Waikato Regional Council 'Fit for Purpose' review           <ul style="list-style-type: none"> <li data-bbox="464 389 1418 689">▪ L Hazlewood provided an overview of the proposed structure. The Waikato GEMO has put in a submission on the proposal. Things to note include:               <ul style="list-style-type: none"> <li data-bbox="515 495 1238 528">▪ L Hazlewood's title has been changed to 'Manager';</li> <li data-bbox="515 528 1418 593">▪ the autonomous nature of the GEMO needs to be acknowledged; and</li> <li data-bbox="515 593 1418 689">▪ the lack of a reporting line to the CEO is a concern, there needs to be a closer relationship with the Group Controller and the CEO and this new structure does not allow for this.</li> </ul> </li> <li data-bbox="464 689 1418 824">▪ L Cavers and S Vowles are attempting to meet with the WRC CEO to outline the need to continue the current reporting of the GEMO direction through the Joint Committee / CEG. S Vowles has already provided comments regarding MCDEM's view of the restructure.</li> </ul> </li> <li data-bbox="379 824 1418 1563">○ MCDEM monitoring and evaluation process           <ul style="list-style-type: none"> <li data-bbox="464 857 1418 922">▪ The process is due to commence on 1 April 2014 and it is expected that CEG members will steward this process.</li> <li data-bbox="464 922 1418 956">▪ J Snowball will project manage this for the Waikato CDEM Group.</li> <li data-bbox="464 956 1418 1090">▪ S Vowles went through the process that will be undertaken and at the end of the process each CEG member will receive an 'organisational' result. This will then be aggregated to give an overall score.</li> <li data-bbox="464 1090 1418 1225">▪ It was noted that the report will be simpler than the previous capability assessment, highlighting areas of strengths and weakness. The one recommendation will be that a work programme is formed and signed off by the WCDEM Joint Committee.</li> <li data-bbox="464 1225 1418 1290">▪ Interview week is scheduled for week beginning 5 May 2014, all members should note this for their diaries.</li> <li data-bbox="464 1290 1418 1355">▪ S Vowles requested that feedback be provided during the process to enable improvements for the following groups.</li> <li data-bbox="464 1355 1418 1467">▪ It was advised that there would be a focus on reduction and community response planning. It was also confirmed that the process is separate from the EOC audits that have been conducted.</li> <li data-bbox="464 1467 1418 1563">▪ It was also noted that Waikato DC will also have an additional audit to evaluate the WDC Local CDEM Coordinator role provided by the GEMO.</li> </ul> </li> <li data-bbox="379 1563 1418 1798">○ Decisions requested from CEG: Group Controller and Group recovery Manager voting rights on the CEG.           <ul style="list-style-type: none"> <li data-bbox="464 1630 1418 1765">▪ D Bellamy noted the issue that was raised by L Hazlewood and G Ryan around their concern at having voting rights on CEG when there would be a conflict of interest for both L Hazlewood and G Ryan being staff members.</li> <li data-bbox="464 1765 1139 1798">▪ It was agreed that the voting rights be removed.</li> </ul> </li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
	<p><b>Recommendation:</b></p> <p>That the CEG recommend to the Joint Committee that the Waikato CDEM Group Plan 2011-2015 (and consequently the CEG Terms of Reference) is amended so that the voting rights of the Group Controller and Group Recovery Manager are removed, recognising the operational conflict of interest that currently exists under the current arrangements.</p> <p><b>Moved:</b> D Bellamy  <b>Seconded:</b> S Duignan  <b>Carried</b></p> <ul style="list-style-type: none"> <li>• <b>Readiness and Response (3/2/14 meeting)</b> <ul style="list-style-type: none"> <li>○ Waikato CDEM Group Training Update           <ul style="list-style-type: none"> <li>▪ Requested to have another column to show whether we achieved the targeted number of those undertaken the training. L Hazlewood presented T Ecclestone and H Mitchell with their Foundational training certificates.</li> <li>▪ ITF update – the request for proposal process has been completed and a contractor has been identified and will be followed up for contract negotiations early next week.</li> </ul> </li> </ul> </li> </ul> <p><i>L Cavers left the meeting and B Bowcott chaired the remaining meeting.</i></p> <ul style="list-style-type: none"> <li>○ Exercise Ngaa Ruu-whenua       <ul style="list-style-type: none"> <li>▪ GEMO coordination of tier 1 exercise to be held on 8 July 2014. This will be targeting key EOC staff that have some experience for the tabletop exercise. Agencies are invited to contact S Cousins-O'Donnell if they wish to be in attendance at the exercise. The primary objective will be information flow within EOCs, between EOCs and with the GECC.</li> <li>▪ Budget for this will be required from your own budgets – staff hours for exercising should already be budgeted into local authorities budgets as this was identified some time ago.</li> <li>▪ It was also noted that going forward there will be a pool of exercise material available for agencies and local authorities to utilise if required.</li> </ul> </li> <li>○ Community response plans (CRP)       <ul style="list-style-type: none"> <li>▪ L Hazlewood gave an overview of the process to date. A community resilience programme has been created to encapsulate various projects including the CRPs. The project update was discussed. The approach will include a one-day workshop (17 March 2014), implementation plan and involvement of local organisations such as Lions etc.</li> <li>▪ J DeLuca is the champion of this project.</li> <li>▪ T Ecclestone noted how closely this is linked with Welfare and the need to retain this is crucial.</li> </ul> </li> <li>○ Situation awareness systems       <ul style="list-style-type: none"> <li>▪ L Hazlewood discussed a report that outlines the project to explore a complimentary tool for situational awareness. It was noted that the product is a demo model and the only cost is to set up some initial boards. There is no obligation to purchase the software.</li> <li>▪ S Vowles noted that the Ministry have concerns about groups being able to run two systems.</li> <li>▪ B Fox noted that Maritime NZ have gone to WebEOC and if there was an incident led by them we would be expected to work within their system.</li> <li>▪ S Cockburn noted his concerns also regarding operating two</li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
	<p>systems simultaneously. L Hazlewood advised that these are tools and have different benefits.</p> <ul style="list-style-type: none"> <li>▪ S Vowles reminded the CEG that EMIS was introduced to ensure a national system available to all EOCs at no cost. B Bowcott advised that a comprehensive business case would be required if there was a desire to proceed on a permanent basis with an alternative to EMIS.</li> <li>▪ L Hazlewood noted, for the record, that D Phyn is working independently and his evaluations of EMIS are not influenced by L Hazlewood's views.</li> </ul> <ul style="list-style-type: none"> <li>○ Decisions requested from CEG <ul style="list-style-type: none"> <li>▪ 2014/2015 MCDEM resilience fund applications: <ul style="list-style-type: none"> <li>▪ ITF funding for the leadership and advanced course. A total of \$200,000 is being requested for the development of the programmes. It was noted that the Waikato CDEM Group are submitting on behalf of the National Representative Steering Committee, of which L Hazlewood is the Chair and Programme Manager.</li> <li>▪ Warning system tool. Funding is requested to aid in the rolling out of the tool. This will include a public alerting workshop, identifying suppliers and social media monitoring and how we can better use this. There is close alignment with GNS, Auckland Council and Wellington Council with this project.