

10.3 Bylaws Review and Determination (Review One) Report

Report To:	Council
Meeting Date:	Thursday, 30 July 2026
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Purpose

To provide an update to Council on the review of Council Bylaws and seek Council decision on the review of its Review One Bylaws under the Local Government Act 2002.

Recommendation

That the Council:

- a. Receives and notes the Bylaws Review and Determination (Review One) Report. (Resolve # 2026-24).
- b. Determines that a bylaw continues to be the most appropriate means of addressing issues related to the maintenance of cemeteries in South Waikato.
- c. Determines that a bylaw continues to be the most appropriate means of addressing issues related to freedom camping in South Waikato.
- d. Determines that a bylaw continues to be the most appropriate means for Council to regulate transport-related activities in South Waikato.
- e. Determines that a bylaw continues to be the most appropriate means for Council to regulate activities within public places in the South Waikato.
- f. Approves staff review of the Trade Waste Bylaw 2017 as required under the Local Government (Water Services) Act 2025 and in conjunction with shareholding Councils to Waikato Waters Limited.
- g. Approves staff review of the Water Supply Bylaw 2020 as required under the Local Government (Water Services) Act 2025 and in conjunction with shareholding Councils to Waikato Waters Limited.
- h. Subject to the determinations above, approves that staff continue with the review of the Review One Bylaws in accordance with the Local Government Act 2002.

Executive Summary

The Local Government Act 2002 (LGA) gives Councils powers to make bylaws. This includes bylaws that regulate certain activities to:

- protect the health and safety of the public.
- ensure the safe, efficient and equitable use of public spaces and infrastructure.
- protect Council assets and the environment.

- provide clear, enforceable rules to support consistent and effective management.

Council is required to review its bylaws no later than 5 years after the making of a bylaw, and no later than 10 years subsequently. When making and reviewing a bylaw, Council is required to determine whether the bylaw is the most appropriate way of addressing a perceived problem and determine that the proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (NZ BORA).

Council has 14 current bylaws most of which are nearing the end of the 10-year review period. Staff have prioritised these in two phases for review, Review One Bylaws and Review Two Bylaws (listed below in this Report). This Report (the determination report) is the start of a two-step process to review Council's bylaws as required under the Local Government Act 2002.

Step One

Staff have undertaken an assessment on whether the bylaws are still the most appropriate way to address a perceived problem and make the recommendation that the Review One Bylaws be determined as still appropriate under section 155(1) of the Local Government Act 2002. Staff are seeking Council decision on that determination in this Report.

Step Two

If Council adopts staff recommendations on the s 155(1) assessment, staff seek Council approval to continue with the review of the Review One Bylaws.

Subject to the Step One recommendation being adopted, staff will engage with relevant stakeholders for each of the Review One Bylaws while preparing draft amendments to the Bylaws as appropriate. Staff anticipate reporting back to Council later in the year with draft Review One Bylaws incorporating any feedback from pre-engagement and for Council decision on consultation.

Context

Legislation Overview and Bylaws Review Process

Local Government Act 2002 (LGA)

Sections 151 to 160A of the LGA set out Councils requirements for the making and review of bylaws. Under the LGA, a new bylaw must be reviewed within 5 years of coming into being, and existing bylaws reviewed no less than 10 years after it was last reviewed. The LGA requires Council to assess whether a bylaw is the most appropriate way to address a perceived problem (s 155(1)). If this is determined, Council then make an assessment on whether the bylaw is in the most appropriate form and whether it gives rise to implications under the New Zealand Bill of Rights Act 1990 (s 155(2)). Any bylaw that is not reviewed within its required timeframe is revoked on the date that is two years after the last date in which the bylaw is due for review (160A).

Local Government (Water Services) Act 2025 (LG(WS)A)

This Act sets out a framework for local government water services, including responsibilities for councils and water organisations established by councils to provide water services. Council is required to review its Water Services Bylaws by August 2027 to ensure consistency with the LG(WS)A. Once reviewed, the next review period is 10 years from the date of the last review.

The LGA provides a two-step process for the review of Councils bylaws. The first step is assessing and determining whether a bylaw is the most appropriate way to address a perceived problem. In this Report, Council is presented with six current adopted Bylaws to make a determination on before staff can proceed with the review of them. Staff have split the 14 Bylaws into two review phases. See the below table showing which bylaws are under which review phase.

