

Document No: A699206

Report To: Council



Meeting Date: 28 November 2023

Subject: Road Names: Walker Road to 'Walker Street'

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to provide the feedback received through the public consultation process regarding the proposal to re-name the urban portion of Walker Road to Walker Street, and seek a decision from Council on the renaming of the urban portion of Walker Road to Walker Street.

Background

- 2.1 On 31 October 2023 a business paper was tabled at the Council meeting wherein a proposal was put to Council to change the urban portion of Walker Road (outlined in blue below) to Walker Street.



- 2.2 In terms of Section 319(1)(j) of the Local Government Act 1974 the council shall have power in respect of roads to name and to alter the name of any road and to place on any building or erection on or abutting on any road a plate bearing the name of the road.
- 2.3 Council resolved to engage with affected parties, including mana whenua and receive and consider any feedback received at a subsequent Council Meeting.

Commentary

- 3.1 In response to the resolution passed by Council on 31 October 2023 a letter was sent to affected parties, including mana whenua of the proposal to change the urban portion of Walker Road to Walker Street and reasoning behind the proposal. Affected parties were determined to be owners of all the properties on Walker Road and mana whenua (Ngati Rora).
- 3.2 In total 32 consultation letters were sent to affected parties. Parties were given 3 weeks to provide feedback, using a number of different options.

File 2 - Page 2

- 3.3 A hui was held with iwi on 14th November 2023, the outcome confirmed that the proposal was supported by Ngati Rora. Staff undertook to complete a policy on the naming of new and the renaming of existing streets and roads during 2024.
- 3.4 Several phone calls were received from residents of Walker Road seeking clarification on what this would mean for their property (i.e. would their number change, and would this affect anything else (i.e. rates).
- 3.5 No responses were received to oppose the name change.

Analysis of Consultation

- 4.1 The low number of responses received can be taken as an indication that the vast majority of affected parties are either indifferent or unopposed to the proposed name change.
- 4.2 Of the feedback that was received there was none that opposed the change.
- 4.3 The concerns raised to the proposal were foreseen, it was acknowledged that some initial inconvenience would occur as individuals will be required to update address information.
- 4.4 This initial individual inconvenience is not considered to out-weight the ongoing and wider individual and public benefits which will be achieved by sorting out the duplicated addresses. Importantly it will ensure emergency, postal and electoral services are not adversely affected.

Considerations

- 5.1 **Risk**
- 5.2 Should Council resolve to re-name the urban portion of the road as recommended, there is a risk that some affected property owners/residents will not agree with the decision; however, this must be balanced against the risk of not taking action - which is that emergency services may fail to respond to a correct address due to confusion.
- 5.3 It is considered that the risk of not acting outweighs the risk of acting to rename the urban portion of Walker Road.
- 5.4 In order to mitigate the risk of affected property owners/residents taking exception to the decision, staff will develop a communications plan to ensure that affected property owners/residents are advised of the proposal and the rationale for the decision in advance of the portion of road being renamed.
- 5.5 **Consistency with Existing Plans and Policies**
- 5.6 This decision is consistent with existing plans and policies.
- 5.7 **Significance and Community Views**
- 5.8 This decision is not a significant decision in terms of Council's Significance and Engagement Policy.

Recommendation

- 6.1 Council proceeds with the proposed name change of the urban portion of Walker Road to Walker Street and advise affected parties accordingly.

Suggested Resolutions

- 1 The business paper on Road Names: Walker Road to "Walker Street" be received.
- 2 Council re-name the urban portion of Walker Road to Walker Street and advise affected parties accordingly.



ALEX BELL
GENERAL MANAGER – STRATEGY AND ENVIRONMENT

Document No: A698881

Report To: Council



Meeting Date: 28 November 2023

Subject: Review of the Freedom Camping Bylaw 2023

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to seek a decision from Council regarding amendments that are required to be made to the Waitomo District Freedom Camping Bylaw (the Bylaw) in light of recent legislative changes.

Background

- 2.1 Section 11(2) of the Freedom Camping Act 2011 (the Act) enables councils to introduce their own freedom camping bylaw if they determine that:
- (a) *the bylaw is necessary for 1 or more of the following purposes:*
 - (i) *to protect the area:*
 - (ii) *to protect the health and safety of people who may visit the area:*
 - (iii) *to protect access to the area; and*
 - (b) *the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and*
 - (c) *the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.*
- 2.2 Council resolved at its Council meeting on 27 November 2018 to bring into effect the Waitomo District Council's (WDC) Freedom Camping Bylaw (the Bylaw) in January 2019.
- 2.3 Freedom camping means to camp, in a tent or motor vehicle, not at a campground but within 200m of any area accessible by car, the mean low water springs line of the sea, a formed road, or Great Walks Track. The purpose of the Bylaw is to control freedom camping in order to protect local authority areas, access to these areas, and the health and safety of people.
- 2.4 Although the Act requires the Bylaw to be reviewed every five years, it was amended again in early 2022 to make the following changes:
- (a) Kiritehere Cemetery Reserve in its entirety was made a prohibited camping area (as this was identified as a significant area for Māori).
 - (b) The Bylaw was reformatted into the new Council bylaw template.
 - (c) Amendments to the scope to include the definition of freedom camp and local authority (previously in the definitions section).
- 2.5 A copy of the Bylaw is attached as **Attachment 1**.
- 2.6 In June 2023, Parliament passed the Self-contained Motor Vehicles Legislation Act 2023 (SCMVLA), which made amendments to the Freedom Camping Act 2011. The key changes include:

File 2 - Page 5

- (a) Updating the definition of “freedom camp”.
- (b) The definition of “self-contained”.
- (c) Changes to the national rule – the default position is now that freedom camping must be in a self-contained vehicle unless councils opt to permit non-self-contained vehicles.
- (d) The homelessness exemption - a person is not freedom camping if they are unable to live in appropriate residential accommodation and are not on a visitor visa.
- (e) Slide-on campers – are caught under the new definition of “motor vehicle” and will have to meet the self-containment requirements.

2.7 In response to these legislative amendments, Council is required to amend the sections of its existing Bylaw where there are inconsistencies with the new legislation, to avoid it becoming inoperative. Pursuant to Schedule 1AA, Clause 10(2)(b), Council is not required to use the Special Consultative Procedure (SCP) to amend the Bylaw to remove the inconsistencies between the recent legislative amendments and the Bylaw.

Commentary

- 3.1 A track change version of the amended Bylaw giving effect to the required legislative changes under the SCMVLA as **Attachment 2**. The changes to the Bylaw include:
- (a) Updating the definition of ‘Freedom Camp’ and ‘motor vehicle’ to align with the legislation (2.1 & 2.6).
 - (b) Include s2.3 which was introduced to the legislation to clarify that people experiencing homelessness are not freedom camping.
 - (c) Updating the definition of ‘self-contained vehicle’ to align with the legislation (definitions).
 - (d) Clarify the various rules for the four types of ‘restricted’ locations.
 - (e) Amended the standard penalty charged to a person committing an offence from \$200 to \$400 or a fee set out in the regulations.
- 3.2 Some of the maps in Schedule 3 have also been updated to improve their usefulness, changes include:
- (a) Zooming in on the Te Kūiti map making it easier to locate the areas for freedom camping;
 - (b) Moving the Te Kūiti and Piopio cemeteries onto separate maps so maps can be clearer;
 - (c) Changing the colouring of Tui Park to teal to identify the location as suitable for tents and including stars for paid camping sites;
 - (d) Improving the resolution of the maps with updated imagery; and
 - (e) Adding ‘Haggas Lookout’ to the map for Te Anga to make the location easier to locate on Google Maps.
- 3.3 The intention from the Ministry of Business, Innovation, and Employment (MBIE) is for councils to be able to make these changes to their freedom camping bylaws without the need to undertake a SCP with the community.

Analysis of Options

4.1 **OPTIONS**

4.2 In response to legislative change, the reasonably practicable options related to the Bylaw are:

Option 1: Amend the Waitomo District Freedom Camping Bylaw 2022 without consultation, adopting the proposed changes.

Option 2: Status quo, continue with the current Bylaw.

Considerations

5.1 **RISK**

5.2 The Act states that if there is an inconsistency between the Act and an existing bylaw, the bylaw has no legal effect where it is inconsistent with the Act; the Act will prevail over the Bylaw. If the Bylaw is not amended there will be portion where it is out of step with legislation which will create confusion and inaccuracies if we were to attempt to enforce the Bylaw in the future without reference to the Act.

5.3 **PUBLIC CONSULTATION**

5.4 The proposed changes to the Bylaw, can be made without public consultation as provided for in Schedule 1AA, clause 10(2)(b) of the Act.

5.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

5.6 The amendments proposed for this Bylaw are only to remove any inconsistencies with the Act, so any changes made do not make any material difference to the community, as these are already in effect.

Recommendation

6.1 Council resolves to amend the Bylaw without public consultation to remove any inconsistencies between the Bylaw and the Act, and publicly notify its decision in this regard.

Suggested Resolutions

1 The business paper on Review of the Waitomo District Freedom Camping Bylaw 2023 be received.

2 Council resolves to amend the Bylaw without public consultation to remove any inconsistencies between the Bylaw and the Act, and publicly notify its decision in this regard.



ALEX BELL
GENERAL MANAGER – STRATEGY AND ENVIRONMENT

Attachments:

- 1 Waitomo District Freedom Camping Bylaw 2022 (A619805)
- 2 Amended Waitomo District Freedom Camping Bylaw (A695492)

Waitomo District Council

Freedom Camping Bylaw 2022

First Adopted:	27 November 2018
Review History:	June 2022
Date of Next Review:	June 2032
Responsibility:	Infrastructure Services
Adopted by:	30 August 2022
Associated Documents:	Freedom Camping Act 2011

Contents

TITLE TAITARA	4
COMMENCMET TĪMATA	4
PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ	4
DEFINITIONS NGĀ WHAKAMĀRAMATANGA	5
BYLAW PĀERO	5
1. Local authority areas where freedom camping is permitted	5
2. Prohibited Areas	5
3. Restricted Areas	6
4. Prior permission from Council	6
5. Council may temporarily close an area to freedom camping	7
6. Offence and Penalties	7
SCHEDULE 1 WAHANGA 1	9
Prohibited Areas for Freedom Camping	9
SCHEDULE 2 WAHANGA 2	10
Restricted Areas for Freedom Camping	10
SCHEDULE 3 WAHANGA 3	11
Maps	11

Pursuant to the powers vested in it by the Freedom Camping Act 2011, the Waitomo District Council makes this Bylaw.

The following note is explanatory and is not part of the Bylaw:

This Bylaw applies only to the areas under the control of the Waitomo District Council. Compliance with this Bylaw does not remove the need to comply with all applicable Acts, regulations, bylaws, and rules of law. This includes complying with any parking or other traffic restrictions in any area, any restrictions on keeping of animals, not littering, not lighting fires in breach of any fire ban, not making excessive noise, and complying with the directions of enforcement officers. This Bylaw should also be read alongside the Freedom Camping Act 2011.

TITLE | TAITARA

This Bylaw may be cited as the Waitomo District Council Freedom Camping Bylaw 2022.

COMMENCEMENT | TĪMATA

The initial resolution to make this Bylaw was passed by the Waitomo District Council at an ordinary meeting of the Council held on 25 September 2018 and was adopted following consideration of submissions received during the special consultative procedure, by a resolution at a meeting of the Council on 27 November 2018. The Bylaw came into force on 1 January 2019. In July 2022 the Bylaw was reviewed by special consultative procedure and an amended Bylaw was adopted on 30 August 2022.

PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

1. The purpose of this Bylaw is to control freedom camping in the District in order to:
 - (a) Protect local authority areas;
 - (b) Protect the health and safety of people who may visit local authority areas;
 - (c) Protect access to local authority areas.
2. The scope covered by the term Freedom Camp for the purpose of this Bylaw is the same definition given in the Act:
 - 2.1 In this [Bylaw], freedom camp means to camp (other than at a camping ground) within 200m of a motor vehicle accessible area or the mean low- water springs line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using 1 or more of the following:
 - (a) A tent or other temporary structure;
 - (b) A caravan;
 - (c) A car, campervan, house-truck, or other motor vehicle.
 - 2.2 In this [Bylaw], freedom camping does not include the following activities:
 - (a) Temporary and short-term parking of a motor vehicle;
 - (b) Recreational activities commonly known as day-trip excursions;
 - (c) Resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.
 - 2.3 In this [Bylaw], camping ground means

- (a) A camping ground that is the subject of a current certificate of registration under the Camping-Grounds Regulations 1985;
- (b) Any site at which a fee is payable for camping at the site

2.4 In this [Bylaw], Great Walks Track means

- (a) A track specified in Schedule 1 (of the Act); and
- (b) Any other track specified by Order in Council made under section 44 (of the Act) as a Great Walks Track.

DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

Act	Freedom Camping Act 2011
Certified self-contained vehicle	Refers all vehicles designed and built for the purpose of camping which is practically configured to meet the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days, without requiring any external services or discharging any waste and complies with New Zealand Standard 5465:2001, as evidenced by the display of a current self- containment warrant issued under New Zealand Standard Self-Containment of Motor Caravans and Caravans, NZS 5465:2001 and any subsequent amendments.
Chief Executive	The person for the time being exercising the functions of the Chief Executive of the Council.
District	The territory contained within the Waitomo District as defined in Schedule 2 to the Local Government Act 2002.
Council	Waitomo District Council
Night	The time period between 10pm and 9am
Waste receptacle	A receptacle or facility that is provided for the purposes of disposing of waste (for example, a rubbish bin, public toilet, a public dump station or public transfer station).

BYLAW | PĀERO

1. Local authority areas where freedom camping is permitted

- 1.1. Freedom camping is permitted in any local authority area within the District unless it is prohibited or restricted.
 - a) By this Bylaw; or
 - b) Under any other enactment or bylaw

2. Prohibited Areas

- 2.1. A person must not freedom camp in any local authority area in the District in any vehicle that is not a certified self-contained vehicle.
- 2.2. A person must not freedom camp in any tent or temporary structure in any local authority area, except as allowed in clause 3.
- 2.3. A person must not freedom camp in any local authority area described in Schedule 1 and marked red on the maps in Schedule 3.

3. Restricted Areas

- 3.1. In any area described in Schedule 2 and marked blue on the maps in Schedule 3, freedom camping is allowed subject to the following restrictions:
- (a) The freedom camping must only take place in a certified self-contained vehicle as specified in Schedule 2; and
 - (b) The maximum period of stay in any location within a blue area is two consecutive nights on no more than two separate occasions in any calendar month (unless otherwise detailed in the schedule); and
 - (c) Other restrictions as specified in Schedule 2.
- 3.2. In any area described in Schedule 2 and marked yellow on the maps in Schedule 3, freedom camping is allowed subject to the following restrictions:
- (a) The freedom camping must only take place in a certified self-contained vehicle non-self-contained vehicle or tent as specified in Schedule 2; and
 - (b) The maximum period of stay in any location within a yellow area is two consecutive nights on no more than two separate occasions in any calendar month (unless otherwise detailed in the schedule); and
 - (c) Other restrictions as specified in Schedule 2.
- 3.3. In any area described in Schedule 2 and marked green on the maps in Schedule 3, tenting only is allowed in the location defined, subject to other restrictions as defined in Schedule 2.
- 3.4. In clauses 3.1(b) and 3.2(b) "location" means the land within 500m of the place where the certified self-contained vehicle or tent is situated for the purpose of freedom camping.

4. Prior permission from Council

- 4.1. The Chief Executive of the Council may temporarily waive or modify the freedom camping restrictions in clauses 2 and 3 of this Bylaw. Permission may be granted by the Chief Executive with or without conditions
- 4.2. Application for permissions must be made:
- (a) In writing;
 - (b) Provide sufficient detail about the proposed camping including information about how the applicant will manage all human and other waste generated while freedom camping; and
 - (c) Be made at least 20 working days in advance of the date planned for freedom camping in the area where the prohibition or the restrictions apply.

The following note is explanatory and is not part of the Bylaw:

The purpose of this clause is to enable permission for temporary sites for freedom camping in prohibited or restricted areas, for example associated with one-off events.

5. Council may temporarily close an area to freedom camping

- 5.1. The Chief Executive of the Council may temporarily close or restrict freedom camping in any area or part of any area where the closure or restriction is considered necessary to:
- (a) Prevent damage to the local authority area or facilities in the area; or
 - (b) Allow maintenance to the local authority area or facilities; or
 - (c) Protect the safety of persons or property; or
 - (d) Provide for better public access, including in circumstances where events are planned for that area.
- 5.2. Notice will be given of any temporary closure or restriction, and the removal of any closure or restriction, in any manner the Chief Executive considers is appropriate to the reason for the closure or restriction. Prior notice of any temporary closure or restriction will be given where possible.

The following note is explanatory and is not part of the Bylaw:

Notice given by the Council may include any of the following: a sign erected in the area; and/or advertising on the Council's website or on the radio; and/or a public notice in the paper.

6. Offence and Penalties

- 6.1 As specified by section 20(1) of the Act, every person commits an offence who:
- (a) freedom camps in a local authority area in breach of any prohibition or restriction in this Bylaw that applies to the area; or
 - (b) makes preparations to freedom camp in a local authority area in breach of any prohibition or restriction in this Bylaw that applies to the area
- 6.2 As specified by section 23(1) of the Act, every person who commits an offence set out in clause 10(1) is liable to an infringement fee (fine) of \$200.

The following note is explanatory and is not part of the Bylaw:

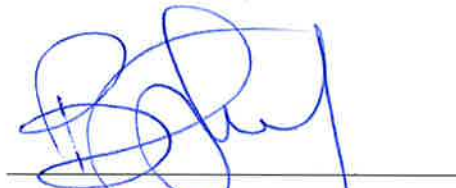
Section 20 of the Act provides for the above offences and also for other offences, such as not properly disposing of waste into a waste receptacle, damaging or interfering with the flora and fauna in an area, and obstructing or threatening an enforcement officer. Section 22 of the Act sets out defences to a freedom camping offence. The defences include that an offence was committed due to an action or event beyond the control of the defendant that could not reasonably have been foreseen, or the act was necessary to protect life or health, prevent injury or serious damage to property. Council officers use their discretion when investigating freedom camping complaints, which will include consideration of any defences that may be available to a person.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:



Mayor



Chief Executive

SCHEDULE 1 | WAHANGA 1

Prohibited Areas for Freedom Camping

A person must not freedom camp in any local authority area described in the table below.