</li> </ul> </li> </ul> </li> </ul> <div style="border: 1px solid black; padding: 10px; margin-top: 20px;"> <p><b>Recommendation:</b></p> <p>That the CEG confirm their support for the following MCDEM Resilience Fund application to be lodged for the 2014/2015 funding round:</p> <ul style="list-style-type: none"> <li>• Public alerting and social media monitoring</li> <li>• Integrated training framework</li> </ul> <p><b>Moved:</b> S Duignan  <b>Seconded:</b> M Smith  <b>Carried</b></p> </div> <p><i>S Cockburn left the meeting</i></p> <ul style="list-style-type: none"> <li>• <b>Reduction (3/2/14 meeting)</b>  S Fowlds provided an overview of the meeting. <ul style="list-style-type: none"> <li>○ Waikato Lifelines Utilities Group (WLUG) update: <ul style="list-style-type: none"> <li>▪ Full report was provided prior to the meeting. H Mitchell (Chair WLUG) gave an overview of the recent WLUG meeting. It was requested that local authority attendance at the meetings be improved.</li> <li>▪ L Hazlewood noted that there was a suggestion raised that the WLUG should perhaps consider sending a representative from an area to cover multiple councils rather than multiple representatives from each area. S Vowles noted concerns that the representative may not be able to speak on behalf of all local authorities that they would be representing.</li> <li>▪ It was noted that only around 50% of members representing local councils are attending the meetings.</li> <li>▪ Suggested to give list to CEG members and have them follow upon their attendees that are regularly not attending.</li> </ul> </li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
	<div data-bbox="357 219 1410 394" style="border: 1px solid black; background-color: #e6f2ff; padding: 5px;"> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>• I Young to send an e-mail to each CEG member to advise who the local authority representative is for their area and what their attendance record at meetings is. CEG members to then follow up with their representative if appropriate.</li> </ul> </div> <ul style="list-style-type: none"> <li>○ Assessment of earthquake prone buildings <ul style="list-style-type: none"> <li>▪ M Smith gave an update on the assessment of earthquake prone buildings. What can we do within CEG as a group to make this a more consistent process throughout the Waikato?</li> <li>▪ It was noted that there would be an overlap with Building Control Managers working on this and it was suggested that this is more of a LASS matter than a CEG/CDEM matter. B Bowcott and D Hall are meeting with South Waikato CEO (who is leading this process through LASS).</li> </ul> </li> </ul> <div data-bbox="357 763 1410 875" style="border: 1px solid black; background-color: #e6f2ff; padding: 5px; margin-top: 10px;"> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>• B Bowcott / D Hall to ensure this is raised with South Waikato CEO and is included in the LASS Forum for discussion.</li> </ul> </div> <ul style="list-style-type: none"> <li>▪ S Vowles also noted that she has requested further information from the Ministry on this and will keep the CEG abreast.</li> </ul> <ul style="list-style-type: none"> <li>• <b>Recovery (31/1/14 meeting)</b> <ul style="list-style-type: none"> <li>○ Welfare Coordination Group (WCG) update <ul style="list-style-type: none"> <li>▪ Full report is on the WCG website. Last meeting was held on 3 December 2104 and the next meeting will be held on 4 March 2014.</li> <li>▪ The new local welfare arrangements of Hamilton City and that they will be known as Hamilton City Local Welfare Committee and that they will serve as a liaison point for the major welfare agencies on behalf of the district.</li> <li>▪ Exercise Pahu highlighted the need for foundational training for members of the WCG and it is felt that this will also be an ideal opportunity for team building</li> <li>▪ There is a Welfare forum being held in Auckland on 19 March 2014. T Papesch, I Young, K Newell and H Flynn will be attending on behalf of the Waikato CDEM Group.</li> <li>▪ MSD restructure. An Advisor has been placed within TR Papesch's team (Angeline McCormack). The group was advised that A Cormack may attend some of these meetings on behalf of the WCG Chair.</li> </ul> </li> <li>○ Development of the Local Recovery Plan Template <ul style="list-style-type: none"> <li>▪ The Taupo Recovery plan is complete. A template will be produced based on the Taupo Recovery Plan to assist remaining groups to compile their plans. G Ryan is working with B Fox to update the template to better reflect a generic plan for development by each council.</li> <li>▪ It was noted that the Plan will involve considerable community consultation. It is expected that that draft template will be available for the May CEG meeting.</li> <li>▪ Learnings from Taupo: You need to make the effort and time to complete the plan. There needs to be a scheduled annual review.</li> <li>▪ The Taupo Recovery Plan will be loaded to the WCDEM Group website for your information.</li> </ul> </li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
5	<p><b>2014/15 GEMO Work Programme and Budget</b></p> <p>The 2014/2015 Work Programme and Budget report was received and the following key items were noted/discussed:</p> <ul style="list-style-type: none"> <li>• G Ryan gave an update on the process for the budget. We are on track with where we expected to be. It was reiterated that we need to ensure positive submissions are lodged with regard to the Welfare position. It was suggested to put together either a CEG or a Joint Committee submission, in addition to WCG and/or other agencies support.</li> </ul> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>• B Bowcott / L Cavers to discuss with H Vercoe around the need to put a submission in to WRC for the Welfare position.</li> </ul> </div>
6	<p><b>Waikato CDEM Group Strategic Direction</b></p> <p>The Waikato CDEM Group Strategic Direction report was received for information. The following key items were noted/discussed:</p> <ul style="list-style-type: none"> <li>• Waikato CDEM Group 6-year strategy: <ul style="list-style-type: none"> <li>○ L Hazlewood went through the overview of the 6-year strategy which will build into a comprehensive workplan for the Waikato CDEM Group. This is intended to also inform the 3GP. This time frame also covers the WRC LTP.</li> <li>○ L Hazlewood gave an overview of how the strategy works and that this goes from an operational level through to a strategic overview.</li> <li>○ It is intended to be worked through with the various sub-groups and CEG. As this progresses there will be budgeting information included and will eventually go to CEG and then JC for approval. This will allow for better planning and budgeting over the next six years.</li> <li>○ This process has included input from the Area Managers, Emergency Services and GEMO. Subgroups have had input into the objectives for their individual areas.</li> <li>○ L Hazlewood went through the vision and purpose of the strategy. This will be available on the website next week for your review.</li> <li>○ It was noted that members should be focusing on their particular area rather than focusing on other areas.</li> </ul> </li> </ul>
7	<p><b>MCDEM Work Programme Status Report</b></p> <p>The MCDEM Work Programme Status report was received for information. The following key items were noted/discussed:</p> <ul style="list-style-type: none"> <li>• Alerting levels for volcanic activity is being updated and will be advised in due course.</li> <li>• Controllers' course – the request for pricing has gone out and S Vowles will update the group on progress. It was noted that course attendance costs will fall with each council (~\$3,000-4,000).</li> <li>• Recovery legislation – MCDEM are currently looking at the Controller's role and what powers are required during declaration. This will also include looking at allowing the Recovery Manager powers in a transitional phase. This will mean that both the Recovery Manager and the Controller may both have powers at any one time when there is overlap between response and recovery. There is also currently discussion around legislation that will enable powers for Recovery Managers when a declaration for emergency was not enacted.</li> <li>• EMIS – updated report was tabled at the meeting. B Bowcott raised a concern with the perception with the two new EMIS positions being in Wellington and the lack of mention of Waikato. L Hazlewood noted that while we are not mentioned by name wherever there is mention of the National EMIS</li> </ul>