Review One Bylaws	Review Two Bylaws
Cemeteries Bylaw Freedom Camping Bylaw Land Transport Bylaw Public Places Bylaw Trade Waste Bylaw Water Supply Bylaw	Bylaws Administration Bylaw Cultural and Recreational Facilities Bylaw Dog Control Bylaw Hostels Bylaw Keeping of Animals, Poultry and Bees Bylaw Property Maintenance and Nuisance Bylaw Prostitution Location and Signage Bylaw Solid Waste Management and Minimisation Bylaw

Discussion

Perceived Problems Assessment

Staff assessed each Review One Bylaw in consideration of section 155(1) of the LGA and provide the below summaries:

Cemeteries Bylaw 2017

Council is required to manage its cemeteries in accordance with the Burial and Cremations Act 1964. Section 16 of the Act provides a non-exhaustive list of the regulatory activities that Council are required to manage. These include:

- Maintaining, preserving, and embellishing the cemetery or closed cemetery.
- Directing the positions, vaults and depths of graves, the construction of coffins to be admitted into vaults and the covering of them within cemeteries.
- Protection of buildings and the surrounding environment in cemeteries.
- Regulating burials (including ashes of deceased) and times of burials in cemeteries.

To fulfil the requirements under the Burial and Cremations Act, Council adopted the Cemeteries Bylaw in September 2011. The last review of this Bylaw was completed in December 2017, and therefore needs to be reviewed before December 2027.

In this review, staff identified the following issues:

- Recurrence of health and safety issues around contractors and contractor maintenance of cemeteries.
- Lack of clarity and guidance for families, visitors, Council's role and discretionary powers.
- Health, safety and environmental risks are not sufficiently managed.
- Limited recognition of cultural practices and community expectations.

Staff consider that continuing with the reviewed Cemeteries Bylaw is the most appropriate way to regulate issues related to the maintenance of cemeteries. This is because the bylaw gives Council the ability to:

- Directly address issues like maintenance or health and safety of staff and the community.
- Introduce controls on hazardous, inappropriate, or non-biodegradable items where there is environmental risks or harm.
- Provide consistent and clear decision-making through relevant bylaw definitions and powers under it.

Freedom Camping Bylaw 2021

The Freedom Camping Bylaw regulates where different types of freedom camping vehicles may stay within the district, and the areas and length of time in which freedom campers may stay. These controls aim to conserve the areas, provide access to them and ensure public health and safety.

The Freedom Camping Bylaw was first adopted in May 2011 and has been subsequently reviewed in 2017 and 2021. The next review isn't due until 2031, however staff recommend reviewing now to reflect the Self-Contained Motor Vehicle Amendment Act, which took effect from June 2023. The amendment provides new definitions for “self-contained” and “freedom camping” (particularly what they are not) and a provision requiring certification of self-contained motor vehicles. Review of this Bylaw would allow for new legislative terminology, while addressing current perceived issues arising from new legislative change and enforcement staff feedback on the Bylaw.

In this review, staff identified the following issues with freedom camping within the district:

- Freedom camping reserves are frequently being used for long-term residency rather than intended short-term stays, increasing Council costs on maintenance of reserve facilities.
- Permissible areas where self-contained motor vehicles park are causing congestion during peak season/busy event times, taking up multiple car parks.
- Lack of clarity in definitions clause.
- Inadequate controls to protect shared public facilities.
- Amenity, safety and user experience issues within camping areas.
- Outdated or inaccurate mapping location information.

Consistent with section 11(2) of the Freedom Camping Act 2011 and section 155(1) of the LGA, staff recommend that continuing this Bylaw as the most appropriate way is necessary to protect specified freedom camping areas within the district, health and safety of users/visitors and to promote access to specified areas. This is because the Bylaw allows Council to:

- provide clear definitions that align with relevant legislation.
- take a proactive approach to regulating issues around freedom camping within the district.
- identify and address community concerns about freedom camping within the district through the bylaw review consultation process.

Land Transport Bylaw 2017

The Land Transport Act 1998 and associated rules provide Council with powers to manage transport-related activities, including traffic control, parking and speed management. The Bylaw supports the implementation of these powers at a local level, ensuring alignment with national level regulation, Council's district plan and current operational practices.

This Bylaw was first adopted in August 2002 as the “Roads and Road Traffic Bylaw” to align with then legislation and standards. It was last reviewed in 2019 to amend schedules for parking and designated areas. In this review, staff identified the following issues:

- need to improve health and safety and accuracy of positioning data, outdated traffic control data and terminology.
- safety risks due to road layout and parking behaviour.
- infrastructure changes are not reflected in the bylaw.

Staff consider that continuing with the reviewed Land Transport Bylaw is the most appropriate way to regulate the identified issues.

- Improve the accuracy of traffic control data (ie no-stopping lines, road positioning).
- Infrastructure changes/new developments and changing land use patterns.
- Legislative check on bylaw alignment/compliance and legal definitions.