Area Name / Description	Map Reference
Te Kuiti Cemetery (new)	1
Te Kuiti Cemetery (old)	1
Te Kuiti Domain – Te Kuiti	1
Brook Park – Te Kuiti	1
Redwood Park –Te Kuiti	1
Te Kuiti Skateboard Park – Te Kuiti	1
Centennial Park – Te Kuiti	1
Rose Garden Reserve – Te Kuiti	1
Rukuhia Domain – Piopio	2
Kara Park - Piopio	2
Piopio Cemetery	2
Mokau Esplanade (Aria Terrace) and Point Road (including carpark) - Mokau	3
Carpark area opposite Whitebait Inn - Mokau	3
Tokopapa Street (including carparking area) – Mokau	3
Takarei Terrace Recreation Reserve – Mokau	3
Boat Ramp carparking, Te Kauri Road – Mokau	3
Beach Road - Mokau	3
Tainui Street – Mokau	3
Rangi Street – Mokau	3
Oha Street - Mokau	3
Mokau Cemetery	3
Carpark Area, Moana Quay – Marokopa	4
Esplanade – Marokopa	4
Marokopa Recreation Reserve – Carley Reeve Drive Marokopa	4
Moerua Street - Marokopa	4
Rauparaha Street - Marokopa	4
Marokopa Road - Marokopa	4
Carley Reeve Drive - Marokopa	4
Kiritehere Cemetery Reserve (including Road reserve)	4
Benneydale Domain – Benneydale (part)	5
Benneydale Hall – Maniaiti Road - Benneydale	5
Benneydale public toilets – State Highway 30, Benneydale	5
Boat Ramp carpark – Te Waitere	6
Te Waitere Cemetery	6
Iredale Quay River Esplanade – Awakino	7
Awakino Heads Esplanade - Awakino Heads Road – Awakino	7
Aria Cemetery	8
St Helen Domain - Aria	8
Mapiu Cemetery	9
Mapiu Domain – Mapiu	9
Waikawau Beach/Tunnel Recreation Reserve	10
Kinohaku Hall – Kinohaku	11
Waitomo Village Road – Waitomo	13

SCHEDULE 2 | WAHANGA 2

Restricted Areas for Freedom Camping

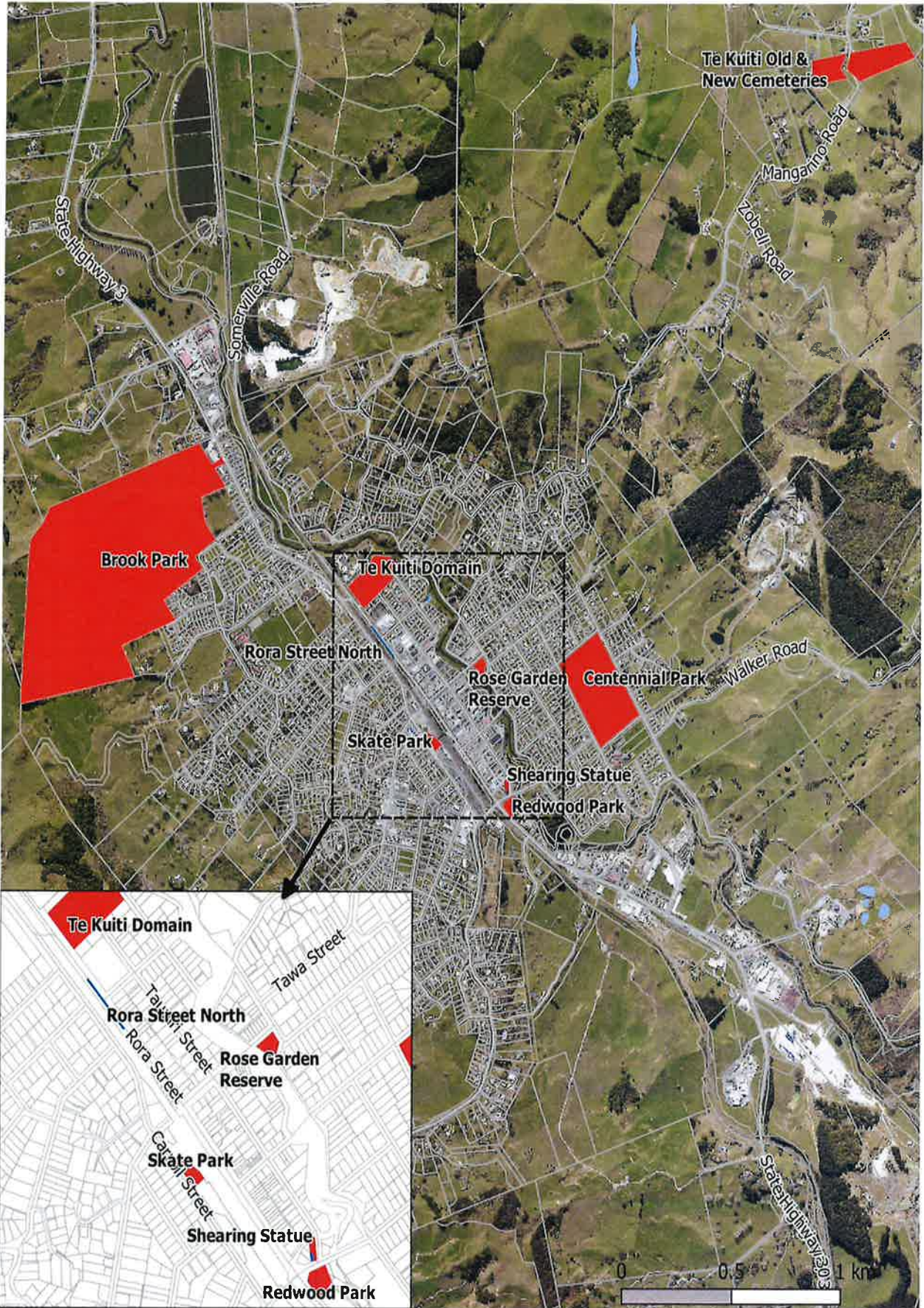
Freedom camping is allowed in any local authority area described in the table below subject to the following general and area specific restrictions:

General Restrictions

- a) The freedom camping must only take place in a certified self-contained vehicle or tent as specified in the table below.
- b) The maximum period of stay in any location is two consecutive nights on no more than two separate occasions in any calendar month.
- c) Freedom camping in certified self-contained vehicles is restricted to the signposted area (where signposted). Space will be available on a 'first-in first-served' basis.
- d) Unless subject to area specific restrictions all vehicles being used for freedom camping must depart by 9am.
- e) All vehicles being used for freedom camping must be legally parked and any possessions associated with freedom camping contained within a single, defined carparking space. If undefined, vehicles must park in a courteous manner to allow other vehicles to also park within the signposted area, with all possessions no more than 1 metre from the vehicle in any direction.
- f) All vehicles being used for freedom camping must be parked clear of any entry and exit points to the site.
- g) No person may light any fire while freedom camping in a local authority area except in a place specifically provided by the Council for that purpose, or with the prior written permission of Council.
- h) All waste must be disposed of into an appropriate waste receptacle or removed from site.
- i) The site must be left in a clean and tidy state.
- j) Every person must leave and not return if required to leave by an Enforcement Officer under the Act.
- k) All conditions stipulated on any signs in the local authority area must be complied with.

Area Name	Area specific restrictions	Map reference
Shearing Statute (Municipal) Reserve – Te Kuiti	Maximum of 6 self-contained vehicles in defined area only. No tenting.	1
Rora Street North	Self-contained vehicles only. No tenting.	1
Tui Park - Piopio	No time restrictions. Self-contained, non-self-contained and Tenting allowed.	2
Benneydale Domain (part)	Self-contained vehicles only. No tenting.	5
Te Waitere Reserve	Self-contained and non-self-contained vehicles. No tenting.	6
Te Anga Road Scenic Lookout	Maximum of 3 self-contained vehicles. No tenting	12

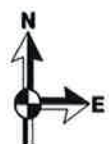
SCHEDULE 3 | WAHANGA 3
Maps

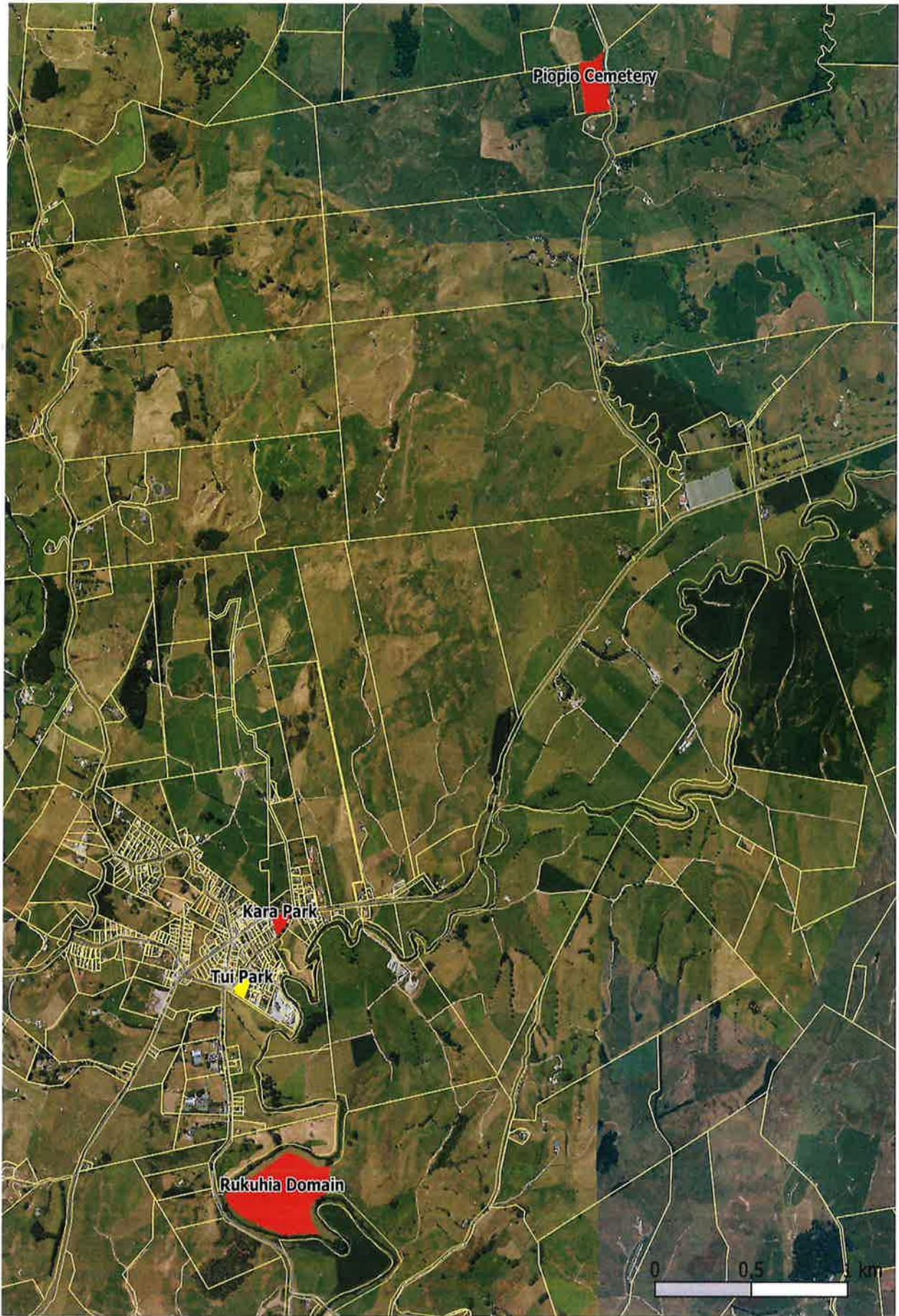


MAP 1 - Te Kuiti
 Waitomo District Council
 Freedom Camping Restricted
 and Prohibited Areas

Legend

- Prohibited Areas for Freedom Camping
- Restricted Areas for freedom Camping
- Self Contained
- Self Contained and Non-Self Contained








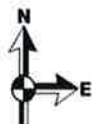
MAP 2 - Piopio



Waitomo District Council
Freedom Camping Restricted and
Prohibited Areas

Legend

-  Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
-  Self Contained
-  Self Contained and Non-Self Contained





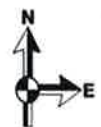
MAP 3 - Mokau

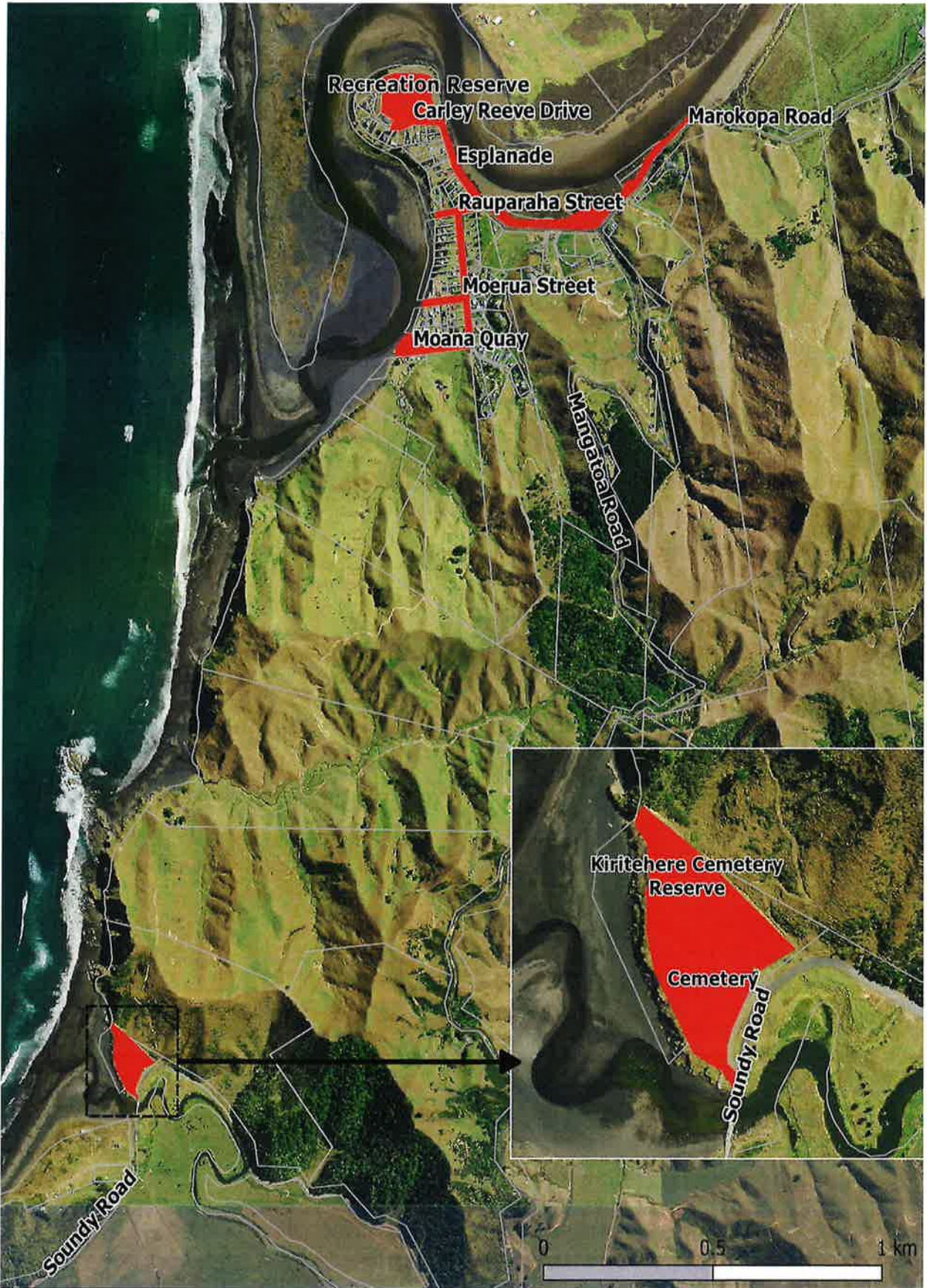



Waitomo District Council
Freedom Camping Restricted and Prohibited Areas




Legend

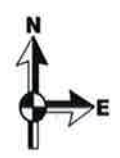
- Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
- Self Contained
- Self Contained and Non-Self Contained






MAP 4 - Marokopa
 Waitomo District Council
 Freedom Camping Restricted
 and Prohibited Areas

Legend
 No Freedom Camping
 Self Contained
 Self Contained and non-Self Contained





MAP 5 - Benneydale

Waitomo District Council
Freedom Camping Restricted and Prohibited Areas

Legend
■ Prohibited Areas for Freedom Camping
■ Self Contained
■ Self Contained and Non-Self Contained

Restricted Areas for Freedom Camping





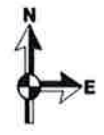
MAP 6 - Te Waitere



Waitomo District Council
Freedom Camping Restricted and Prohibited Areas

Legend

- Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
- Self Contained
- Self Contained and Non-Self Contained








MAP 7 - Awakino

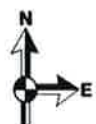


District Council

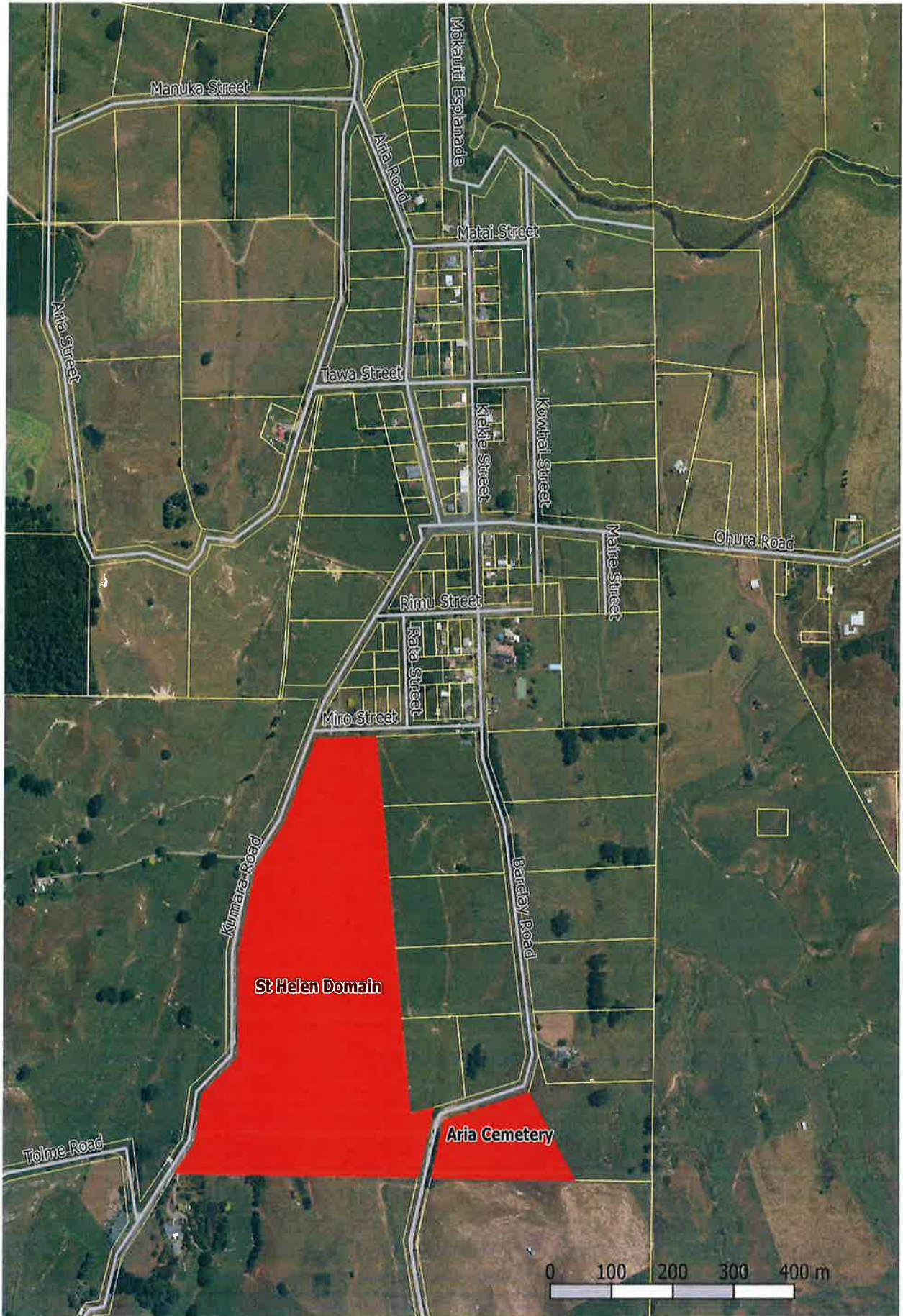
Waitomo District Council
Freedom Camping Restricted and
Prohibited Areas

Legend

-  Prohibited Areas for Freedom Camping
 -  Self Contained
 -  Self Contained and Non-Self Contained
- Restricted Areas for Freedom Camping**