Agenda Item	Discussion / Action Point
	<p>Governance Group or the EMIS Technical Advisory Group this is where D Phyn is specifically involved.</p> <ul style="list-style-type: none"> <li>• Capability assessment – EMIS involvement - there are a few questions around EMIS in the capability assessment. S Vowles confirmed that there would be a couple of EMIS questions but this is not the focus.</li> <li>• The CEG were informed that Winston Peters has put (informed) questions to Parliament. Answers on these questions are to be provided by 21 February 2014.</li> <li>• The transition of MCDEM from the DIA to the DPMC is to give greater effect to response when required and better influence across Government departments, Policy etc.</li> </ul>
8	<p><b>Emergency Services Update</b></p> <p>A verbal update was received from the Emergency Services personnel present:</p> <ul style="list-style-type: none"> <li>• <b>Fire</b> <ul style="list-style-type: none"> <li>○ The Fire Service will release a new strategic direction for NZ Fire Service within the next week. This will also include tidying up on legislation.</li> <li>○ All hazards centre – NZ Police are leading the project management of this, however this is now on hold now until a replacement has been made for the retiring Winn van der Velde.</li> <li>○ There will be large focus on who provides resourcing etc for rural fire. R Breeze will update the CEG on this in due course. Background - Rural Fire have been partially funding their tankers through potable water supply through drought periods and have been advised that they can no longer use these for water delivery, thus that funding needs to be found from another source. R Breeze noted that there is a chance that they may be able to provide a few tankers but this will be limited. It was noted that this needs to be taken up at a political level. B Fox noted that in some councils CDEM and Rural Fire are merged entities and this can affect the funding for emergency management in general.</li> <li>○ NZ Fire Service are now also having to attend more medical calls due to the MoU with St John, this is affecting resourcing.</li> </ul> </li> </ul> <p><i>11.30 am Sharon Robinson left the meeting</i></p> <ul style="list-style-type: none"> <li>• <b>DHB</b> <ul style="list-style-type: none"> <li>○ Rolling out a version of Health CIMS, this is aligned to the CDEM course.</li> <li>○ There is an exercised being conducted at the DHB. The theme will be an earthquake 5 March 2014. Te DHB Incident Management Team will assemble, the campus at Hospital will assemble, clinicians will evacuate an area as a test. S Cousins-O'Donnell and J Snowball have been invited to attend.</li> <li>○ New CEO recruitment is underway.</li> <li>○ National Health Emergency Plan is currently being rewritten, draft underway.</li> </ul> </li> </ul>