Public Places Bylaw 2022

The Public Places Bylaw maintains public use and enjoyment of public places within the South Waikato District. It covers a variety of activities that occur within public places, such as but not limited to:

- damage to public places
- fires
- trading on footpaths or in a public place
- vehicular crossings
- management of stock on roads
- liquor control
- advertising signs.

Staff identified inconsistencies and overlaps between the Public Places Bylaw and other Council related bylaws, administrative and enforcement issues due to outdated legislation and outdated terminology. Staff consider that continuing with a reviewed Public Places Bylaw is the most appropriate way to regulate activities occurring within public places and to ensure Council can effectively manage public safety, accessibility, operational consistency, and protection of public assets through a clear and enforceable regulatory framework.

Issue(s) resolution without using bylaws

When assessing whether a bylaw is the most appropriate way to address a perceived problem, Council should consider whether there are any alternative ways in which it can carry out its function. Alternative ways of addressing the issues identified in the above Bylaws could include providing education on legislative compliance with the public. Education already can occur in line with a bylaw and Council's Infringement Policy. Staff take the position that educating members of the public alone is not enough to give Council the means to carry out its obligations effectively. For example, not having a bylaw on Cemeteries leaves Council with little recourse to be able to administer or enforce compliance with requirements for regulating cemeteries.

Trade Waste Bylaw 2017 and Water Supply Bylaw 2020 (Water Services Bylaws)

Under the Local Government (Water Services) Act 2025 (LG(WS)A), Council is required to review its Water Services Bylaws by 27 August 2027. The purpose of the review is to ensure that the Water Services Bylaws are consistent with the new requirements under the LG(WS)A. Under s 263(4) of the LG(WS)A, Council must invite Waikato Waters Limited to provide input into the review of the Water Services Bylaws before making a decision on whether to confirm, amend, revoke or revoke and replace a Water Services Bylaw.

Bylaw Coordination Group under Memorandum of Understanding (MOU) with Waikato Waters Limited and Shareholding Councils

Council agreed to enter into a MOU with Waikato Waters Limited in its June 2026 Council Meeting. That MOU governs the shared review requirements for Water Services Bylaws for the shareholding councils to Waikato Waters Limited. As Council is shareholder to Waikato Waters Limited with other

Councils, it is required to review its Water Services Bylaws jointly. To fulfil this requirement, a staff representative will join the Bylaw Coordination Group with representatives from each shareholding council and Waikato Waters Limited.

Under the MOU, Council agrees that it will submit the output from its review to check consistency of the Water Services Bylaws with the LG(WS)A to the Bylaw Coordination Group, as well as any input from Waikato Waters Limited in its review of Council's Water Services Bylaws.

Staff recommend reviewing the Trade Waste Bylaw 2017 and Water Supply Bylaw 2020 alongside the Review One Bylaws process to meet its legislative requirements and agreements made under the MOU.

Options

Option	Advantage(s)	Disadvantage(s)
(Recommended) Option 1: Adopt determination and approve that staff continue review of the Review One Bylaws.	Bylaws incorporate new legislative reform and are better fit for purpose. Current or identified issues within this review can be included into relevant Bylaws for enforcement. Bylaws are reviewed within statutory timeframe and agreed timeframes in its MOU.	Risk statutory non-compliance with bylaw review if delayed (delay on other bylaws that require review).
Option 2: Don't adopt recommendations in this Report.		Bylaws will lapse and authorised officers or enforcement officers will not have enforcement powers. Current or identified issues within this review cannot be included and enforced through the Bylaws.

Linkage to Strategic Plan Priorities

Consultation (Internal and External)

Council is required to consult on bylaw reviews using either the Special Consultative Procedure (s 83 of the LGA) or the more general principles of consultation (s 82). This would typically occur once a new draft of the reviewed bylaw is available and prior to adoption by Council. See below for assessment of significance. Under section 156(2) of the LGA, a Council may make changes or corrections to a bylaw if those changes do not affect existing rights or interests of any person subject to the bylaw through public notification.

Financial Considerations

There are no financial considerations at this stage of the bylaw review process.

Risks

Most of the Council's bylaws are nearing the end of the required review period, and some require review to reflect new legislation. If Council delays making a decision on the determination assessment under section 155(1) of the LGA, it risks pushing the review process out further and potential for statutory non-compliance.

Significance & Engagement Policy

Staff have assessed Council's Significance and Engagement Policy and given there are a number of matters being addressed in the bylaws that potentially impact on the community, the level of significance is considered to be high. The outcome of the review of these bylaws will likely be subject to public consultation under section 83 of the LGA.

Reference

Attachments

None