District Council



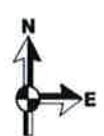
MAP 8 - Aria



Waitomo District Council
Freedom Camping Restricted and Prohibited Areas

Legend

- Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
- Self Contained
- Self Contained and Non-Self Contained





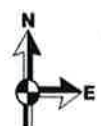
MAP 9 - Mapiu



Waitomo District Council
Freedom Camping Restricted and
Prohibited Areas

Legend

- Prohibited Areas for Freedom Camping
 - Self Contained
 - Self Contained and Non-Self Contained
- Restricted Areas for Freedom Camping**






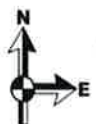


MAP 10 - Waikawau

Waitomo District Council
Freedom Camping Restricted and
Prohibited Areas

Legend

-  Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
-  Self Contained
-  Self Contained and Non-Self Contained





Restricted Areas for Freedom Camping

- Self Contained
- Self Contained and Non-Self Contained

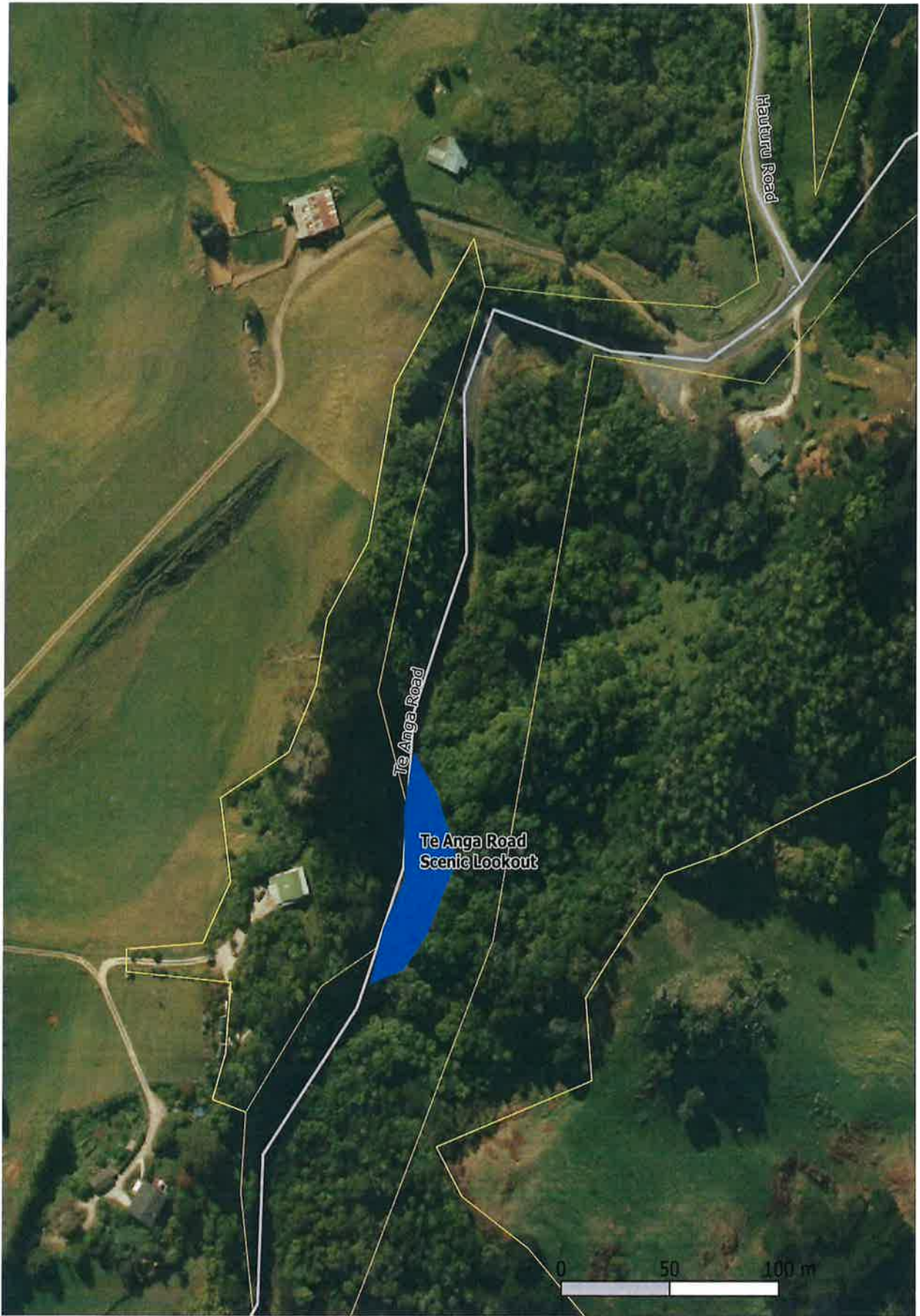
Legend

- Prohibited Areas for Freedom Camping

MAP 11 - Kinohaku

Waitomo District Council
Freedom Camping Restricted and Prohibited Areas








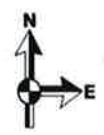
MAP 12 - Te Anga

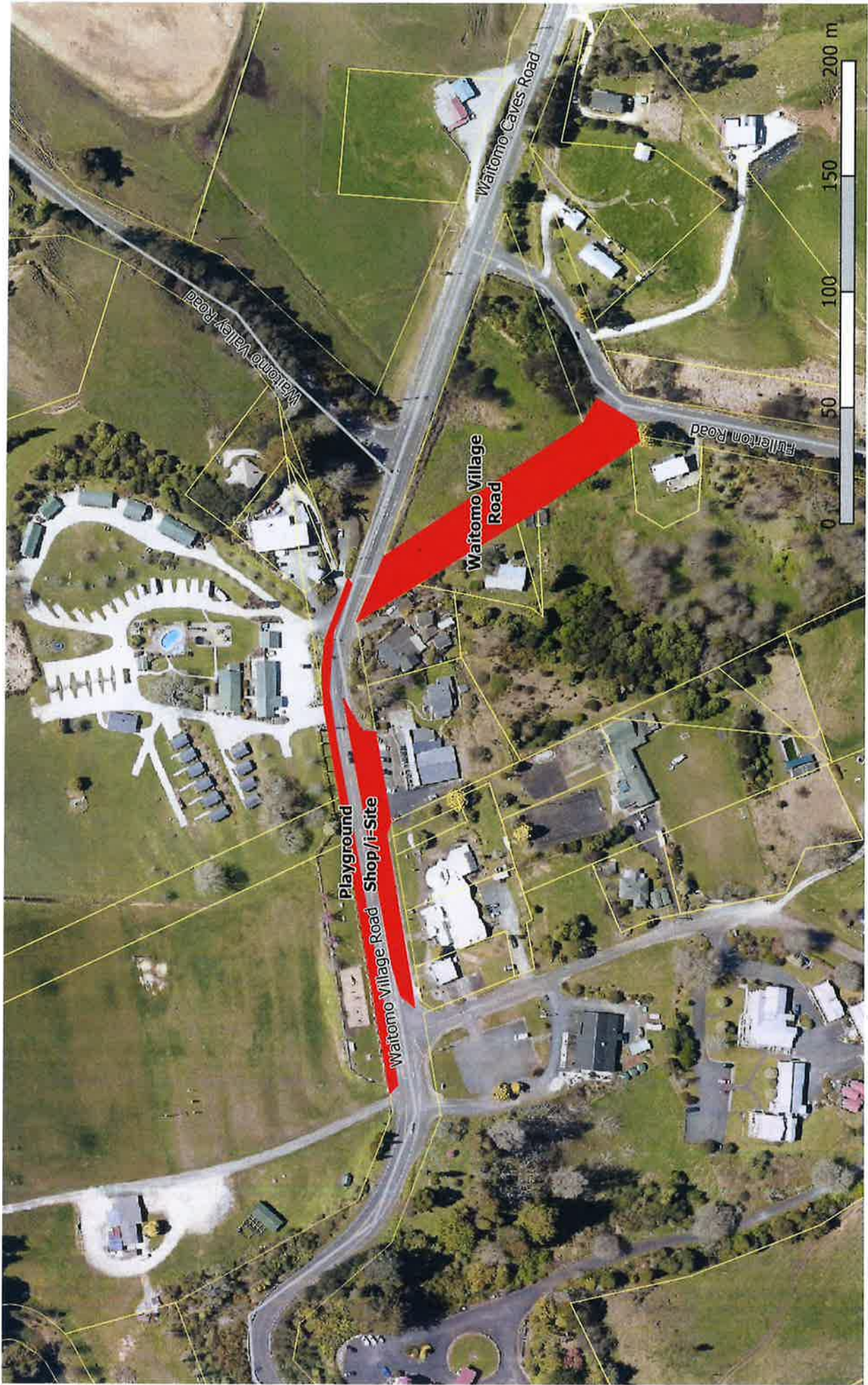


Waitomo District Council
Freedom Camping Restricted and
Prohibited Areas

Legend

-  Prohibited Areas for Freedom Camping
- Restricted Areas for Freedom Camping**
-  Self Contained
-  Self Contained and Non-Self Contained





Restricted Areas for Freedom Camping

- Self Contained
- Self Contained and Non-Self Contained

Legend

- Prohibited Areas for Freedom Camping

MAP 13 - Waitomo Village

Waitomo District Council
Freedom Camping Restricted and Prohibited Areas



Waitomo District Council

Freedom Camping Bylaw

~~2022~~ 2023

File 2 - Page 32

First Adopted:	27 November 2018
Review History:	June 2022, November 2023
Date of Next Review:	June 2032 November 2033
Responsibility:	Infrastructure Services
Adopted by:	30 August 2022 date
Associated Documents:	Freedom Camping Act 2011

Contents

TITLE TAITARA.....	4
COMMENCEMENT TĪMATA.....	4
PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ	4
DEFINITIONS NGĀ WHAKAMĀRAMATANGA.....	5
BYLAW PĀERO.....	<u>665</u>
1. Local authority areas where freedom camping is permitted	<u>665</u>
2. Prohibited Areas	<u>665</u>
3. Restricted Areas	6
4. Prior permission from Council	<u>776</u>
5. Council may temporarily close an area to freedom camping	7
6. Offence and Penalties	<u>887</u>
SCHEDULE 1 WAHANGA 1	<u>10109</u>
Prohibited Areas for Freedom Camping	<u>10109</u>
SCHEDULE 2 WAHANGA 2.....	<u>1111+0</u>
Restricted Areas for Freedom Camping	<u>1111+0</u>
SCHEDULE 3 WAHANGA 3.....	<u>1212+4</u>
Maps 1212+4	

File 2 - Page 34

Pursuant to the powers vested in it by the Freedom Camping Act 2011, the Waitomo District Council makes this Bylaw.

The following note is explanatory and is not part of the Bylaw:

This Bylaw applies only to the areas under the control of the Waitomo District Council. Compliance with this Bylaw does not remove the need to comply with all applicable Acts, regulations, bylaws, and rules of law. This includes complying with any parking or other traffic restrictions in any area, any restrictions on keeping of animals, not littering, not lighting fires in breach of any fire ban, not making excessive noise, and complying with the directions of enforcement officers. This Bylaw should also be read alongside the Freedom Camping Act 2011.

TITLE | TAITARA

This Bylaw may be cited as the Waitomo District Council Freedom Camping Bylaw ~~2022~~2023.

COMMENCEMENT | TĪMATA

The initial resolution to make this Bylaw was passed by the Waitomo District Council at an ordinary meeting of the Council held on 25 September 2018 and was adopted following consideration of submissions received during the special consultative procedure, by a resolution at a meeting of the Council on 27 November 2018. The Bylaw came into force on 1 January 2019. In July 2022 the Bylaw was reviewed by special consultative procedure and an amended Bylaw was adopted on 30 August 2022.

[In November 2023 the Bylaw was reviewed to ensure consistency pursuant to Schedule 1AA, Clause 10 of the Freedom Camping Act 2011 and the Self-contained Motor Vehicles Legislation Act 2023.](#)

[Council resolved to adopt the amended Waitomo District Council Freedom Camping Bylaw to give effect to the Self-contained Motor Vehicles Legislation Act 2023 at the Council Meeting on \[.....\]. The amended Waitomo District Council Freedom Camping Bylaw was then publicly notified on \[.....\].](#)

PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

1. The purpose of this Bylaw is to control freedom camping in the District in order to:
 - (a) Protect local authority areas;
 - (b) Protect the health and safety of people who may visit local authority areas;
 - (c) Protect access to local authority areas.

2. The scope covered by the term Freedom Camp for the purpose of this Bylaw is the same definition given in the Act:
 - 2.1 In this [Bylaw], freedom camp means to camp (other than at a camping ground) within 200m ~~of an area accessible by a~~ motor vehicle ~~or within 200 m accessible area or of~~ the mean low-~~water springs~~ line of any sea or harbour, or on or within 200m of a formed road or a Great Walks Track, using either or both ~~1 or more~~ of the following:
 - (a) A tent or other temporary structure;
 - (b) ~~A caravan;~~ a motor vehicle.
 - ~~(c) A car, campervan, house-truck, or other motor vehicle.~~

 - 2.2 In this [Bylaw], freedom camping does not include the following activities:

File 2 - Page 35

- (a) Temporary and short-term parking of a motor vehicle;
- (b) Recreational activities commonly known as day-trip excursions;
- (c) Resting or sleeping at the roadside in a caravan or motor vehicle to avoid driver fatigue.

2.3 In this [bylaw], a person is not freedom camping if the person —

- (a) is not in New Zealand on a visitor visa (within the meaning of the immigration instructions); and
- (b) is unable to live in appropriate residential accommodation; and
- (c) because of that inability, is living in either or both of the following:
 - (i) a tent or other temporary structure:
 - (ii) a motor vehicle.

2.4 In this [Bylaw], camping ground means —

- (a) A camping ground that is the subject of a current certificate of registration under the Camping-Grounds Regulations 1985;
- (b) Any site at which a fee is payable for camping at the site

2.5 In this [Bylaw], Great Walks Track means —

- (a) A track specified in Schedule 1 (of the Act); and
- (b) Any other track specified by Order in Council made under section 44 (of the Act) as a Great Walks Track.

2.6 In this [Bylaw] motor vehicle means each of the following —

- (a) a motor vehicle within the meaning of section 2(1) of the Land Transport Act 1998;
- (b) a unit used for camping that is not itself a vehicle but is capable of being—
 - (i) transported by means of being loaded onto a vehicle; and
 - (ii) used for camping whether or not it is loaded onto a vehicle.

DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

Act

Freedom Camping Act 2011

~~Certified self-contained motor vehicle~~

~~Refers all vehicles designed and built for the purpose of camping which is practically configured to meet the ablutionary and sanitary needs of occupants of that vehicle for a minimum of three days, without requiring any external services or discharging any waste and complies with New Zealand Standard 5465:2001, as evidenced by the display of a current self-containment warrant issued under New Zealand Standard Self-Containment of Motor Caravans and Caravans, NZS 5465:2001 and any subsequent amendments. in relation to a motor vehicle, means that the vehicle has a valid certificate of self-containment issued in accordance with section 87U(3)(d) of the Plumbers, Gasfitters, and Drainlayers Act 2006 (but see subpart 1 of Part 1 of Schedule 1AA for the meaning of self-contained during the transitional period)~~

File 2 - Page 36

Chief Executive	The person for the time being exercising the functions of the Chief Executive of the Council.
District	The territory contained within the Waitomo District as defined in Schedule 2 to the Local Government Act 2002.
Council	Waitomo District Council
Night	The time period between 10pm and 9am
Waste receptacle	A receptacle or facility that is provided for the purposes of disposing of waste (for example, a rubbish bin, public toilet, a public dump station or public transfer station).

BYLAW | PĀERO

1. Local authority areas where freedom camping is permitted

- 1.1. Freedom camping is permitted in any local authority area within the District [in a self-contained vehicle](#) unless it is prohibited or restricted:-
- By this Bylaw; or
 - Under any other enactment or bylaw

2. Prohibited Areas

- 2.1. A person must not freedom camp in any local authority area in the District in any vehicle that is not a ~~certified~~ self-contained vehicle, [except as allowed in clause 3](#).
- 2.2. A person must not freedom camp in any tent or temporary structure in any local authority area, except as allowed in clause 3.
- 2.3. A person must not freedom camp in any local authority area described in Schedule 1 and marked red on the maps in Schedule 3.

3. Restricted Areas

- 3.1. In any area described in Schedule 2 and marked blue on the maps in Schedule 3, freedom camping is allowed subject to the following restrictions:
- The freedom camping must only take place in a ~~certified~~ self-contained vehicle as specified in Schedule 2; and
 - The maximum period of stay in any location within a blue area is two consecutive nights on no more than two separate occasions in any calendar month (unless otherwise detailed in the schedule); and
 - Other restrictions as specified in Schedule 2.
- 3.2. In any area described in Schedule 2 and marked yellow on the maps in Schedule 3, freedom camping is allowed subject to the following restrictions:
- The freedom camping must only take place in a ~~certified~~ self-contained vehicle, [or non-self-contained vehicle](#), ~~or tent~~ as specified in Schedule 2; and
 - The maximum period of stay in any location within a yellow area is two consecutive nights on no more than two separate occasions in any calendar month (unless otherwise detailed in the schedule); and
 - Other restrictions as specified in Schedule 2.

- 3.3. In any area described in Schedule 2 and marked teal on the maps in Schedule 3, [freedom camping is allowed subject to the following](#):
- [\(a\) The freedom camping must only take place in a ~~certified~~ self-contained vehicle, non-self-contained vehicle, or tent as specified in Schedule 2; and](#)
 - [\(b\) The maximum period of stay in any location within a teal area is two consecutive nights on no more than two separate occasions in any calendar month \(unless otherwise detailed in the schedule\); and](#)
 - [\(c\) Other restrictions as specified in Schedule 2.](#)
- 3.4. In clauses 3.1(b) and 3.2(b) "location" means the land within 500m of the place where the ~~certified~~ self-contained vehicle or tent is situated for the purpose of freedom camping.

4. Prior permission from Council

- 4.1. The Chief Executive of the Council may temporarily waive or modify the freedom camping restrictions in clauses 2 and 3 of this Bylaw. Permission may be granted by the Chief Executive with or without conditions
- 4.2. Application for permissions must be made:
- (a) In writing;
 - (b) Provide sufficient detail about the proposed camping including information about how the applicant will manage all human and other waste generated while freedom camping; and
 - (c) Be made at least 20 working days in advance of the date planned for freedom camping in the area where the prohibition or the restrictions apply.

The following note is explanatory and is not part of the Bylaw:

The purpose of this clause is to enable permission for temporary sites for freedom camping in prohibited or restricted areas, for example associated with one-off events.

5. Council may temporarily close an area to freedom camping

- 5.1. The Chief Executive of the Council may temporarily close or restrict freedom camping in any area or part of any area where the closure or restriction is considered necessary to:
- (a) Prevent damage to the local authority area or facilities in the area; or
 - (b) Allow maintenance to the local authority area or facilities; or
 - (c) Protect the safety of persons or property; or
 - (d) Provide for better public access, including in circumstances where events are planned for that area.
- 5.2. Notice will be given of any temporary closure or restriction, and the removal of any closure or restriction, in any manner the Chief Executive considers is appropriate to the reason for the closure or restriction. Prior notice of any temporary closure or restriction will be given where possible.

The following note is explanatory and is not part of the Bylaw:

Notice given by the Council may include any of the following: a sign erected in the area; and/or advertising on the Council's website or on the radio; and/or a public notice in the paper.