Agenda Item	Discussion / Action Point
10	<p><b>Items for next meetings</b></p> <ul style="list-style-type: none"> <li>• Next Joint Committee Meeting (3 March 2014) <ul style="list-style-type: none"> <li>○ GEMO report</li> <li>○ Summarised CEG minutes</li> <li>○ MCDEM report</li> <li>○ 2014/2015 annual plan</li> <li>○ Strategic direction of the Waikato CDEM Group</li> <li>○ MCDEM monitoring and evaluation update</li> <li>○ WRC fit-for-purpose update</li> <li>○ Proposed amendment to the Waikato CDEM group plan (voting rights)</li> <li>○ Community response planning project / resilience strategy</li> <li>○ Welfare position – submission to annual plan</li> </ul> </li> <li>• Next CEG Meeting (16 May 2014) <ul style="list-style-type: none"> <li>○ GEMO report</li> <li>○ CEG sub-group reports</li> <li>○ 2014/2015 GEMO work programme and budget</li> <li>○ MCDEM work programme status report</li> <li>○ Emergency services updates</li> <li>○ WRC fit-for-purpose update</li> <li>○ MCDEM monitoring and evaluation update</li> <li>○ Phase 2 of Waikato CDEM Group work programme development</li> <li>○ Welfare forum update – I Young/TR Papesch</li> <li>○ Draft local recovery plan template</li> <li>○ Draft risk reduction plan</li> </ul> </li> </ul>

Meeting closed at 11.45 am.

# Coordinating Executive Committee

## Action Table – 14 February 2014

#	Action	Date required	Person Responsible	Status
24	I Young to send an e-mail to each CEG member to advise who the local authority representative is for their area and what their attendance record at meetings is. CEG members to then follow up with their representative if appropriate.	16 May 2014	I Young	
25	B Bowcott / D Hall to ensure this is raised with South Waikato CEO and is included in the LASS Forum for discussion.	16 May 2014	B Bowcott / D Hall	
26	B Bowcott / L Cavers to discuss with H Vercoe around the need to put a submission in to WRC for the Welfare position	21 Feb 2014	B Bowcott / L Cavers	

## Outstanding Actions from Previous Meetings

#	Action	Date required	Person Responsible	Status
6	CODNA group to be re-established, members confirmed, and to report back in 6 months. 14/2/14 - Noted that this should occur in March if possible	Dec 2013 / Jan 2014	L Hazlewood	
19	Community Response Plan working group to work on a template for community response plans and distribute to the wider group.	Next CEG meeting	L Hazlewood	Underway

## Actions noted as completed at this meeting

#	Action	Date required	Person Responsible	Status
7	CEG Workshop to be arranged to focus on strategy for groups strategic issues.	Dec 13	G Ryan / L Hazlewood	Completed
9	L Hazlewood to prepare a 'Fit for purpose report on EMIS'.	August CEG mtg	L Hazlewood	Completed
10	EMIS Implementation Plan: B Bowcott/ R Pooley to confirm Hamilton City Council vehicle availability for inclusion in EMIS resource pool.	Next CEG meeting	B Bowcott / R Pooley	Completed
11	GEMO Resources: CEG members need to brief their elected members on what is proposed to support the need to fill the welfare role.	Joint Committee Meeting	CEG members	Completed
12	Thames-Coromandel District Council to formalise the appointment of M Smith to the CDEM CEG by way of a letter to the CEG Chair.	Next CEG meeting	M Smith	Completed
13	CEG members to have a one on one with new Mayors to outline their role during an activation	Next JC meeting	All members	Completed
14	A Taylor to send D Atkinson's contact details to CEG members.	1 Nov	A Taylor	Completed
15	J De Luca to advise finalised name for the 'Western Waikato EOC'.	1 Nov	J DeLuca	Completed
16	GEMO to put together an induction folder with relevant documentation for Joint Committee members.	17 Nov	L Hazlewood	Completed
17	R&R committee to advise of target numbers/dates for completion of training of staff in the foundational course.	Next CEG meeting	B Bowcott	Completed
18	L Hazlewood to discuss target staff for training for intermediate course with S Duignan outside this meeting.	Next CEG meeting	L Hazlewood / S Duignan	Completed
20	GEMO to provide and update at next meeting on where community response planning is at, what is required to progress, what the process is, and who is responsible.	Next CEG meeting	J DeLuca	Completed
21	Management and Governance Subgroup to discuss the implications of the Recovery Manager and Controller being members of CEG.	Next M&G meeting	L Cavers	Completed
22	L Cavers to send a note of thanks to P Howat for her involvement in Civil Defence over the past 10+ years.	1 Nov	L Cavers	
23	S Duignan to send presentation from the MBIE workshop to CEG members.	1 Nov	S Duignan	Completed

**Document No: 329733****File No: 401/0588009400****Report To: Council****Meeting Date:** 25 March 2014**Subject:** 10 Kea Street, Piopio

## Purpose of Report

- 1.1 The purpose of this business paper is to brief Council on issues surrounding the potential disposal of 10 Kea Street, Piopio.

## Local Government Act S.11A Considerations

- 2.1 There are no Section 11A of the Local Government Act considerations relating to this business paper.

## Background

- 3.1 Waitomo District Council (WDC) received a request early in 2014 from the owners of Curious Keas Child Care Centre, who lease 10 Kea Street, Piopio, from WDC, to consider the disposal of the property.
- 3.2 Curious Keas leased the property from 1 January 2012 for five years, with the lease agreement providing for two further terms of five years each, to give certainty of tenure for the business. Under these terms the final expiry date is 31 December 2027.
- 3.3 The lease is based on a market rental plus property outgoings, set by valuation and has two yearly review dates commencing 1 January 2015.
- 3.4 Mayor Brian Hanna and Group Manager - Community Services met with the owners of Curious Keas on the 11 February 2014 to discuss the disposal proposal, and identify what processes WDC would need to go through to achieve such an outcome.
- 3.5 The owners of Curious Keas were advised that once any investigatory works were completed any decision relating to the disposal would need to be made via resolution of Council.
- 3.6 Based on the initial meeting, a letter was forwarded to the owners confirming the steps required to achieve their outcome. This letter also gave indicative costs and sought confirmation from them that they would pay for all costs incurred by WDC. A copy of this letter is attached to this business paper for Councillors information.

- 3.7 On the 17 February 2014, confirmation relating to the costs was received and WDC proceeded with the first investigatory phase into how WDC came into ownership of the land and whether Section 40 Public Works Act 1981 was relevant to this possible disposal.
- 3.8 Section 40 Public Works Act 1981 is about whether WDC would need to go through an offer back process to the original owners.

### Commentary

- 4.1 Mr Rick Barnaby, Land Rights Analyst of Curnow & Tizard undertook the initial investigatory phase into WDC's ownership of the property at 10 Kea Street. A copy of the report is attached to this business paper for Councillor's reference.
- 4.2 The key conclusion from Mr Barnaby is:
- "I see no grounds for exempting the property from an offer back. The property was given to Council for a specific purpose and if that purpose is now surplus to Council requirements the property should be offered back."*
- "Should Council resolve to dispose of 10 Kea Street, I suggest Council call for a valuation of the property as at the date of resolution and offer to sell it to the Waikato District Health Board at the current market value of the improvements only."*
- 4.3 Note that the offer back relates to improvements only, as there was no cost in obtaining the land at the initial time of transfer.
- 4.4 This offer back process may or may not satisfy the desires of Curious Keas to obtain ownership of the property, and no guarantees can be given that it will.
- 4.5 On the other hand, WDC has title to a property in Piopio that it has a lease agreement on and is receiving a market rental plus outgoings, set by valuation. Any disposal would mean a loss of income to the Housing and Other Property Activity and a corresponding increase in funding from other sources, for what possibly could be a small gain through an offer back process.