6. Offence and Penalties

6.1 As specified by section 20(1) of the Act, every person commits an offence who:

- (a) freedom camps in a local authority area in breach of any prohibition or restriction in this Bylaw that applies to the area; or
- (b) makes preparations to freedom camp in a local authority area in breach of any prohibition or restriction in this Bylaw that applies to the area

6.2 As specified by section [20\(E\) of the Act any person who commits an infringement offence is liable to:](#)

(a) [an infringement fee not exceeding \\$1000 that is prescribed by regulations made under section 43; or](#)

[\(b\) if no regulations have been made under section 43 prescribing infringement fees, an infringement fee of \\$400; or](#)

[\(c\) a fine imposed by a court not exceeding \\$3000 or any lesser or equal amount prescribed by the regulations.](#)

~~23(1) of the Act, every person who commits an offence set out in clause 10(1) is liable to an infringement fee (fine) of \$200.~~

The following note is explanatory and is not part of the Bylaw:

Section 20 of the Act provides for the above offences and also for other offences, such as not properly disposing of waste into a waste receptacle, damaging or interfering with the flora and fauna in an area, and obstructing or threatening an enforcement officer. Section 22 of the Act sets out defences to a freedom camping offence. The defences include that an offence was committed due to an action or event beyond the control of the defendant that could not reasonably have been foreseen, or the act was necessary to protect life or health, prevent injury or serious damage to property. Council officers use their discretion when investigating freedom camping complaints, which will include consideration of any defences that may be available to a person.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:

Mayor

Chief Executive

SCHEDULE 1 | WAHANGA 1

Prohibited Areas for Freedom Camping

A person must not freedom camp in any local authority area described in the table below.

Area Name / Description	Map Reference
Te Kuiti Domain – Te Kuiti	1
Brook Park – Te Kuiti	1
Redwood Park –Te Kuiti	1
Te Kuiti Skateboard Park – Te Kuiti	1
Centennial Park – Te Kuiti	1
Rose Garden Reserve – Te Kuiti	1
Te Kuiti Cemetery (new)	2
Te Kuiti Cemetery (old)	2
Piopio Cemetery	3
Rukuhia Domain – Piopio	4
Kara Park - Piopio	4
Mokau Esplanade (Aria Terrace) and Point Road (including carpark) - Mokau	5
Carpark area opposite Whitebait Inn - Mokau	5
Tokopapa Street (including carparking area) – Mokau	5
Takarei Terrace Recreation Reserve – Mokau	5
Boat Ramp carparking, Te Kauri Road – Mokau	5
Beach Road - Mokau	5
Tainui Street – Mokau	5
Rangi Street – Mokau	5
Oha Street - Mokau	5
Mokau Cemetery	5
Carpark Area, Moana Quay – Marokopa	6
Esplanade – Marokopa	6
Marokopa Recreation Reserve – Carley Reeve Drive Marokopa	6
Moerua Street - Marokopa	6
Rauparaha Street - Marokopa	6
Marokopa Road - Marokopa	6
Carley Reeve Drive - Marokopa	6
Kiritehere Cemetery Reserve (including Road reserve)	6
Benneydale Domain – Benneydale (part)	7
Benneydale Hall – Maniaiti Road - Benneydale	7
Benneydale public toilets – State Highway 30, Benneydale	7
Boat Ramp carpark – Te Waitere	8
Te Waitere Cemetery	8
Iredale Quay River Esplanade – Awakino	9
Awakino Heads Esplanade - Awakino Heads Road – Awakino	9
Aria Cemetery	10
St Helen Domain - Aria	10
Mapiu Cemetery	11
Mapiu Domain – Mapiu	11
Waikawau Beach/Tunnel Recreation Reserve	12
Kinohaku Hall – Kinohaku	13
Waitomo Village Road – Waitomo	15

SCHEDULE 2 | WAHANGA 2

Restricted Areas for Freedom Camping

Freedom camping ~~is allowed~~ in any local authority area described in the table below is allowed subject to the following general and area specific restrictions:



General Restrictions

- a) The freedom camping must only take place in a ~~certified~~ self-contained vehicle or tent as specified in the table below.
- b) The maximum period of stay in any location is two consecutive nights on no more than two separate occasions in any calendar month.
- c) Freedom camping in ~~certified~~ self-contained vehicles is restricted to the signposted area (where signposted). Space will be available on a 'first-in first-served' basis.
- d) Unless subject to area specific restrictions all vehicles being used for freedom camping must depart by 9am.
- e) All vehicles being used for freedom camping must be legally parked and any possessions associated with freedom camping contained within a single, defined car parking space. If undefined, vehicles must park in a courteous manner to allow other vehicles to also park within the signposted area, with all possessions no more than 1 metre from the vehicle in any direction.
- f) All vehicles being used for freedom camping must be parked clear of any entry and exit points to the site.
- g) No person may light any fire while freedom camping in a local authority area except in a place specifically provided by the Council for that purpose, or with the prior written permission of Council.
- h) All waste must be disposed of into an appropriate waste receptacle or removed from site.
- i) The site must be left in a clean and tidy state.
- j) Every person must leave and not return if required to leave by an Enforcement Officer under the Act.
- k) All conditions stipulated on any signs in the local authority area must be complied with.

Area Name	Area specific restrictions	Map reference
Shearing Statute (Municipal) Reserve – Te Kuiti	Maximum of 6 self-contained vehicles in defined area only. No tenting.	1
Rora Street North	Self-contained vehicles only. No tenting.	1
Tui Park - Piopio	No time restrictions. Self-contained, non-self-contained and Tenting allowed.	4
Benneydale Domain (part)	Self-contained vehicles only. No tenting.	7
Te Waitere Reserve	Self-contained and non-self-contained vehicles. No tenting.	8
Te Anga Road Scenic Lookout	Maximum of 3 self-contained vehicles. No tenting	14

SCHEDULE 3 | MAPS



 <p>MAP 1 - Te Kuiti Waitomo District Council Freedom Camping Restricted and Prohibited Areas</p>	<p>Areas for Freedom Camping</p> <ul style="list-style-type: none"> Self contained Freedom Camping Self-contained and non-self-contained Self-contained, non-self-contained, and tenting 	<ul style="list-style-type: none"> Prohibited Areas for Freedom Camping Paid Campground (no tenting) 	
--	--	---	---



MAP 2 - Te Kuiti Cemetery



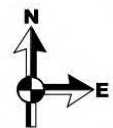
MAP 3 - Piopio Cemetery



Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping





- Self Contained Freedom Camping
- Self-contained and non-self-contained
- Self-contained, non-self-contained, and tenting
- Prohibited Areas for Freedom Camping

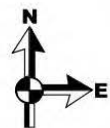




MAP 4 - Piopio
Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

-  Self Contained Freedom Camping
-  Self-contained and non-self-contained
-  Self-contained, non-self-contained, and tenting
-  Prohibited Areas for Freedom Camping



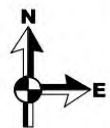


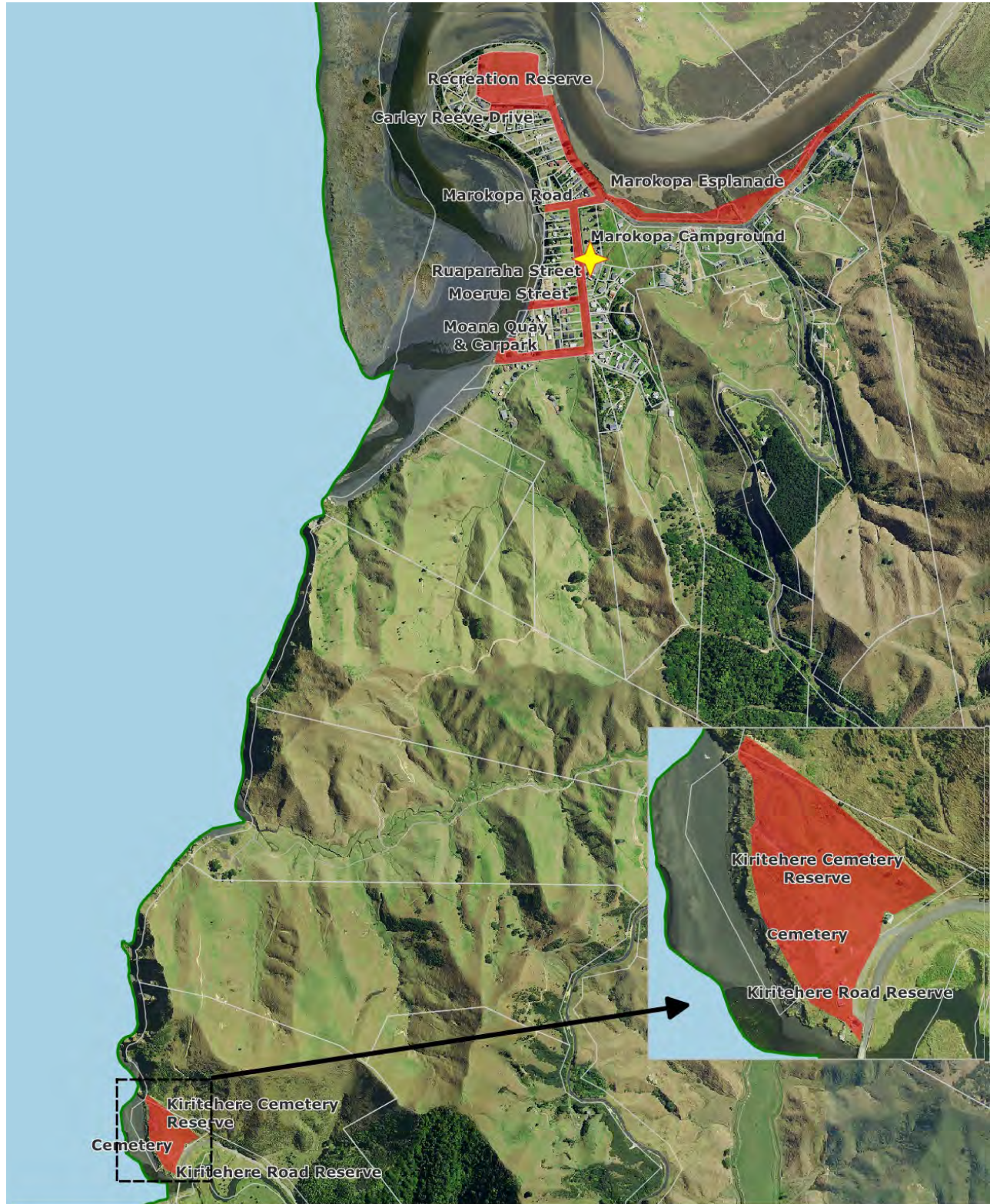
MAP 5 - Mōkau

Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping


- Self Contained Freedom Camping
- Self-contained and non-self-contained
- Self-contained, non-self-contained, and tenting
- Prohibited Areas for Freedom Camping





 <p>MAP 6 - Marokopa</p> <p>Waitomo District Council Freedom Camping Restricted and Prohibited Areas</p> <p> Paid Camping</p>	<p>Areas for Freedom Camping</p> <p> Self Contained Freedom Camping</p> <p> Self-contained and non-self-contained</p> <p> Self-contained, non-self-contained, and tenting</p> <p> Prohibited Areas for Freedom Camping</p>	
---	---	---






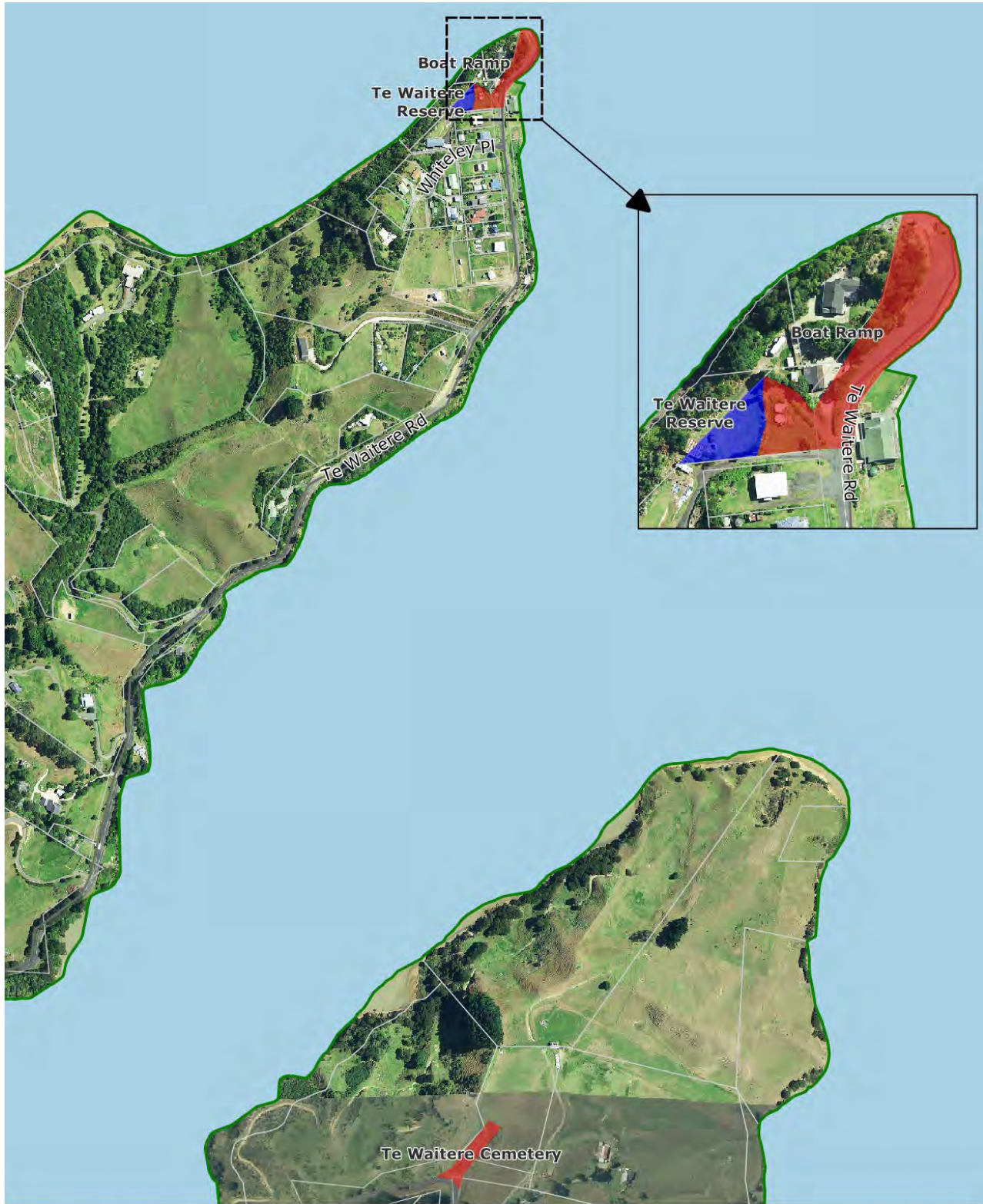
MAP 7 - Maniaiti/Benneydale
Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

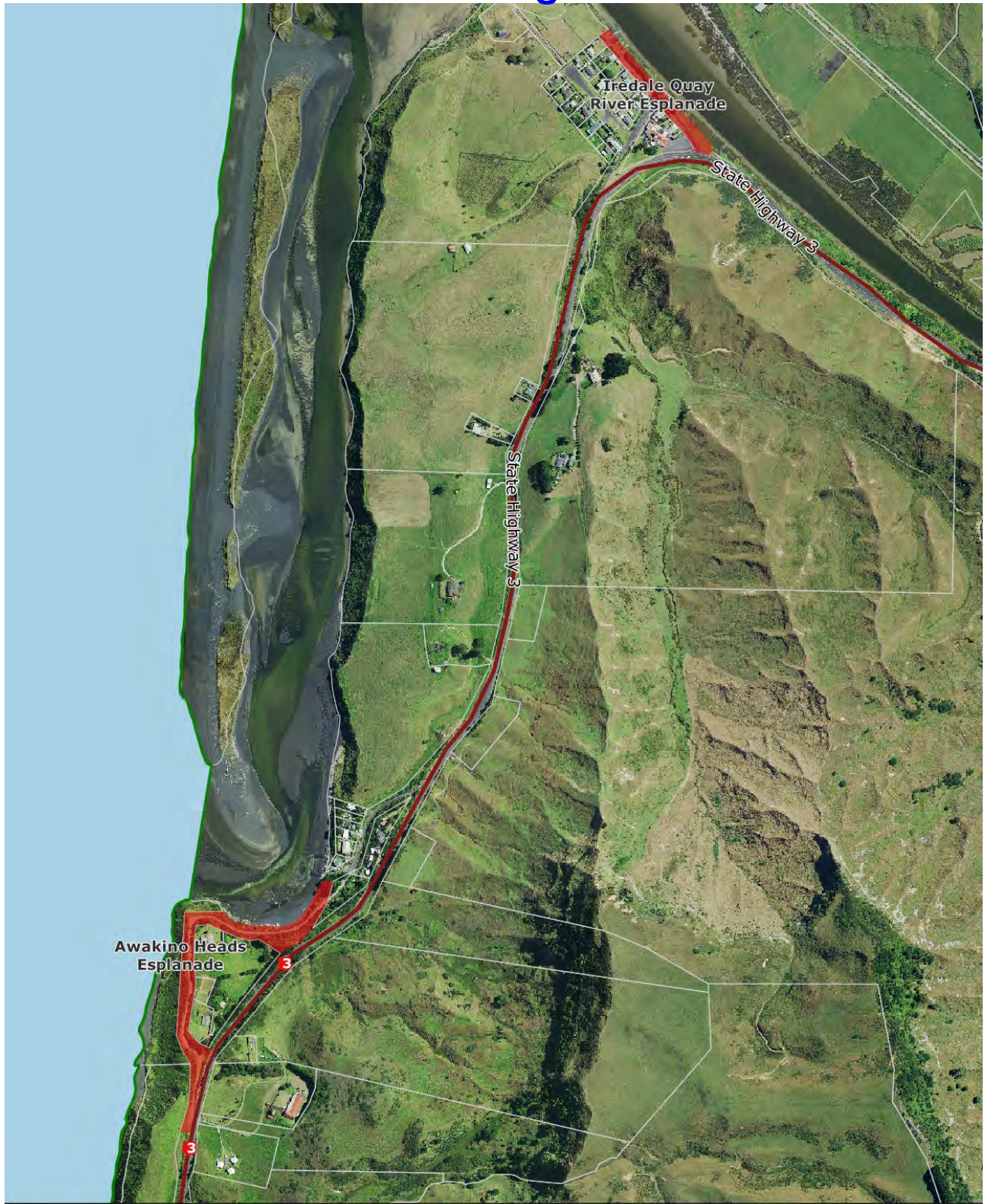
- Self contained Freedom Camping
- Self-contained and non-self-contained
- Self-contained, non-self-contained, and tenting

■ Prohibited Areas for Freedom Camping





	<p>MAP 8 - Te Waitere</p> <p>Waitomo District Council Freedom Camping Restricted and Prohibited Areas</p>	<p>Areas for Freedom Camping</p> <ul style="list-style-type: none"> Self Contained Freedom Camping Self-contained and non-self-contained Self-contained, non-self-contained, and tenting Prohibited Areas for Freedom Camping 	
	<p>Waitomo District Council</p>		





MAP 9 - Awakino
Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

- Self Contained Freedom Camping
- Self-contained and non-self-contained
- Self-contained, non-self-contained, and tenting
- Prohibited Areas for Freedom Camping





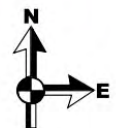
 <p>MAP 10 - Aria Waitomo District Council Freedom Camping Restricted and Prohibited Areas</p>	<p>Areas for Freedom Camping</p>		
		Self Contained Freedom Camping	
		Self-contained and non-self-contained	
		Self-contained, non-self-contained, and tenting	
		Prohibited Areas for Freedom Camping	