### Conclusion

- 5.1 Due to the difficulties in:
- a) easily achieving the outcomes desired by the owners of Curious Keas in relation to disposal to them; and
  - b) the possibility of a small return from an offer back process as it relates to improvements only
- that WDC should continue to treat this property as an investment and not dispose of it.

**Suggested Resolutions**

- 1 The business paper on 10 Kea Street, Piopio be received.
- 2 Waitomo District Council retains ownership of this property and continues with its lease obligations to Curious Keas.



JOHN DE LUCA  
**GROUP MANAGER – COMMUNITY SERVICES**

March 2014

- Attachments:
- 1 Letter to Curious Keas (doc 329736)
  - 2 Curnow & Tizard Report ((doc 329736)

14 February 2014

Curious Keas  
C/o Stephanie Brough  
10 Kea Street  
**Piopio 3912**

Dear Stephanie

### **PURCHASE OF COUNCIL LAND - CURIOUS KEAS**

Further to your recent meeting with our Mayor Brian Hanna and myself, we can confirm that Council would consider an offer from you for the purchase of the land and buildings situated at 10 Kea Street, Piopio and occupied by Curious Keas.

The process to achieve such an outcome would involve:

1. Investigation into land ownership to ensure that WDC has no historical obligations related to offer back provisions under the Public Works Act 1981. This is the first step and would be undertaken by Rick Barnaby, a specialist land consultant. The outcomes of this initial investigation will influence how the process proceeds from that point onwards.
2. Secondly, obtaining a valuation of the property taking account of the current lease arrangement and rent holidays in lieu of works undertaken on the property. This would be undertaken by Curnow & Tizard
3. Based on the valuation and current market conditions, WDC would set a price for the property as would happen in any other sale and purchase agreement offer of sale.
4. Acceptance of any offer from you will be based on a resolution from Council.

Waitomo District Council will follow through these four steps. At this stage I would anticipate that this process could take several months, depending especially on the ownership investigations.

As mentioned at our meeting there are costs involved in preparing the valuation, ownership investigations and preparing a sale and purchase agreement. WDC's expectation is that you would meet these costs as was raised with you at our meeting. Can you please confirm in a written email to me, [johnd@waitomo.govt.nz](mailto:johnd@waitomo.govt.nz) that you are prepared to meet these costs.

I would estimate that these costs will be in the vicinity of the valuation \$1,500, investigations \$1,500 and legal fees \$500. As these costs come to hand at WDC, we would on-charge them to you. Initially we would only commit to the ownership investigation phase.

We look forward to working with you to bring this proposal to fruition.

Should you have any queries regarding the above please email me or phone 021 2200117.

Yours faithfully

JOHN DE LUCA  
**GROUP MANAGER – COMMUNITY SERVICES**



**CURNOW TIZARD**  
REGISTERED VALUERS - ANALYSTS

28 January 2014

**WAITOMO DISTRICT COUNCIL**

PO Box 404

**TE KUITI 3941**

Attention: John De Luca

Your Ref: 05880 09400

**10 KEA STREET, PIOPIO [Doctor's Residence and Surgery]**

**PRELIMINARY**

1. Your 18 February instruction proposes to dispose of this property and calls for an investigation to determine what process should be followed.
2. The property is Lot 13, DP 4995 of 3243 square metres. It is held unencumbered by the Waitomo District Council in Computer Freehold Register SA190/242.

**HISTORY**

3. The Waikato Hospital Board ceded 10 Kea Street to the Waitomo County Council without payment in February 1974. The consideration was a covenant given by Council to the Board to build a surgery and residence for a medical practitioner.
4. Council has an unsigned copy of the covenant so there may be a degree of uncertainty that it reflects what was signed. However, the 1974 transfer records "the Transferor has agreed to transfer the ... land to [the Waitomo County Council as Transferee] and whereas the Transferee has entered into a Covenant with the Transferor to erect upon the ... land a building to be used as a surgery and residence for a medical practitioner".
5. The Waikato Hospital Board in a letter to the County Council of 23 November 1973 noted "approval has been received from the Department of Health to the Board ceding the above property to your Council. The transfer is conditional upon the property being used for the erection of a new surgery / residence for a general medical practitioner".
6. The proposal to better provide for general practitioners in rural areas came about through an amendment in 1969 to the Counties Act 1956 – as further amended by the Counties Amendment Act 1971.
7. The Waikato Hospital Board [as the Waikato Hospital and Charitable Aid Board] bought the property in 1913 for £110 from James McIndoe. No purpose was stated in the transfer document. From correspondence the property was in 1974 being used as a doctor's surgery and residence - a Dr Vetharaniam was resident there at the time and he continued after Council took the property over. Clearly though, buildings were in need of upgrading – to the point where Council raised \$30,000 for new facilities by way of a loan in 1974 through the Department of Health and the State Advances Corporation.

CURNOW TIZARD LTD  
Accredited Suppliers to Land Information NZ

Directors: Geoff Tizard  
F.P.I.N.Z., F.N.Z.I.V., A.A.M.I.N.Z.(Arb.), B.Ag. Comm

Phillip Curnow  
F.P.I.N.Z., F.N.Z.I.V., F.A.M.I.N.Z.(Arb.)

**PUBLIC WORKS ACT 1981**

8. Section 40 of the Public Works Act 1981 applies to the disposal of this property. Under the Interpretation provisions of the Act "public work" includes *every ... local work that ... any local authority is authorized to construct, undertake, establish, manage, operate, or maintain, and every use of land for any ... local work which ... any local authority is authorized to construct, undertake, establish, manage, operate, or maintain by or under this or any other Act ...*
9. I see no grounds for exempting the property from an offer back. The property was given to Council for a specific purpose and if that purpose is now surplus to Council requirements the property should be offered back.
10. Should Council resolve to dispose of 10 Kea Street, I suggest Council call for a valuation of the property as at the date of the resolution and offer to sell it to the Waikato District Health Board [DHB] at the current market value of the improvements only. Council may wish to examine that approach bearing in mind the land came with improvements which Council replaced. That was some 40 years ago and Council may now decide to offer the whole property "as is" back to the DHB without seeking any payment. Council paid all legal costs in 1974.
11. Should the DHB decline any offer the property may be sold by Council exercising S.42(1) and (2) of the Public Works Act.

**ATTACHMENTS**

- 1913 Transfer 76988
- 1974 Transfer S648461

RW Barnaby  
LAND RIGHTS ANALYST  
*for*  
CURNOW TIZARD LIMITED  
Direct Line        07 827 6665  
Direct Fax        07 823 3957  
Mobile            027 291 6336  
E.mail [barnabys@clear.net.nz](mailto:barnabys@clear.net.nz)

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**ATTACHMENTS**

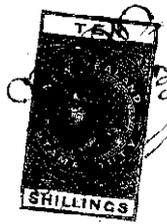
- 1913 Transfer 76988
- 1974 Transfer S648461

RW Barnaby  
LAND RIGHTS ANALYST  
*for*  
CURNOW TIZARD LIMITED  
Direct Line 07 827 6665  
Direct Fax 07 823 3957  
Mobile 027 291 6336  
E.mail [barnabys@clear.net.nz](mailto:barnabys@clear.net.nz)

[New Zealand.

MEMORANDUM OF TRANSFER.

I JAMES MC IRDOE of Te Kuiti contractor &c.....  
 . . . . . being registered as the proprietor of an estate  
 in fee simple . . . . .  
 subject, however, to such encumbrances, liens, and interests as are notified by memorandum  
 underwritten or indorsed hereon, in all that piece of land situated in the Provincial District of  
 Auckland, containing Three rods eight perches and two tenths perches ..  
 (more or less) being Lot Thirteen on a plan deposited in the Land  
 Registry Office at Auckland under Number 4995 which said piece of  
 land is portion of a Block situated in the Otago Survey District  
 called Kirohaku East Number Five B Number Three A and is the whole  
 of the land included in Volume 190 folio 242 of the Register Book  
 at Auckland in consideration of the sum of One hundred and ten ....  
 pounds paid to me by the Waikato Hospital and Charitable Aid Board.  
 (a body corporate duly constituted under the provisions of "The ...  
 Hospital and Charitable Institutions Act 1909") the receipt of which  
 sum I hereby acknowledge do hereby transfer to the said Waikato ...  
 Hospital and Charitable Aid Board all my estate and interest in the  
 said land IN WITNES whereof I have hereunto subscribed my name ...  
 this *twenty first* day of *November* One thousand  
 nine hundred and *thirteen*



SIGNED by the said James McIrdoe }  
 in the presence of

*James McIrdoe*

*Booney*  
*Postmaster*  
*Hikurangi*

76988  
No.

Transfer of Lot Thirteen on plan  
No 4995.

11

Correct for the purposes of the Land Transfer Act.

James McIndoe

Vendor.

J. A. Swarbrick.  
Solicitor.  
Hamilton.

Waikato Hospital & Charitable Aid Board. Purchaser.

Particulars entered in the Register-Book, Vol. 190  
Folio 242, the 8th  
day of DECEMBER, 1913, at 11  
o'clock am



Arthur D. Hutchins

District Land Registrar.

**SOUTH**

SWARBICK & SWARBICK,  
SOLICITORS,  
HAMILTON.