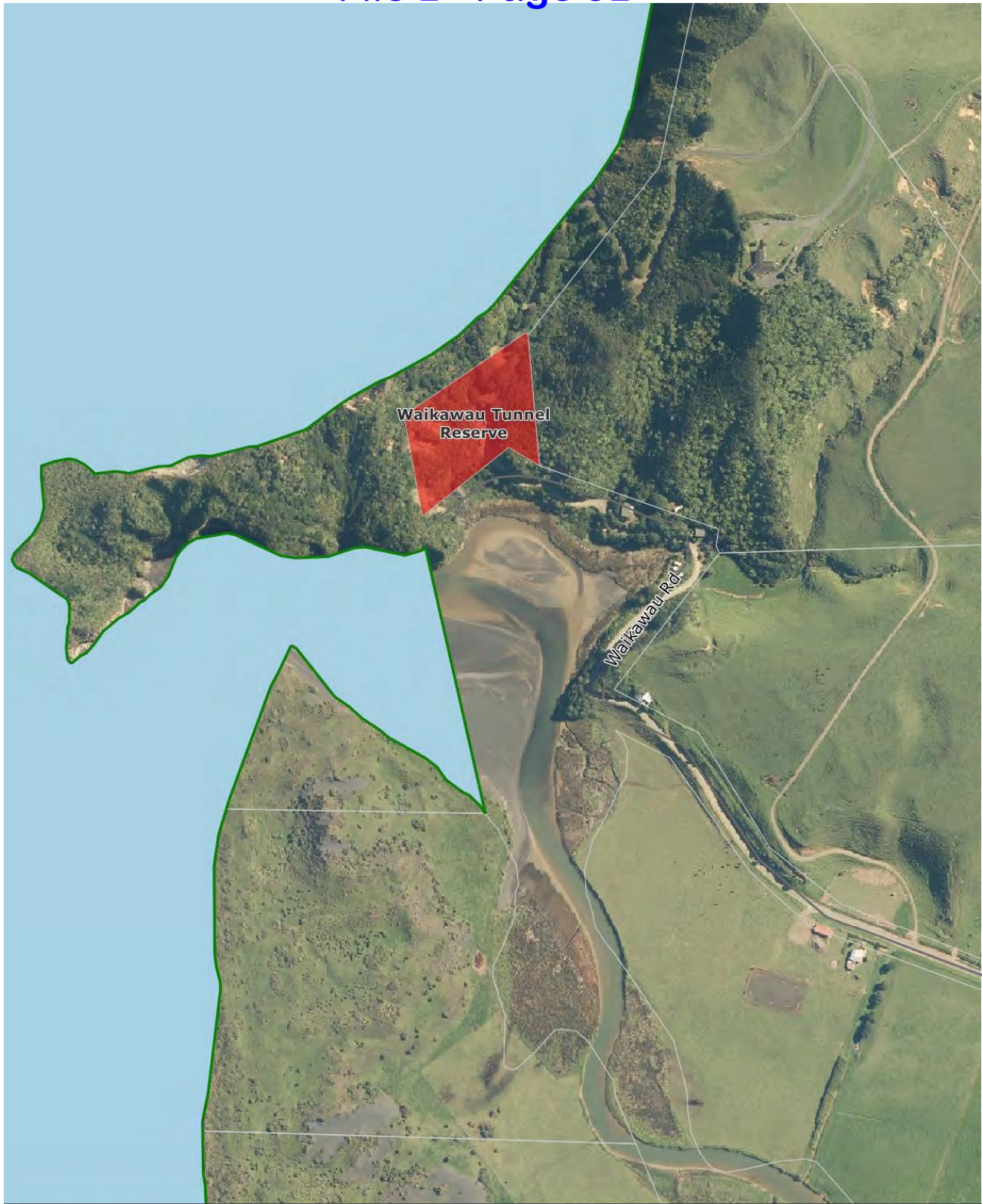


MAP 11 - Mapiu
 Waitomo District Council
 Freedom Camping Restricted
 and Prohibited Areas

Areas for Freedom Camping

- Self Contained Freedom Camping
- Self-contained and non-self-contained
- Self-contained, non-self-contained, and tenting
- Prohibited Areas for Freedom Camping





 MAP 12 - Waikawau
Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

-  Self Contained Freedom Camping
-  Self-contained and non-self-contained
-  Self-contained, non-self-contained, and tenting
-  Prohibited Areas for Freedom Camping







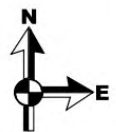


MAP 13 - Kinohaku

Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

-  Self Contained Freedom Camping
-  Self-contained and non-self-contained
-  Self-contained, non-self-contained, and tenting
-  Prohibited Areas for Freedom Camping







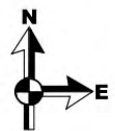


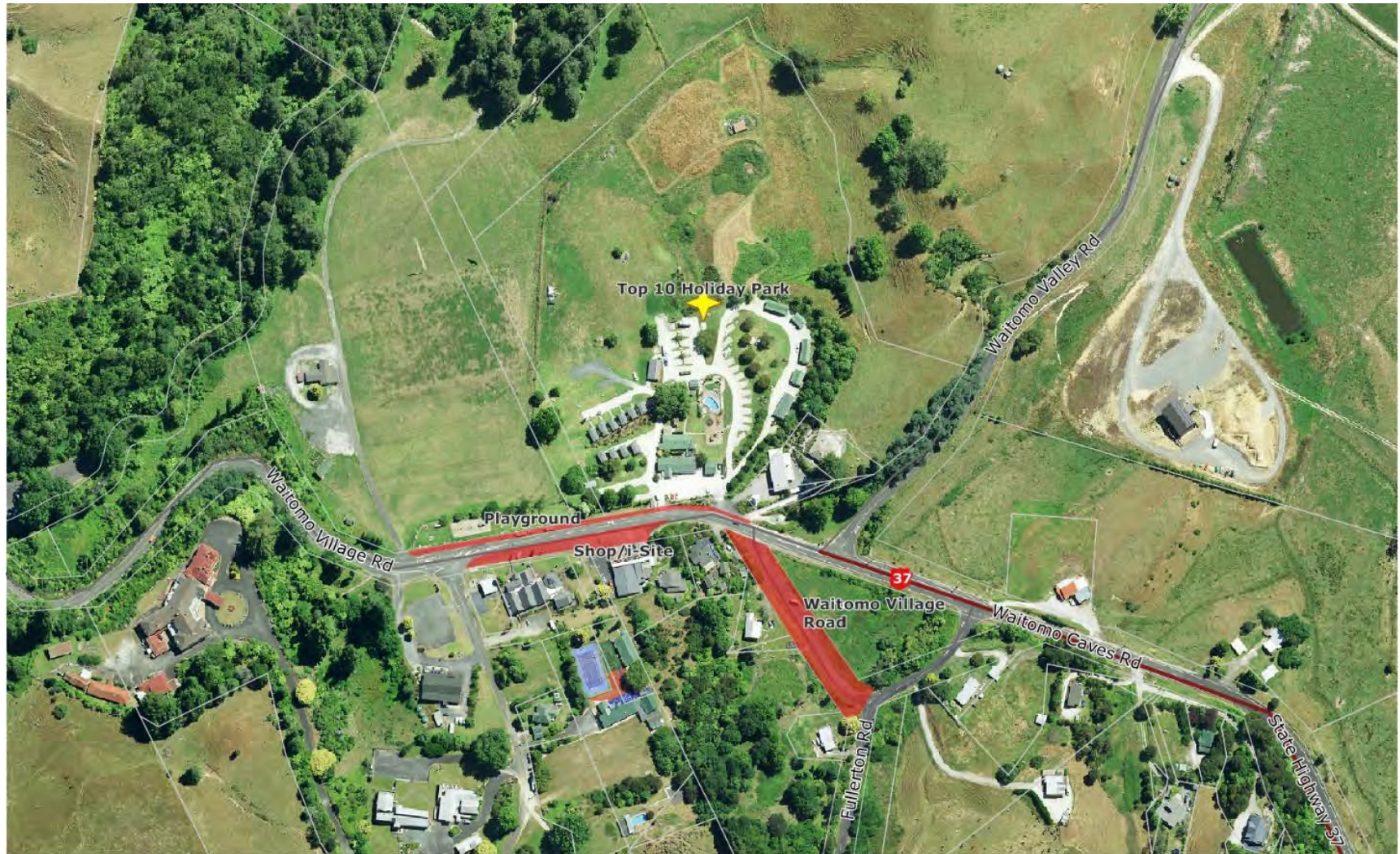
MAP 14 - Te Anka

Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

-  Self Contained Freedom Camping
-  Self-contained and non-self-contained
-  Self-contained, non-self-contained, and tenting
-  Prohibited Areas for Freedom Camping





MAP 15 - Waitomo Caves

Waitomo District Council
Freedom Camping Restricted
and Prohibited Areas

Areas for Freedom Camping

Blue square: Self contained Freedom Camping

Yellow square: Self-contained and non-self-contained

Cyan square: Self-contained, non-self-contained, and tenting

Red square: Prohibited Areas for Freedom Camping

Yellow star: Paid Campground



Document No: A698925

Report To: Council



Meeting Date: 28 November 2023

Subject: **Adoption of Public Health and Safety Bylaw 2023**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to request that Council resolve to adopt the Public Health and Safety Bylaw 2023 (the Bylaw) following public consultation.

Background

- 2.1 The 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 Waitomo District.
- 2.2 The scope of the 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, keeping of animals, food safety, body piercing, hostels, and commercial sexual services.
- 2.3 The Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002 (LGA), as well as provisions of the Local Government Act 1974, and the Health Act 1956. The Proposed Bylaw does not repeat all relevant legislation and other relevant regulations, which should be read in conjunction with this Bylaw.
- 2.4 Legislative changes in food safety, commercial sexual services, health and safety and housing have occurred since the initial Bylaw was created in 2009 and subsequent amendment in 2014.
- 2.5 Under sections 158 and 159 of the LGA Council must review Bylaws no later than five years after the date on which the Bylaw was made, and then no later than ten years for subsequent reviews. At the 28 March 2023 meeting, the Council resolved to commence a review of the Bylaw, which must be completed by 25 June 2024.

Commentary

3.1 **PUBLIC CONSULTATION**

- 3.2 Attached for Council's information is a copy of the Statement of Proposal (SOP) which included the draft Bylaw as consulted on (**Attachment 1**).
- 3.3 A comprehensive review was undertaken which resulted in six proposals that were put forward so that the new Bylaw is up to date and fit for purpose. These were:

Proposal 1: Remove duplicate or expired clauses.

Proposal 2: Changes to bee-keeping clause.

Proposal 3: Changes to body piercing clause.

Proposal 4: Add general nuisance clause.

Proposal 5: Add feral animal clause.

Proposal 6: Update bylaw definitions, structure, format, and wording.

- 3.4 The public consultation period ran from 29 September to 29 October 2023. Public notice was made in the King Country News; information and links were prominent on WDC website; and posts were made to WDC Facebook page.
- 3.5 At the close of the submission period no submissions were received relating to the Bylaw.
- 3.6 **SUGGESTED AMENDMENTS**
- 3.7 During the analysis of submissions for the Public Places Bylaw, which was undertaken at the same time as consultation on this Bylaw, staff noted some administrative improvements that would make reading and administrating both Bylaws more effectively.
- 3.8 The date for which the Bylaw remains in force should include the 2 year grace period that exists in the LGA if a bylaw is not reviewed within 10 years. It is recommended to change this date from 2033 to 2035.
- 3.9 For the dates that the Bylaw comes into effect and remains in force in section 2 is preferable for the two clauses to be moved into a Guidance note box. The effect of this will be that they cease to be binding rules and instead become information only.
- 3.10 This is recommended as bylaws should not deal with issues that are already dealt with by an LGA. While bylaws need a clause setting a commencement date because the LGA does not address the question of when a bylaw comes into force, the LGA already deals with the issue of when a bylaw is revoked.
- 3.11 There is also some uncertainty about the precise time within which the ten-year review must commence. This is because the relevant sections of the LGA do not specify how much of the review process must have taken place within the ten-year period. This may be clarified by either the High Court or Parliament within the next decade. Placing the two clauses in a Guidance note box is simple and removes the risk that the bylaws might be revoked by this clause contrary to the LGA.

Analysis of Options

- 4.1 There are three options relating to the adoption of the Bylaw:
- 4.2 **OPTION ONE:**
- 4.3 Council adopt the Bylaw as consulted on with no changes.
- 4.4 **OPTION TWO:**
- 4.5 Council consider the administrative changes as per the Draft Public Health and Safety Bylaw 2023 – Amended.
- 4.6 **OPTION THREE:**
- 4.7 Council consider suggested administrative changes and suggest alternative amendment to the Bylaw.

Considerations

- 5.1 **RISK**
- 5.2 Adopting the Bylaw as consulted may leave some confusion on guidance notes.
- 5.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**
- 5.4 There are no inconsistencies with Council's plans and policies.

5.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

5.6 An assessment under Council's Significance and Engagement Policy was undertaken and Council considered that consultation would be undertaken in accordance with the Special Consultative Procedure under LGA.

Recommendation

- 6.1 It is recommended that Council adopt the Bylaw with the suggested amendments.
- 6.2 It is recommended that 18 December 2023 is the date the new Bylaw would come into effect and the previous Bylaw would be revoked.

Suggested Resolutions

- 1 The business paper on adoption of Public Health and Safety Bylaw 2023 be received.
- 2 Council adopt the Public Health and Safety Bylaw 2023 with amendments as per Attachment 2 to come into effect on 18 December 2023.



CHARMAINE ELLERY
MANAGER - STRATEGY AND POLICY



ALEX BELL
GENERAL MANAGER – STRATEGY AND ENVIRONMENT

10 November 2023

Attachments:

- 1 Statement of Proposal for Public Health and Safety Bylaw 2023
- 2 Draft Public Health and Safety Bylaw 2023 – Amended

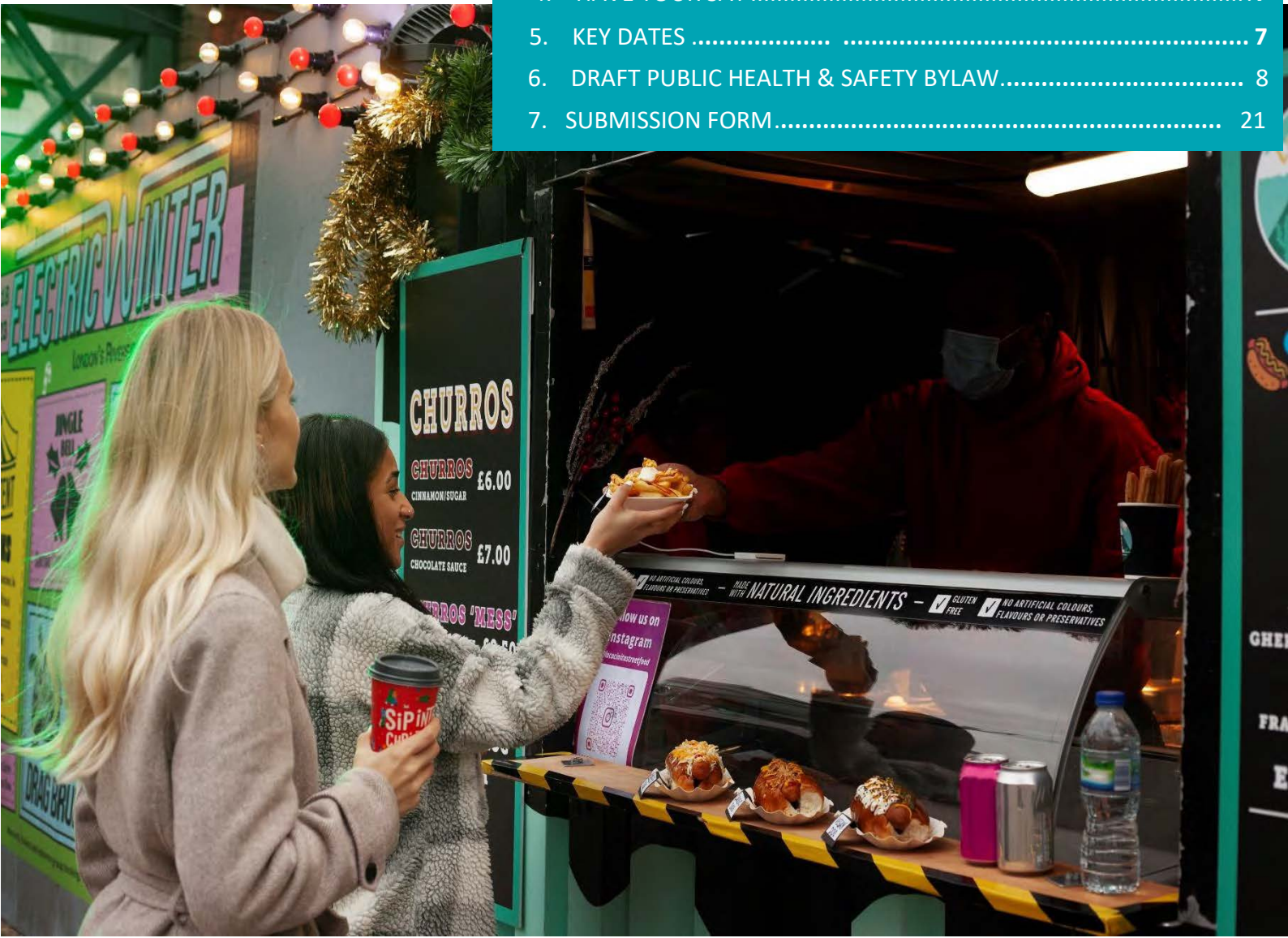
STATEMENT OF PROPOSAL

REVIEW OF PUBLIC HEALTH & SAFETY BYLAW 2023

Waitomo District Council

Contents

OVERVIEW	2
1. OPTIONS CONSIDERED	3
2. SUMMARY OF THE PROPOSED CHANGES	4
3. LEGISLATIVE FRAMEWORK	6
4. HAVE YOUR SAY	7
5. KEY DATES	7
6. DRAFT PUBLIC HEALTH & SAFETY BYLAW	8
7. SUBMISSION FORM	21



This Statement of Proposal has been prepared to fulfil the requirements of sections 83 and 87 of the Local Government Act 2002 (LGA).

Council wants your feedback on this Bylaw.

OVERVIEW

Waitomo District Council (the Council) is proposing some changes to the Public Health and Safety Bylaw and we want your feedback on our proposal.

The Council is responsible for protecting public safety, and regulating potential issues of public health and nuisances, within public-access places of the district.



One way Council does this is through the Public Health and Safety Bylaw, which covers matters such as:

- Keeping animals
- Body piercing
- Depositing building materials
- Open fires
- Food safety
- Prostitution
- Accommodation establishments

Council considered whether the bylaw was necessary. The decision was made to retain the bylaw. Council has reviewed this bylaw to make sure it is up to date and fit for purpose.

The purpose of this bylaw is to maintain acceptable standards of public health and safety for the wellbeing and enjoyment of citizens, visitors, and businesses within the district.

We've suggested some changes to improve how the bylaw meets this purpose, and now we need your feedback to make sure it reflects the current needs of our community.

In this document you can find:

- (1) Options considered
- (2) Summary of the proposed changes and reasoning
- (3) Legislative framework
- (4) How you can have your say
- (5) A draft of the proposed bylaw



1. OPTIONS CONSIDERED

Below is a summary of the options considered and reasons given for the chosen option.

Chosen Option: Review and amend the current bylaw

This option provided the chance for Council to not only substantially review the existing bylaw based on previous learnings, but also to update the existing bylaw to reflect best practice, proactively respond to issues, and remove obsolete sections of the existing bylaw.

Choosing this option enabled Council to remain consistent with the current approach of regulating public health and safety issues with a bylaw.

Options that were considered but not chosen

Other options that were considered were for the existing bylaw to be retained without amendment; or to allow the revocation of the bylaw and rely on alternative regulations.

While these options would have required less time and fewer resources, choosing to not amend the bylaw would not have allowed for significant changes to be made or for appropriate public consultation.

Allowing the bylaw to be revoked would have required Council to utilise policy creation, public education and other approaches to address issues dealt with by the existing bylaw. This would have resulted in the absence of some specific regulatory tools used for known issues.

2. SUMMARY OF THE PROPOSED CHANGES

Council is proposing to make some amendments to the existing Public Health and Safety Bylaw to make sure the bylaw is useful and reflects the current needs of the community.

The changes being suggested are summarised below, and the proposed bylaw is attached to this Statement of Proposal document.

Proposal 1: Remove duplicate or expired clauses.

The following matters were identified as either duplicating other regulations, or no longer relevant to be included within a bylaw. This is largely due to changes to legislation and to our District Plan rules since this bylaw's last review.

- **Food safety** – this is regulated by the Food Act 2014. A previous review of the bylaw revoked the active provisions of the bylaw, but this proposal removes the section from the bylaw entirely.
- **Commercial sexual services** – this is regulated through provisions of the District Plan and Prostitution Reform Act 2015, which are more appropriate tools for managing any effects of this activity. We're proposing to remove this matter from this bylaw to avoid duplication.
- **Scaffolding and building material deposits** – public health and safety of such activities is regulated by the Health and Safety Act 2015. We're proposing to remove this matter from the bylaw to avoid duplication.
- **Accommodation establishments** – regulations around ensuring publicly available accommodation meets health and safety requirements are now covered by various legislation including the Housing Improvement Act 1945, Health and Safety at Work Act 2015, Fair Trading Act 1986, and Consumer Guarantees Act 1993. We're proposing to remove this matter from the bylaw to avoid duplication.

Proposal 2: Changes to bee-keeping clause.

We propose to allow a maximum of two hives on urban premises over 1,000m², provided they are not located near certain sensitive sites, for example schools.

Properties smaller than 1,000m² will not be allowed any hives on premises.

Rural properties will remain unaffected by this clause.

Proposal 3: Changes to body piercing clause.

We propose to update this clause to ensure all body piercing businesses are required to comply with

File 2 - Page 63

the most recent health standards and safety guidelines.

These guidelines are set out in the 'New Zealand and Australian Standards on management of healthcare waste, and collection of medical sharps'.

Some minor wording changes are proposed to clarify that the responsibility to comply with these provisions is the duty of the manager or owner of a body piercing premise.

No changes are proposed to how the existing licensing provisions operate.

We are also proposing to move all general requirements for body piercing activities into a Schedule of the bylaw. This will make it easier for practitioners to access this information.

Proposal 4: Add a 'general nuisance' clause.

This review identified that general nuisance behaviour in public places was not clearly covered as an offence under this bylaw.

We propose to clarify this as an offence, which allows the bylaw the flexibility it needs to adapt to new or emerging issues.

This new clause also combines some existing parts of the bylaw to reduce repetition and make it easier to read and navigate.

Proposal 5: Add a 'feral animals' clause.

This review identified that the current bylaw was not clearly able to respond to situations where a public health or safety concern is caused by a wild or feral animal.

We propose to clarify this by making it an offence to encourage nuisance behaviour by feral animals.

This will place the responsibility on the property owner to act on, and resolve the nuisance if the feral animal is coming from their property.

This can include notifying Council and working together to resolve the issue.

Proposal 6: Update bylaw definitions, structure, format and wording.

We're proposing to make the bylaw easier to read and navigate by improving its general wording and layout.

This includes updating some definitions and references to other documents that are now out of date.

As part of this, we also propose to consolidate all provisions around controls, licensing, fees and charges

into one section. This removes some duplication, and helps ensure consistent application of the bylaw, given that it can apply to a wide variety of activities.

3. LEGISLATIVE FRAMEWORK

This bylaw fits into a wider legal framework which controls Council's ability to make this bylaw, and how it must be made.

The Local Government Act 2002 (LGA) authorises Council to make bylaws to regulate certain activities in order to:

- Protect the public from nuisance
- Protect, promote and maintain public health and safety
- Minimise the potential for offensive behaviour in public places

Council can respond to some specific issues through a bylaw such as the keeping of animals, bees, and poultry, and trading in public places.

A bylaw may also be used to manage and protect specific land areas, structures and infrastructure, such as from damage, misuse and loss.

Bylaws do not have the authority to override primary legislation, but rather seek to supplement and support national rules with local rules.

Bylaws must focus on providing a remedy to the identified problem.

All bylaws must be reasonable. The requirement to be reasonable relates to the bylaw not unnecessarily impacting upon a person's freedoms and rights, as protected by the New Zealand Bill of Rights Act 1990 (NZBORA).

Our assessment of the proposed bylaw is that there are no implications under the NZBORA, and this assessment will be reviewed before a final bylaw is made.

In reviewing and developing bylaws, the Council must follow both the decision making and consultation requirements set out in the LGA.

Each bylaw must be evaluated in terms of its costs and benefits to the community, as well as an assessment of the other options available to the council to regulate or remedy the problem.

Previous Reviews

The Bylaw was first introduced by Council in 2014, with some amendments made in February 2019.

File 2 - Page 65

The bylaw is now due for a substantial review of all content.

HAVE YOUR SAY

Please read this document and the proposed bylaw carefully and then have your say by 29 October 2023.

KEY DATES

WHEN	WHAT
29 September 2023	Submissions open
29 October 2023	Submissions close
9 November 2023	Hearings (should people wish to speak to their submissions)
28 November 2023	Deliberations – Council discusses feedback from the community and changes are agreed to if appropriate.
28 November 2023	Council adopts the final Bylaw

DRAFT

Waitomo District Council

Public Health and Safety Bylaw 2023

First Adopted:	3 November 2009
Review History:	March 2014, February 2019 (Amendment), March 2023
Date of Next Review:	March 2033
Responsibility:	GM Environment and Strategy
Adopted by:	Council (date of adoption)

Contents

INTRODUCTION KUPU ARATAKI	4
1. TITLE TAITARA.....	4
2. COMMENCEMENT TĪMATA	4
3. PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ.....	4
4. DEFINITIONS NGĀ WHAKAMĀRAMATANGA	4
5. GENERAL PUBLIC NUISANCE.....	6
6. SPECIFIC PUBLIC HEALTH PROVISIONS	7
7. BODY PIERCING	8
8. ADMINISTRATION OF BYLAW	10
SCHEDULE 1 WAHANGA 1	12
1. GENERAL REQUIREMENTS FOR BODY PIERCING.....	12
2. GUIDELINES ARATOHU	13

INTRODUCTION | KUPU ARATAKI

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 General Public Nuisances and Specific Public Health Provisions.

The initial resolution to create this Bylaw combining existing public safety bylaws with some additions was passed by the Waitomo District Council at an ordinary meeting of the Council held on 3 August 2009. The Bylaw was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 3 November 2009. The Bylaw came into force on 1 December 2009.

In March 2014 the Bylaw was reviewed by special consultative procedure, there were no significant changes, and the amended Bylaw was adopted on 25 June 2014. Council resolved on 26 February 2019 to make an amendment to the Bylaw to revoke and amend sections to give effect to the changes in the Food Act 2014 and Fire and Emergency New Zealand Act 2017.

In March 2023 a review of the Bylaw commenced and updated to reflect current legislation, remove duplication with other regulatory instruments and to modernise the language. The amended Bylaw was consulted with the public through the special consultative procedure from [date / month] to [date / month] 2023. Council adopted the revised Bylaw on [date / month] 2023.

Documents that should be referred to as relevant to this Bylaw:

- Local Government Act 2002
- Health Act 1956
- Legislation Act 2019
- Waitomo District Plan

1. TITLE | TAITARA

This Bylaw is the Waitomo District Council Public Health and Safety Bylaw 2023.

2. COMMENCEMENT | TĪMATA

- 2.1. This Bylaw comes into force on [date / month] 2023 by order of Council.
- 2.2. This Bylaw remains in force until [date/month] 2033, unless reviewed or repealed earlier.

3. PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

- 3.1. The purpose of this Bylaw is to protect the public from nuisance and to maintain public health and safety by controlling:
 - a) general public nuisances
 - b) fires in open air
 - c) the keeping of animals
 - d) harbouring of stray or feral animals
 - e) body piercing (licencing)
- 3.2. This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002. It is also made under the relevant public health and safety sections of the Health Act 1956. This Bylaw does not repeat all relevant legislation, which should be read in conjunction with this Bylaw.

4. DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

- 4.1. For the purposes of this Bylaw, unless the context otherwise requires, the following words have the meanings as specified:

File 2 - Page 70

Animal	means stock, poultry and any other vertebrate creature of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance.
Authorised Officer	means any person appointed or authorised by Council to act on its behalf and with its authority.
Body Piercing	means 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.
Bylaw	means the Waitomo District Council Public Health and Safety Bylaw 2023.
Council	means Waitomo District Council or any Officer authorised to exercise the authority of the Waitomo District 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.
Feral Animal	means an animal that is not a stray, and none of its needs are met by humans. Feral animals tend not to be in areas of human habitation.
Licensed	means holding a licence under this Bylaw or under any statute.
Nuisance	has the meaning given by section 29 of the Health Act 1956 and its amendments and applies to a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.
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.
Fire in Open Air	has the meaning given by section 6 of the Fire and Emergency New Zealand Act 2017.
Owner	means any person for the time being entitled to receive the rent of any property, or as applied to any land, building, or premises, 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.
Person	includes a corporation sole and also a body of persons, whether corporate or unincorporated.

- 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.
- Public Place** means an area that is open to or used by the public, whether free or on payment of a charge which is under the control of Council. This includes:
- Any road whether or not it is under the control of Council
 - Reserves
 - Parks
 - Domains
 - Beaches and foreshore
 - Recreational grounds
 - Camping grounds.
- Road** has the meaning given in section 2 of the Land Transport Act 1998.
- Stray Animal** means a domestic animal which has become lost or abandoned. Stray animals tend to live in areas of human habitation and their needs are indirectly met by humans.
- Stock** 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.
- Traditional tattooing** means the practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues using traditional tattooing practices that have recognised cultural significance, such as: ta moko undertaken by artists under tikanga-māori, Tatau, or uhi.
- Urban Area** Means any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without any ancillary commercial building.
- Vehicle** has the meaning given in section 2 of the Land Transport Act 1998.
- 4.2. A word or expression used in this Bylaw has the same meaning as it has from time to time in the relevant legislation as covered by the Legislation Act 2019.
- 4.3. Guidance notes are for information purposes only, and do not form part of the Bylaw.
- ## 5. General Public Nuisance
- ### 5.1. General Nuisance
- 5.2. No user of a public place may cause nuisance to the general public or to the public place itself.
- 5.3. Notwithstanding clause 5.2, no person without the prior written permission of Council may:
- a) use any vehicle or be in control of an animal that damages any part of a public place.
 - b) operate any vehicle in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place.
 - c) cause or allow any material or thing to be deposited or dropped onto a public place.
 - d) place or leave any substance or thing in a public place that is likely to be hazardous or could injure any person, or likely to create a nuisance.
 - e) deposit in or around a public litter receptacle any household, business or trade refuse.

- f) plant any vegetation on a Council-controlled public place.
- g) busk, or play, or perform music, for a general public audience in a public place.
- h) damage, interfere with, destroy or remove any sign, man-made feature, natural feature, grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it in a public place.
- i) pollute, damage, deface or disfigure, apply posters, stickers or advertising devices to, or interfere with any ornament, statue, building, footpath, kerb, road (including road berm), structure, or facilities in a public place.
- j) 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.
- k) may construct or place anything on or over a public place.

5.4. Fires in open air

- 5.5. No person shall light any fire in open air where the location, wind, or other conditions cause or are likely to cause the fire to become:
- a) a smoke or ash nuisance to any person, and/or
 - b) an odour or fumes nuisance to any person.
- 5.6. Where a fire in the open air has been lit or allowed to burn that in the opinion of any authorised officer or agent of the Council creates a nuisance, the authorised officer or agent of the Council 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.
- 5.7. Where an authorised officer or agent of the Council has extinguished a fire pursuant to clause 5.6, 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. Specific Public Health Provisions

6.1. Keeping of Animals, Poultry and Bees.

- 6.2. No person shall keep any pigs in an urban area within the District.
- 6.3. Any person keeping stock in an urban area must ensure that premises where stock is kept are secure and meet such conditions as may be prescribed by an authorised officer.
- 6.4. No person shall operate a feedlot or stock standoff area that is:
- a) within 30m from the boundary with adjacent property not in the ownership of the same person on whose land such facilities are operated, and/or
 - b) within 150m from any residence on an adjoining premises.
- 6.5. No person, shall, without having first obtained the written approval of Council keep, have in their possession or control any stallion within an urban area.
- 6.6. No person, shall, without having first obtained the written approval of Council keep, have in their possession 5 or more poultry within an urban area.
- 6.7. No person may keep a rooster in an urban area.
- 6.8. Any person keeping poultry in an urban area, caged or otherwise, must house the poultry in a properly constructed poultry house covered with a rainproof roof and flooring constructed of concrete or other similar material with a surrounding nib wall, to which a poultry run may be attached. A poultry house and run must also:
- a) be enclosed to confine the poultry, and
 - b) be maintained in good a clean condition free from any offensive smell or overflow and vermin.
- 6.9. 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 2m of the boundary of adjoining premises.

- 6.10. No person shall keep on any premises in an urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.
- 6.11. No person shall keep bees in an 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.
- 6.12. No person may keep hives on a premises less than 1000m².
- 6.13. A maximum of 2 hives may be kept on any premises in an urban area greater than 1000m² where:
- the premises is not adjacent to an educational or community facility; and
 - the hives are located at least 5m from any boundary.
- 6.14. Feral or Stray Animals**
- 6.15. No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal to cause the animal to become a nuisance to other people.
- 6.16. Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the premises from which such animals reside must abate the nuisance caused by the animal(s). Abatement may include but is not limited to:
- claiming the animal(s) as a domestic owned pet and keeping it in such a state as to abate any nuisance;
 - permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
 - agreeing that the Council will remove the animal and the owner or occupier will pay the Council's reasonable costs.

Guidance note:

Under the Wild Animal Control Act 1977, the Department of Conservation (DOC) is responsible for managing all wild animals on DOC land. If an animal under DOC control causes a nuisance in any Council-controlled public place, Council will work collaboratively with DOC to resolve the issue.

7. Body Piercing

7.1. Application of Bylaw

- 7.2. Those persons who manage or own a premises providing services of body piercing as defined in section 4 of this Bylaw must:
- Obtain a licence from the Council before commencing operation; and
 - hold a valid licence from the council at all times that the body piercing service is offered

7.3. Every person defined by clause 7.2 must comply with all regulations provided in Schedule 1 of this Bylaw.

7.4. Body Piercing Licensing

- 7.5. It is the licence holder's responsibility to ensure compliance with the licence.
- 7.6. A person must only carry out body piercing on a premises licensed by Council for that purpose.
- 7.7. Council will process an application for a body piercing licence if the application is made by the owner or manager of a premises described under clause 7.6 of the Bylaw, is on the form prescribed and includes all information requested by the Council and the required licence fee.

- 7.8. 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:
- The requirements of all relevant Acts and Regulations,
 - The relevant provisions of the District Plan,
 - Relevant New Zealand and Australian Standards including AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas), AS 2182:1998 (Sterilisers – steam - benchtop), AS 2773:2019 (Ultrasonic cleaners for health service organisations), NZS 4303:1990 (Ventilation for acceptable indoor air quality), NZS 4304:2002 (Management of Healthcare Waste), and AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).

- 7.9. Council may require the person applying to complete a test to show that they are familiar with these documents.

7.10. Transfer of Licensing

- 7.11. A body piercing licence may not be transferred to another person or to another premise.
- 7.12. 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 Bylaw.
- 7.13. 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.
- 7.14. 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.
- 7.15. Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any terms and conditions specified in the licence in addition to the general requirements for body piercing set out in schedule 1 of the Bylaw.

7.16. Exemptions from Licensing Requirement

- 7.17. Clauses 7.1 to 7.15 of the Bylaw does not apply to body piercing carried out in the practice of medicine, dentistry, nursing, physiotherapy or podiatry by:
- A health practitioner registered with the relevant authority in accordance with the Health Practitioners Competence Assurance Act 2003.
 - An acupuncturist who is a member of a professional body that is generally recognised by acupuncturists in New Zealand as providing representation of acupuncturists and setting practice standards, such as the New Zealand Acupuncture Standards Authority or Acupuncture New Zealand.
 - Traditional tattooing.
 - A person acting under the direction or supervision of any of the persons described in paragraphs (a) and (b) above.
- 7.18. The requirement to obtain a licence for body piercing premises does not apply if a person carries 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 the requirements in Schedule 1 of the Bylaw.

8. Administration of Bylaw

8.1. Offences

8.2. 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. Failure to do so shall constitute a breach of this Bylaw.

8.3. Any person commits an offence under this Bylaw who:

- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything that fails to comply with the provisions of 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

8.4. Penalties

8.5. The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

8.6. A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.

8.7. Fees and Charges

8.8. The fees for any licence, 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 Schedule from time to time.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:

Mayor

Chief Executive

SCHEDULE 1 | WAHANGA 1

1. General Requirements for Body Piercing

- 1.1 The person holding the licence must ensure all body piercing activities on the licenced premises comply with the following to the extent that they are relevant to the body piercing premises and service.
- (a) The requirements of all relevant Acts and Regulations
 - (b) The relevant provisions of the District Plan,
 - (c) Relevant New Zealand and Australian Standards including:
 - i) AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas),
 - ii) AS 2182:1998 (Sterilisers – steam - benchtop),
 - iii) AS 2773:2019 (Ultrasonic cleaners for health service organisations),
 - iv) NZS 4303:1990 (Ventilation for acceptable indoor air quality),
 - v) NZS 4304:2002 (Management of Healthcare Waste), and
 - vi) AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 1.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 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.
- 1.7 Before beginning body piercing on a customer, the customer must be given the opportunity to inform the person undertaking the service if they know or suspect that they have any of the below diseases or conditions and sign a consent form as a 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.
- 1.8 The person carrying out the service may decline to carry out any body piercing based on the information provided in clause 1.7 of this schedule, or may agree to carry out the body piercing subject to such conditions and safeguards that are considered appropriate in the circumstances, as per the advice in the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998):

In the situation where an operator decides to undertake a piercing on a client with a known infectious illness, all universal precautions should be taken as outlined in the guideline to ensure risk of disease transmission is minimised.

- 1.9 Nothing in this section of the Bylaw requires the licence holder or person carrying out the service to perform body piercing on any person.
- 1.10 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.
- 1.11 A copy of this 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.
- 1.12 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 considered desirable in the interest of public health.

2. Guidelines | Aratohu

See the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998)
<https://www.health.govt.nz/system/files/documents/publications/skinp.pdf>

Submission Form

Draft Public Health & Safety Bylaw 2023

Submissions close at 5.00pm 29 October 2023

You can share your views by:

- Completing this Submission Form and returning it to us by:
 - Visiting our office on 160 Rora Street, Te Kuiti
 - Emailing it to: haveyoursay@waitomo.govt.nz (scan and pdf or take a photo)
 - Posting to: FREEPOST 112498, Waitomo District Council, PO Box 404, Te Kuiti 3941
- Visiting our website: waitomo.govt.nz/haveyoursay and complete an online Submission Form

Full Name:	
Organisation: <i>(if responding on behalf of)</i>	
Phone: (home/mobile)	
Address:	
Postcode:	
Email:	

The Local Government Act 2002 requires submissions to be made available to the public. Your name and/or organisation will be published with your submission and made available in a report to elected members and to the public. Other personal information supplied (such as address / email address) will be removed from the public copy.

I wish to speak to Council about my submission.

(Hearings are scheduled for 9 November 2023. We will contact you to arrange a time.)