~~A. SWARBICK,~~  
SOLICITOR,  
HAMILTON & EDWARDSVILLE

Approved by the District Land Registrar, South Auckland S477921/1970

New Zealand

X/1  
**MEMORANDUM OF TRANSFER**

WHEREAS THE WAITOMO HOSPITAL BOARD (hereinafter referred to as "the Transferor") a board duly incorporated under the Hospitals Act 1957 at Hamilton

registered as the proprietor of an estate in fee simple

subject however, to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon, in all that piece of land situate in the Otanake Survey District

containing

THREE RODS EIGHT DECIMAL TWO PERCHES (3r. 8.2p.)

be the same a little more or less being Lot 13 on Deposited Plan No. 4995 and being also the whole of the land comprised and described in Certificate of Title Register Book Volume 190 Folio 242 South Auckland Registry AND WHEREAS the Transferor has agreed to transfer the abovedescribed land to THE CHAIRMAN COUNCILLORS AND INHABITANTS OF THE COUNTY OF WAITOMO a body corporate having its office at Alexandra Street, Te Kuiti (hereinafter referred to as "the Transferee") AND WHEREAS the Transferee has entered into a Covenant with the Transferor to erect upon the within described land a building to be used as a surgery and residence for a medical practitioner

Signed by H H K

NOT TRANSFERRED in pursuance of these premises and

IN CONSIDERATION of ~~the sum of~~ the Covenant entered into by the Transferee

(~~which sum includes \$~~ ~~for chattels~~)

paid to

THE TRANSFEROR  
(the receipt of which sum is hereby acknowledged) DO ~~ES~~ HEREBY TRANSFER to the said transferee

all its estate and interest in the said piece of land

above described

IN WITNESS WHEREOF these presents have been executed this

day of February

*J. J. L.*

One thousand nine hundred and seventy four .

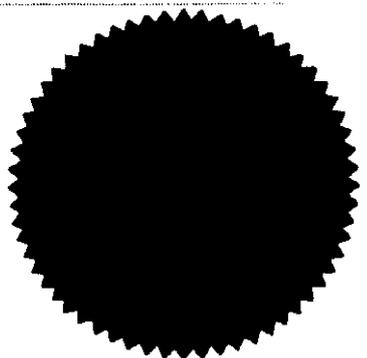
THE COMMON SEAL of THE HAWAII HOSPITAL  
BOARD as transferor was hereto  
affixed by order of the Board  
SIGNED by the abovenamed

in the presence of

Witness: R. M. Read MEMBER

Occupation: Deputy Wood MEMBER

Address: [Signature] CHIEF EXECUTIVE



No. **S** 648461

Correct for the purposes of the Land Transfer Act.

*M. Dixon*

Solicitor for Transferee.

**TRANSFER OF**

LOT 13 D.P. 4995

THE HAIKATO HOSPITAL BOARD Transferor

THE CHAIRMAN COUNCILLORS AND INHABITANTS OF THE COUNTY OF WAIKATO Transferee

I HEREBY CERTIFY THAT THIS TRANSACTION DOES NOT CONTRAVENE THE PROVISIONS OF PART IIA OF THE LAND SETTLEMENT PROMOTION AND LAND ACQUISITION ACT 1952.

Solicitor for the purchaser or lessee.

Particulars entered in the Register Book, Vol. 190

Folio 242

the 4<sup>th</sup> day of March 1974

at 10:05 o'clock.



Assistant Land Registrar of the District of South Auckland

LAND  
Number: 7  
Swarbrick, Dixon & Men  
- 4 MAR 1974  
Time: 10:05  
5  
17336

SWARBRICK, DIXON, ALLEN & WALTER  
SOLICITORS,  
HAMILTON.

THE HAMILTON DISTRICT LAW SOCIETY

1

Document No: 329780

File No: 037/043

**Report To: Council****Meeting Date:** 25 March 2014**Subject: Motion to Exclude the Public for the Consideration of Council Business**

### Purpose of Report

- 1.1 The purpose of this business paper is to enable the Council to consider whether or not the public should be excluded from the consideration of Council business.

### Commentary

- 2.1 Section 48 of the Local Government Official Information and Meetings Act 1987 gives Council the right by resolution to exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds contained within that Section.

### Suggested Resolutions

- 1 The public be excluded from the following part of the proceedings of this meeting.
- 2 Council agree the following staff, having relevant knowledge, remain in attendance to assist Council with its decision making: ...
- 3 The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

<b>General Subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Section 48(1) grounds for this resolution</b>
1. Documents Signed and Sealed by the Mayor and Chief Executive under Council's Common Seal	7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons;	48(1)(a)
2. Inframax Construction Ltd and Independent Roadmarkers Taranaki Ltd – Half-Annual Reports to 31 December 2013	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Section 48(1) grounds for this resolution
3. Inframax Construction Limited – Draft Statement of Intent for Year Ending 30 June 2015	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)
4. Independent Roadmarkers Taranaki Limited – Draft Statement of Intent for Year Ending 30 June 2015	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)
5. Progress Report: Regulatory Enforcement Issues	7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons;	48(1)(a)
6. Progress Report: Wool Storage Facility	7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons;	48(1)(a)
7. Cultural and Arts Centre – Shared Parking Investigation	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)
8. Progress Report: Rural Halls	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)
9. Progress Report: Te Kuiti Cemetery	7(2)(i) Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	48(1)(a)

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6, Section 7 or Section 9 of the Official Information Act 1982 as the case may require are listed above.



MICHELLE HIGGIE  
**EXECUTIVE ASSISTANT**