Yes No

YOUR FEEDBACK

Please give us your feedback on the Draft Public Health & Safety Bylaw 2023

DRAFT

Waitomo District Council

Public Health and Safety Bylaw 2023

File 2 - Page 81

First Adopted:	3 November 2009
Review History:	March 2014, February 2019 (Amendment), March 2023
Date of Next Review:	March 2033
Responsibility:	GM Environment and Strategy
Adopted by:	Council (date of adoption) on 28 November 2023

Contents

INTRODUCTION KUPU ARATAKI	4
1. TITLE TAITARA.....	4
2. COMMENCEMENT TĪMATA.....	4
3. PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ.....	4
4. DEFINITIONS NGĀ WHAKAMĀRAMATANGA.....	5
5. GENERAL PUBLIC NUISANCE	7
6. SPECIFIC PUBLIC HEALTH PROVISIONS	8
7. BODY PIERCING	9
8. ADMINISTRATION OF BYLAW	11
SCHEDULE 1 WAHANGĀ 1	13
1. GENERAL REQUIREMENTS FOR BODY PIERCING.....	13
2. GUIDELINES ARATOHU	14

INTRODUCTION | KUPU ARATAKI

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 General Public Nuisances and Specific Public Health Provisions.

The initial resolution to create this Bylaw combining existing public safety bylaws with some additions was passed by the Waitomo District Council at an ordinary meeting of the Council held on 3 August 2009. The Bylaw was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 3 November 2009. The Bylaw came into force on 1 December 2009.

In March 2014 the Bylaw was reviewed by special consultative procedure, there were no significant changes, and the amended Bylaw was adopted on 25 June 2014. Council resolved on 26 February 2019 to make an amendment to the Bylaw to revoke and amend sections to give effect to the changes in the Food Act 2014 and Fire and Emergency New Zealand Act 2017.

In March 2023 a review of the Bylaw commenced and updated to reflect current legislation, remove duplication with other regulatory instruments and to modernise the language. The amended Bylaw was consulted with the public through the special consultative procedure from [date / month] to [date / month] 2023. Council adopted the revised Bylaw on [date / month] 2023.

Documents that should be referred to as relevant to this Bylaw:

- Local Government Act 2002
- Health Act 1956
- Legislation Act 2019
- Waitomo District Plan

1. TITLE | TAITARA

This Bylaw is the Waitomo District Council Public Health and Safety Bylaw 2023.

2. COMMENCEMENT | TĪMATA

2.1. This Bylaw will come into effect once adopted by Council with the commencement date being part of the Council resolution.

Guidance note:

This Bylaw comes into force on [date / month] 2023 by order of Council.

This Bylaw remains in force until [date/month] 2035, unless reviewed or repealed earlier.

~~2.1. This Bylaw comes into force on [date / month] 2023 by order of Council.~~

~~2.2. This Bylaw remains in force until [date/month] 2033, unless reviewed or repealed earlier.~~

3. PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

- 3.1. The purpose of this Bylaw is to protect the public from nuisance and to maintain public health and safety by controlling:
- a) general public nuisances
 - b) fires in open air
 - c) the keeping of animals
 - d) harbouring of stray or feral animals
 - e) body piercing (licencing)
- 3.2. This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002. It is also made under the relevant public health and safety sections of the Health Act 1956. This Bylaw does not repeat all relevant legislation, which should be read in conjunction with this Bylaw.

4. DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

- 4.1. For the purposes of this Bylaw, unless the context otherwise requires, the following words have the meanings as specified:

Animal	means stock, poultry and any other vertebrate creature of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance.
Authorised Officer	means any person appointed or authorised by Council to act on its behalf and with its authority.
Body Piercing	means 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.
Bylaw	means the Waitomo District Council Public Health and Safety Bylaw 2023.
Council	means Waitomo District Council or any Officer authorised to exercise the authority of the Waitomo District 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.
Feral Animal	means an animal that is not a stray, and none of its needs are met by humans. Feral animals tend not to be in areas of human habitation.
Licensed	means holding a licence under this Bylaw or under any statute.
Nuisance	has the meaning given by section 29 of the Health Act 1956 and its amendments and applies to a person, animal, thing or circumstance causing unreasonable

File 2 - Page 85

interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

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.
Fire in Open Air	has the meaning given by section 6 of the Fire and Emergency New Zealand Act 2017.
Owner	means any person for the time being entitled to receive the rent of any property, or as applied to any land, building, or premises, 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.
Person	includes a corporation sole and also a body of persons, whether corporate or unincorporated.
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.
Public Place	means an area that is open to or used by the public, whether free or on payment of a charge which is under the control of Council. This includes: <ul style="list-style-type: none">• Any road whether or not it is under the control of Council• Reserves• Parks• Domains• Beaches and foreshore• Recreational grounds• Camping grounds.
Road	has the meaning given in section 2 of the Land Transport Act 1998.
Stray Animal	means a domestic animal which has become lost or abandoned. Stray animals tend to live in areas of human habitation and their needs are indirectly met by humans.
Stock	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.

Traditional tattooing	means the practice of making indelible marks in human skin or tissue by inserting pigments or dyes into punctures made in the skin or tissues using traditional tattooing practices that have recognised cultural significance, such as: ta moko undertaken by artists under tikanga-māori, Tatau, or uhi.
Urban Area	Means any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without any ancillary commercial building.
Vehicle	has the meaning given in section 2 of the Land Transport Act 1998.

- 4.2. A word or expression used in this Bylaw has the same meaning as it has from time to time in the relevant legislation as covered by the Legislation Act 2019.
- 4.3. Guidance notes are for information purposes only, and do not form part of the Bylaw.

5. General Public Nuisance

5.1. General Nuisance

- 5.2. No user of a public place may cause nuisance to the general public or to the public place itself.
- 5.3. Notwithstanding clause 5.2, no person without the prior written permission of Council may:
- a) use any vehicle or be in control of an animal that damages any part of a public place.
 - b) operate any vehicle in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place.
 - c) cause or allow any material or thing to be deposited or dropped onto a public place.
 - d) place or leave any substance or thing in a public place that is likely to be hazardous or could injure any person, or likely to create a nuisance.
 - e) deposit in or around a public litter receptacle any household, business or trade refuse.
 - f) plant any vegetation on a Council-controlled public place.
 - g) busk, or play, or perform music, for a general public audience in a public place.
 - h) damage, interfere with, destroy or remove any sign, man-made feature, natural feature, grass plot, flower bed, tree, shrub or plant or any inscription or label relating to it in a public place.
 - i) pollute, damage, deface or disfigure, apply posters, stickers or advertising devices to, or interfere with any ornament, statue, building, footpath, kerb, road (including road berm), structure, or facilities in a public place.
 - j) 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.
 - k) may construct or place anything on or over a public place.

5.4. Fires in open air

- 5.5. No person shall light any fire in open air where the location, wind, or other conditions cause or are likely to cause the fire to become:

- a) a smoke or ash nuisance to any person, and/or
 - b) an odour or fumes nuisance to any person.
- 5.6. Where a fire in the open air has been lit or allowed to burn that in the opinion of any authorised officer or agent of the Council creates a nuisance, the authorised officer or agent of the Council 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.
- 5.7. Where an authorised officer or agent of the Council has extinguished a fire pursuant to clause 5.6, 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. Specific Public Health Provisions

6.1. Keeping of Animals, Poultry and Bees.

- 6.2. No person shall keep any pigs in an urban area within the District.
- 6.3. Any person keeping stock in an urban area must ensure that premises where stock is kept are secure and meet such conditions as may be prescribed by an authorised officer.
- 6.4. No person shall operate a feedlot or stock standoff area that is:
- a) within 30m from the boundary with adjacent property not in the ownership of the same person on whose land such facilities are operated, and/or
 - b) within 150m from any residence on an adjoining premises.
- 6.5. No person, shall, without having first obtained the written approval of Council keep, have in their possession or control any stallion within an urban area.
- 6.6. No person, shall, without having first obtained the written approval of Council keep, have in their possession 5 or more poultry within an urban area.
- 6.7. No person may keep a rooster in an urban area.
- 6.8. Any person keeping poultry in an urban area, caged or otherwise, must house the poultry in a properly constructed poultry house covered with a rainproof roof and flooring constructed of concrete or other similar material with a surrounding nib wall, to which a poultry run may be attached. A poultry house and run must also:
- a) be enclosed to confine the poultry, and
 - b) be maintained in good a clean condition free from any offensive smell or overflow and vermin.
- 6.9. 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 2m of the boundary of adjoining premises.
- 6.10. No person shall keep on any premises in an urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.
- 6.11. No person shall keep bees in an 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.
- 6.12. No person may keep hives on a premises less than 1000m².

- 6.13. A maximum of 2 hives may be kept on any premises in an urban area greater than 1000m² where:
- a) the premises is not adjacent to an educational or community facility; and
 - b) the hives are located at least 5m from any boundary.
- 6.14. Feral or Stray Animals**
- 6.15. No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal to cause the animal to become a nuisance to other people.
- 6.16. Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the premises from which such animals reside must abate the nuisance caused by the animal(s). Abatement may include but is not limited to:
- a) claiming the animal(s) as a domestic owned pet and keeping it in such a state as to abate any nuisance;
 - b) permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
 - c) agreeing that the Council will remove the animal and the owner or occupier will pay the Council's reasonable costs.

Guidance note:

Under the Wild Animal Control Act 1977, the Department of Conservation (DOC) is responsible for managing all wild animals on DOC land. If an animal under DOC control causes a nuisance in any Council-controlled public place, Council will work collaboratively with DOC to resolve the issue.

7. Body Piercing

7.1. Application of Bylaw

- 7.2. Those persons who manage or own a premises providing services of body piercing as defined in section 4 of this Bylaw must:
- a) Obtain a licence from the Council before commencing operation; and
 - b) hold a valid licence from the council at all times that the body piercing service is offered

7.3. Every person defined by clause 7.2 must comply with all regulations provided in Schedule 1 of this Bylaw.

7.4. Body Piercing Licensing

- 7.5. It is the licence holder's responsibility to ensure compliance with the licence.
- 7.6. A person must only carry out body piercing on a premises licensed by Council for that purpose.
- 7.7. Council will process an application for a body piercing licence if the application is made by the owner or manager of a premises described under clause 7.6 of the Bylaw, is on the form prescribed and includes all information requested by the Council and the required licence fee.

- 7.8. 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:
- The requirements of all relevant Acts and Regulations,
 - The relevant provisions of the District Plan,
 - Relevant New Zealand and Australian Standards including AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas), AS 2182:1998 (Sterilisers – steam - benchtop), AS 2773:2019 (Ultrasonic cleaners for health service organisations), NZS 4303:1990 (Ventilation for acceptable indoor air quality), NZS 4304:2002 (Management of Healthcare Waste), and AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 7.9. Council may require the person applying to complete a test to show that they are familiar with these documents.
- 7.10. Transfer of Licensing**
- 7.11. A body piercing licence may not be transferred to another person or to another premise.
- 7.12. 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 Bylaw.
- 7.13. 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.
- 7.14. 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.
- 7.15. Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any terms and conditions specified in the licence in addition to the general requirements for body piercing set out in schedule 1 of the Bylaw.
- 7.16. Exemptions from Licensing Requirement**
- 7.17. Clauses 7.1 to 7.15 of the Bylaw does not apply to body piercing carried out in the practice of medicine, dentistry, nursing, physiotherapy or podiatry by:
- A health practitioner registered with the relevant authority in accordance with the Health Practitioners Competence Assurance Act 2003.
 - An acupuncturist who is a member of a professional body that is generally recognised by acupuncturists in New Zealand as providing representation of acupuncturists and setting practice standards, such as the New Zealand Acupuncture Standards Authority or Acupuncture New Zealand.
 - Traditional tattooing.
 - A person acting under the direction or supervision of any of the persons described in paragraphs (a) and (b) above.
- 7.18. The requirement to obtain a licence for body piercing premises does not apply if a person carries 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 the requirements in Schedule 1 of the Bylaw.

8. Administration of Bylaw

8.1. Offences

8.2. 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. Failure to do so shall constitute a breach of this Bylaw.

8.3. Any person commits an offence under this Bylaw who:

- (a) Does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything that fails to comply with the provisions of 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

8.4. Penalties

8.5. The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this bylaw.

8.6. A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.

8.7. Fees and Charges

8.8. The fees for any licence, 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 Schedule from time to time.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:

Mayor

Chief Executive

SCHEDULE 1 | WAHANGA 1

1. General Requirements for Body Piercing

- 1.1 The person holding the licence must ensure all body piercing activities on the licenced premises comply with the following to the extent that they are relevant to the body piercing premises and service.
- (a) The requirements of all relevant Acts and Regulations
 - (b) The relevant provisions of the District Plan,
 - (c) Relevant New Zealand and Australian Standards including:
 - i) AS 4031:1992 (Non-reusable containers for the collection of sharp medical items used in health care areas),
 - ii) AS 2182:1998 (Sterilisers – steam - benchtop),
 - iii) AS 2773:2019 (Ultrasonic cleaners for health service organisations),
 - iv) NZS 4303:1990 (Ventilation for acceptable indoor air quality),
 - v) NZS 4304:2002 (Management of Healthcare Waste), and
 - vi) AS/NZS 4261:1994 (Reusable containers for the collection of sharp items used in human and animal medical applications),
 - (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).
- 1.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 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.
- 1.7 Before beginning body piercing on a customer, the customer must be given the opportunity to inform the person undertaking the service if they know or suspect that they have any of the below diseases or conditions and sign a consent form as a 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.
- 1.8 The person carrying out the service may decline to carry out any body piercing based on the information provided in clause 1.7 of this schedule, or may agree to carry out

File 2 - Page 93

the body piercing subject to such conditions and safeguards that are considered appropriate in the circumstances, as per the advice in the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998):

In the situation where an operator decides to undertake a piercing on a client with a known infectious illness, all universal precautions should be taken as outlined in the guideline to ensure risk of disease transmission is minimised.

- 1.9 Nothing in this section of the Bylaw requires the licence holder or person carrying out the service to perform body piercing on any person.
- 1.10 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.
- 1.11 A copy of this 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.
- 1.12 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 considered desirable in the interest of public health.

2. Guidelines | Aratohu

See the Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998)
<https://www.health.govt.nz/system/files/documents/publications/skinp.pdf>

Document No: A698625

Report To: Council



Meeting Date: 28 November 2023

Subject: **Deliberation of Submissions and Adoption of Public Places Bylaw 2023**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to provide analysis to Council on the submissions received for the Public Places Bylaw 2023 (the Bylaw) for the purposes of deliberation.
- 1.2 Council will need to decide on the adoption of the Bylaw with or without amendment based on the deliberations of the submissions.

Background

- 2.1 The 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.
- 2.2 The scope of the Bylaw is regulating activities in public places, including roads and reserves, to protect against public nuisance issues.
- 2.3 The Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002 (LGA), as well as provisions of the Local Government Act 1974, Reserves Act 1977, Health Act 1956 and Amusement Devices Regulation 1978 under the Machinery Act 1950. The Bylaw does not repeat all relevant legislation and other relevant regulations, which should be read in conjunction with the Bylaw.
- 2.4 Under sections 158 and 159 of the LGA Council must review Bylaws no later than five years after the date on which the Bylaw was made, and then no later than ten years for subsequent reviews. At the 28 March 2023 meeting, the Council resolved to commence a review of the Bylaw, which must be completed by 25 June 2024.

Commentary

- 3.1 **PUBLIC CONSULTATION**
- 3.2 Attached for Council's information is a copy of the Statement of Proposal (SOP) which includes the draft Bylaw as consulted on (**Attachment 1**).
- 3.3 A comprehensive review was undertaken which resulted in five proposals that were put forward so that the new Bylaw is up to date and fit for purpose. These were:
 - Proposal 1: Remove duplicate clauses.
 - Proposal 2: Add schedule of approved places for mobile trading.
 - Proposal 3: Add considerations for licenses for mobile trading.
 - Proposal 4: Remove specific regulation of amusement devices and galleries.

File 2 - Page 95

Proposal 5: Update Bylaw definitions, structure, format, and wording.

- 3.4 A Consultation period was open from 29 September to 29 October 2023. Public notice was made in the King Country News; information and links were prominent on WDC website; and posts were made to WDC Facebook page.
- 3.5 At the close of the submission period, two submissions were received, there were no late submissions. One of the submitters had request present at Council Hearings on 9 November however were not able to attend on the day.
- 3.6 A summary of submissions and analysis is presented below. Full submissions are also made available (**Attachment 2**).

3.7 SUMMARY OF SUBMISSIONS

Submitter 1	Submission Point	Analysis
001 Maude Green	Support proposals 2 and 3	Changes make reading and administrating the Bylaw more straight forward.
	Support locations in Schedule 3	These are the preferred locations for safety while allowing good foot traffic for the business owner.
	Night trading hours to be allowed for	<p>The condition mentioned in the submission relates to the licence issued for the mobile shop.</p> <p>The Bylaw does not include specific restrictions about the time that mobile shops may trade. The daylight-only trading restriction is a condition in the licence using a broad power contained within the Bylaw. Council may allow extended or night-time trading hours provided Council is satisfied that it is safe and reasonable to do so.</p> <p>Recommendation is to assess these requests on a case-by-case basis and continue to make this a condition of the licence rather than specify certain locations and times in the Bylaw due to the number of factors needing consideration of the trader, location, and timing.</p>

Submitter 2	Submission Point	Analysis
002 Michelle Wi	All areas along the new path on Mangaokewa Stream to be covered by the alcohol ban	<p>This area is currently covered by the Bylaw in Schedule 2 reference – Riverbank both sides from Bowling Club to Redwood park.</p> <p>A map could be included in Schedule 2 for clarity as per the Draft Bylaw – Amended (Attachment 3)</p> <p>Note that while Council officers may ask people to move on from the alcohol ban areas however any behaviour that may be harmful or abusive to the public would be referred to Police.</p>

3.8 SUGGESTED AMENDMENTS

- 3.9 During the analysis of submissions there were some administrative improvements identified that would make reading and administrating the Bylaw more straight forward.
- 3.10 For the dates that the Bylaw comes into effect and remains in force in section 2 it is preferable for the two clauses to be moved into a Guidance note box. The effect of this will be that they cease to be binding rules and instead become educational information only.

File 2 - Page 96

- 3.11 This is recommended as bylaws should not deal with issues that are already dealt with by an Act. While bylaws need a clause setting a commencement date because the Act doesn't address the question of when a bylaw comes into force, the Local Government Act already deals with the issue of when a bylaw is revoked.
- 3.12 There is also some uncertainty about the precise time within which the ten-year review must commence. This is because the relevant sections of the Local Government Act do not specify how much of the review process must have taken place within the ten-year period. This may be clarified by either the High Court or Parliament within the next decade. By placing the two clauses in a Guidance note box is simple and removes the risk that the bylaws might be revoked by this clause contrary to the Act.
- 3.13 The Guidance note after clause 4.3 states that police powers "of arrest, search and seizure under this bylaw are outlined in sections 169 and 170 of the LGA". That overstates what ss 169 and 170 do and, as a result, is slightly misleading. Those sections only deal with police powers "in relation to alcohol bans". To correct this, it is suggested to replace the words "under this Bylaw" with the words "in relation to alcohol bans". The Guidance note would be moved to the end of section 7 - Alcohol control.
- 3.14 In response to submission from Michelle Wi under Schedule 2 to provide more clarity on the alcohol ban area it is recommended to amend 2.1 with the following text in red:
- Specified Public Places include, but are not limited to, Streets, Service Lanes, Lanes, Footpaths, Carparks and Reserves in Te Kuiti. For the avoidance of doubt, the alcohol ban area only applies to public spaces and not commercial or privately owned property within the alcohol ban area.
- 3.15 For further clarity it is recommended to include a map of the alcohol ban area in Te Kuiti under Schedule 2 as shown in **Attachment 3**.

Analysis of Options

- 4.1 There are three options relating to the adoption of the Public Places Bylaw:
- 4.2 **OPTION ONE:**
- 4.3 Council adopt the Public Places Bylaw as consulted on with the community with no changes.
- 4.4 **OPTION TWO:**
- 4.5 Council consider the points made by the submitters and include a map for the alcohol ban areas. Administrative changes also included as per the Draft Public Places Bylaw 2023 – Amended
- 4.6 **OPTION THREE:**
- 4.7 Council consider the points made by the submitters and the suggested administrative changes and suggest alternative amendment to the Bylaw.

Considerations

- 5.1 **RISK**
- 5.2 Adopting the Bylaw as consulted on may leave some confusion on guidance notes and the alcohol ban areas.
- 5.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**
- 5.4 There are no inconsistencies with Council's plans and policies.

5.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

5.6 An assessment under Council's Significance and Engagement Policy was undertaken and Council considered that consultation would be undertaken in accordance with the Special Consultative Procedure under LGA. There were two submissions made with one speaking to Council during the hearing process.

Recommendation

- 6.1 It is recommended that Council adopt the Bylaw with the suggested amendments and retain the ability for nighttime trading as a condition of the mobile trading licence issued under the Bylaw.
- 6.2 It is recommended that 18 December 2023 is the date the new Bylaw would come into effect and the previous Bylaw would be revoked.

Suggested Resolutions

- 1 The business paper on Deliberation of Submissions and Adoption of Public Places Bylaw be received.
- 2 Council adopt the Public Places Bylaw 2023 with amendment as per Attachment 3 to come into effect on 18 December 2023.



CHARMAINE ELLERY
MANAGER - STRATEGY AND POLICY



ALEX BELL
GENERAL MANAGER – STRATEGY AND ENVIRONMENT

10 November 2023

Attachments:

- 1 Statement of Proposal for Public Places Bylaw 2023
2 Submissions Booklet – Public Places Bylaw 2023
3 Draft Public Places Bylaw 2023 – Amended

STATEMENT OF PROPOSAL

REVIEW OF PUBLIC PLACES BYLAW 2023

Waitomo District Council

CONTENTS

OVERVIEW	2
OPTIONS CONSIDERED	3
SUMMARY OF THE PROPOSED CHANGES	3
HAVE YOUR SAY.....	7
KEY DATES.....	7
DRAFT PUBLIC PLACES BYLAW 2023.....	8
SUBMISSION FORM	33



Image courtesy of Stuff

This Statement of Proposal has been prepared to fulfil the requirements of sections 83 and 87 of the Local Government Act 2002 (LGA).

Council wants your feedback on this Bylaw.

OVERVIEW

Waitomo District Council (the Council) is proposing some changes to our Public Places Bylaw (the Proposed Bylaw), and we want your feedback on our proposal.

The Council is responsible for regulating activities that can be carried out in public places, reserves and on roads. One way Council does this is through the Public Places Bylaw, which covers matters such as:

- Public nuisances
- Control of skateboards
- Amusement devices and galleries
- Liquor control
- Mobile trading and licensing
- Road and building identification
- Animals and stock in public places

The purpose of this Bylaw is to regulate public places 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.

Council considered whether the bylaw was necessary. The decision was made to retain the bylaw. Council has reviewed this bylaw to make sure it is up to date and fit for purpose.

We're suggesting some changes to improve how the Bylaw meets this purpose. Your feedback is essential in making sure it reflects the current needs of our community.

In this document you can find:

- Options considered
- Summary of the proposed changes and reasoning
- Legislative framework
- How you can have your say
- A draft of the Proposed Bylaw



1. OPTIONS CONSIDERED

Below is a summary of the options considered and reasons given for the chosen option.

Chosen Option: Review and amend the current Bylaw

This option gave the opportunity for Council to undertake a substantial review of the Bylaw, and its responses to issues within public places. Choosing this option means the Council remains consistent with our current approach of regulating activities in public places with a Bylaw.

Options that were considered but not chosen

The other options considered were for the existing Bylaw to be retained without amendment; or to allow the revocation of the Bylaw and rely on alternative regulations.

While these options would have required less time and fewer resources, either option would not have allowed for significant changes to be made, or for appropriate public consultation.

Allowing the current Bylaw to be revoked would remove some specific tools currently being utilised to ensure appropriate conduct in public places.

2. SUMMARY OF THE PROPOSED CHANGES

Council is proposing to make several changes to the current Bylaw, including some new, removed, and amended regulations.

The changes being proposed are summarised below, with the proposed Bylaw attached to this Statement of Proposal.

Proposal 1: Remove duplicate clauses

Several regulations were identified as duplicating rules already within other Council documents.

We propose to remove them from this Bylaw to avoid duplication.

These are:

- Fires in public places – this rule, prohibiting fires in public unless with relevant permission and protections, is already within the Public Health and Safety Bylaw, which sets out more detailed regulations around fire activities.
- Road and building identification – this matter is currently regulated through provisions of the District Plan, to which this section does not add anything further.
- Vehicular Crossings – this matter is currently regulated through provisions of the District Plan, to which this section does not add anything further.

Proposal 2: Add Schedule of approved places for mobile trading

We recognise that mobile shops, in the right locations, can add vibrancy and variety for locals and visitors alike.

To help make the provisions around mobile trading easier and fairer to apply, we propose identifying certain areas throughout the district which have been assessed as appropriate for mobile traders to operate within. These take into account traffic and pedestrian safety, existing businesses and a right to trade in the urban centre.

This will also reduce regulatory barriers for both new and existing mobile traders by having designated locations available.

The areas we are proposing and would like feedback on are listed in a schedule (Schedule 3), attached to the Proposed Bylaw.

Proposal 3: Add considerations for licences for mobile trading

The current Bylaw requires mobile traders to obtain a valid licence to trade, and allows the Council to ask for information such as activity details and character references.

The Proposed Bylaw includes a more detailed list of the types of things Council may consider before issuing a licence. This helps ensure robust and equal licence decisions while also making it easier for potential applicants to know what information is needed before they apply.

Council will consider the licence fee for mobile trading when all fees and charges are reviewed next year. To come into effect from 1 July 2024.

Proposal 4: Remove specific regulation of amusement devices and galleries

The current Bylaw includes the various safety and operational requirements for amusement devices and galleries, as required under various legislation and Central Government regulations.

We propose to remove most of this duplication, and simplify the requirements under this Bylaw, to be the same as the requirements that will apply to all other trading or events in public places (Part 11).

Proposal 5: Update Bylaw definitions, structure, format and wording

We're proposing to make the Bylaw easier to read and navigate by improving its general wording and layout. This includes updating some definitions, and consolidating similar provisions to help with consistent application of the Bylaw. Some more technical clauses have been redrafted in plainer language, but with no change to the actual rules implemented.

One example of this is consolidation of the offences and penalty provisions into one section of the

Bylaw. In addition, including guidance notes to provide extra information regarding the penalty, enforcement powers and infringement offences under the Bylaw.

We're also proposing to move some current informative content out of the body of the Bylaw, and into Explanatory Notes. These do not form part of the Bylaw, but allow the information to still be readily available to users of the Bylaw, and assists with interpretation of the regulatory clauses.

As the Bylaw has been put into a new layout, and many existing clauses have been merged together, much of the content remains the same, but may be located in a different clause or under a different heading.

1. LEGISLATIVE FRAMEWORK

This Bylaw fits into a wider legal framework which controls Council's ability to make this Bylaw, and how it must be made.

The Local Government Act 2002 (LGA) authorises Council to make Bylaws to regulate certain activities in order to:

- Protect the public from nuisance
- Protect, promote and maintain public health and safety
- Minimise the potential for offensive behaviour in public places

The Council can respond to some specific issues through a bylaw such as managing nuisances, responding to health and safety matters, and regulating trading in public places.

A bylaw can also be used to manage and protect particular land areas, structures and infrastructure, such as from damage, misuse and loss.

Bylaws do not have the authority to override primary legislation, but rather supplement and support national rules with local rules.

Bylaws must focus on providing a remedy to the identified problem.

All bylaws must be reasonable. This means the bylaw should not unnecessarily impact upon a person's freedoms and rights, as protected by the New Zealand Bill of Rights Act 1990 (NZBORA).

Our assessment of the Proposed Bylaw is that there are no implications under the NZBORA. This assessment will be reviewed before a final Bylaw is made.

In reviewing and developing bylaws, the Council must follow both the decision making and consultation requirements set out in the LGA.

Each bylaw must be assessed in terms of its costs and benefits to the community, as well as an assessment of the other options available to the council to regulate or remedy the problem.

Authority to make parts of this Proposed Bylaw also relies on sections of the Health Act 1956, Reserves Act 1977, and the Amusement Devices Regulations 1978.

Previous reviews

The Public Places Bylaw first came into force in April 2009, and combined existing Bylaws regulating public places.

A partial review occurred in February 2011 amending the liquor ban area, and a full review was conducted in March 2014.

Further changes were made in 2019 to align the Bylaw with the Freedom Camping Bylaw 2018.

Under the LGA, Bylaws must be reviewed every 10 years, otherwise it is automatically revoked. While this means the Bylaw review must be completed by June 2024, staff have brought the review forward to ensure it does not clash with the Long-Term Plan.

HAVE YOUR SAY

Please read this document and the proposed bylaw carefully and then have your say by 29 October 2023.

KEY DATES

WHEN	WHAT
29 September 2023	Submissions open
29 October 2023	Submissions close
9 November 2023	Hearings (should people wish to speak to their submissions)
28 November 2023	Deliberations – Council discusses feedback from the community and changes are agreed to if appropriate.
28 November 2023	Council adopts the final Bylaw

DRAFT

Waitomo District Council

Public Places Bylaw 2023

First Adopted:	24 March 2009
Review History:	February 2011 (Amendment), March 2014, March 2023
Date of Next Review:	March 2033
Responsibility:	GM Environment and Strategy
Adopted by:	Council (date of adoption)

Contents

INTRODUCTION KUPU ARATAKI	4
1. TITLE TAITARA.....	5
2. COMMENCEMENT TĪMATA	5
3. PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ.....	5
4. DEFINITIONS NGĀ WHAKAMĀRAMATANGA	5
5. Use of Public Places	9
6. Requirements for Signs in Public Places.....	11
7. Alcohol Control.....	12
8. Damage to Public Places.....	13
9. Control of Cycles, Skating Devices, Mobility Devices and Wheeled Recreational Devices	13
10. Restrictions on use of barbed wire and electric fences	14
11. Requirements for Hawkers, Mobile Shops, Mobile Traders and Events in Public Places	15
12. Specific Provisions	17
13. Administration of Bylaw.....	18
14. Fees and Charges	19
SCHEDULE 1 WAHANGA 1	20
Skateboards	20
SCHEDULE 2 WAHANGA 2	20
Alcohol Control.....	20
SCHEDULE 3 WAHANGA 3	21
Mobile Shop Locations.....	21

INTRODUCTION | KUPU ARATAKI

This Bylaw controls a diverse range of activities that occur within our district's public places to ensure that acceptable standards of convenience, safety, visual amenity, and civic values are maintained in public places for the well-being and enjoyment of citizens, businesses and visitors within the district now and in the future. This Bylaw addresses a wide range of issues that could have an adverse effect on public places and their users.

The initial resolution to create this Bylaw, by combining existing bylaws pertaining to public places, was passed by the Waitomo District Council at an ordinary meeting of the Council held on 29 October 2008. The Bylaw was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 24 March 2009. This Bylaw came into force on 1 April 2009.

Council resolved on 3 February 2011 to make an amendment to Schedule 2 (previously Schedule B) of the Bylaw to expand the alcohol ban area, in order to assist Police in controlling alcohol consumption in public places. A full review was conducted in March 2014 and the amended Bylaw adopted in June 2014.

A review was undertaken in March 2023 and amendments were made to remove provisions that were covered by other Bylaws, statutes, and the Waitomo District Plan.

Other documents that should be referred to as relevant to this Bylaw include:

- Local Government Act 2002
- Health Act 1956
- Land Transport Act 1998
- Operative Waitomo District Plan
- Amusement Devices Regulations 1978
- Waitomo District Council Dog Control Bylaw and Policy
- Waitomo District Council Public Health and Safety Bylaw
- Waitomo District Comprehensive Reserve Management Plan
- Waitomo District Council Local Alcohol Policy

1. TITLE | TAITARA

This Bylaw is the Waitomo District Council Public Places Bylaw 2023.

2. COMMENCEMENT | TĪMATA

- 2.1. This Bylaw will come into effect once adopted by Council with the commencement date being part of the Council resolution.
- 2.2. This Bylaw comes into force on [date / month] 2023 by order of Council.
- 2.3. This Bylaw remains in force until [date/month] 2035, unless reviewed or repealed earlier.

3. PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

- 3.1. The purpose of this Bylaw is to ensure that acceptable standards of convenience, safety, visual amenity, and civic values are maintained in public places for the well-being and enjoyment of citizens, businesses and visitors within the district now and in the future.
- 3.2. To achieve the purpose in clause 3.1, this Bylaw regulates:
 - a) use of public places;
 - b) mobile trading and events;
 - c) signage in public places;
 - d) Alcohol control in public places; and
 - e) animals (excluding dogs) in public places.
- 3.3. This Bylaw is made under the general authority given to it by the Local Government Act 2002, as well as other legislation which outlines some of the powers and requirements of the Council in regards to public places. These include:
 - a) Health Act 1956
 - b) Land Transport Act 1998
 - c) Amusement Device Regulations 1978, pursuant to section 21A of the Machinery Act 1950
- 3.4. Areas of control so prescribed by the empowering legislation are not necessarily repeated within this Bylaw and therefore the relevant sections of these Acts should be read in conjunction with the Bylaw.

4. DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

- 4.1. In this Bylaw, unless the context otherwise requires, the following words have the meanings as specified:

Alcohol	has the meaning given to it by the Sale and Supply of Alcohol Act 2012.
Animal	means stock, poultry and any other vertebrate creature of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance but excludes dogs.
Approved	means approved by Council.
Authorised Officer	means any person appointed or authorised by Council to act on its behalf and with its authority.
Carriageway	means the part of a road, sealed or unsealed and including any shoulder areas, where a normal wheeled vehicle can traverse.
Council	means Waitomo District Council.
Cycle	means a Vehicle having at least one wheel and that is designed primarily to be propelled by the muscular energy of the rider and includes a power-assisted cycle. Children's cycles having wheels less than 355 mm diameter are excluded. BMX cycles are included no matter the diameter of the wheels.
District	means the area within the jurisdiction and under the control of the Waitomo District Council.
District Plan	means the Operative Waitomo District Plan.
Event	means an organised, temporary activity that takes place on one or more days for the purpose of attracting revenue, support, awareness, and/or for entertainment, community connection or competition. Examples include a parade, wedding, protest, festival, concert and a multi-venue sports event of a significant scale, such as a fun run, marathon, duathlon or triathlon.
Hawker	means any person who sells goods or services or displays or offers goods or services for sale in a Public Place, or who carries or talks about goods from door to door.
Licensed Premises	means premises licensed for the sale or consumption of alcohol under the Sale and Supply of Alcohol Act 2012.
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.

Psychoactive 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: <ul style="list-style-type: none">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; andd) Alcohol as defined in the Sale and Supply of Alcohol Act 2012.
Mobile shop	means a vehicle, whether self-propelled or not, from which goods and/ or services, wares or merchandise are offered or exposed for sale in a public place.
Mobile trader	means any person who, in a public place: <ul style="list-style-type: none">a) solicits for orders;b) offers, distributes, or sells any goods or services by foot or from any vehicle or stall or any part thereof.
Mobility device	means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment and is powered by a motor that has a maximum power output not exceeding 1500 W; or a vehicle declared to be a mobility device under section 168A(1) of the Land Transport Act 1998.
Nuisance	Has the meaning given by section 29 of the Health Act 1956 and its amendments and applies to a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a Public Place.
Owner	of any property, land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, 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.
Portico	includes every awning, porch, verandah, lean-to, 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.
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.

Public Notice has the meaning given to it by the Local Government Act 2002.

Public Place means an area that is open to or used by the public, with or without payment of a charge, and which is owned, managed, maintained or controlled by the Council, and includes every road, street, public car park, footpath, court, land, cemetery, reserve, park, access way, Council operated or controlled facility, thoroughfare and walkway of a public nature.

Road has the meaning given to it by Part 1 section 2 of the Land Transport Act 1998.

Sign means any device, character, graphic or electronic display, whether temporary or permanent, which:

- (a) is for the purposes of:
 - (i) identification of or provision of information about any activity, property or structure or an aspect of public safety;
 - (ii) providing directions; or
 - (iii) promoting goods, services or events; and
- (b) is projected onto, or fixed or attached to, any structure or natural object; and
- (c) includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.

Skating device means a wheeled device controlled or propelled by gravity or by the energy of the rider, including skateboards, roller skates, scooters, rollerblades, in-line skates, and wheeled recreation devices that have motors with a maximum output of 300W. It does not include cycles, wheelchairs, baby or invalid carriages.

Specified Public Place means any public place that is within the area described in Schedule 3 to this Bylaw.

Stall Stall includes a tent, tables, chairs, framework or structure of any description which is established in any public place where the purpose is to sell any goods or display any goods for sale or offer any services.

Stock 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.

Urban Area	Any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without any ancillary commercial building.
Veranda	includes any awning, porch, portico, shade, or covering upon, across, or over any public footway or part of a road, private road, or accessway for the purpose of shade or shelter, together with any supports, other than the support provided by the building.
Wheeled recreational device	means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300W.

- 4.2 Any guidance or explanatory notes do not form part of this Bylaw, and may be made, amended and revoked without formality.
- 4.3 Unless otherwise defined by clause 4, a word or expression used in this Bylaw has the same meaning as it has from time to time in the relevant legislation as covered by the Legislation Act 2019.

Guidance note:

Police Powers of arrest, search and seizure under this Bylaw are outlined in sections 169 and 170 of the Local Government Act 2002.

5. Use of Public Places

5.1. Public Nuisance

- 5.2. Any person in a public place must not, without the prior written permission of Council:
- 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;
 - Cause or allow any material or thing to be deposited onto a public place or road;
 - 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;
 - Solicit any subscription, collection or donation, preach or undertake any busking;
 - Distribute any printed or written material advertising any product, service or entertainment;
 - Fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
 - Play any game or use any object including skateboards, roller blades, bicycles or motorised or human propelled scooters, recklessly or in a manner which may

intimidate, be dangerous or injurious or cause a nuisance to any person in the public place, or damage the public place; or

- h) Erect or place any structure on, over or under the public place except in compliance with this Bylaw.

- 5.3. 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 cause injury to any passing person, 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.
- 5.4. No person shall permit vegetation to encroach onto or over any public place that may obstruct or interfere with the free movement of persons using that public place, or restrict visibility for road users.
- 5.5. Notwithstanding any other clause of this Bylaw and subject to any restriction imposed by Council in relation to the lighting of fires, no person shall in any public place light any fire except at fireplaces specially provided or in an appliance designed for outdoor cooking.

Guidance note:

The Council may use a range of enforcement powers to remove any obstructions. If the owner does not remove the obstruction when asked by an authorised officer, the Council may remove it and recover the costs of removing the obstruction from the owner under sections 164 and 168 of the Local Government Act 2002.

5.6. Obstructing Public Places

- 5.7. Any person in a public place must 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) Permit or allow vegetation to encroach onto or over any public place that obstructs or interferes with the free movement of persons using that public place;
 - d) Allow any gate or door on property abutting a public place, to swing over or across the public place; or-
 - e) 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.

5.8. Placing of articles on Public Places

- 5.9. Any person in a public place 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, unless:
- a) Such action has first been approved by Council and then only in accordance with such conditions as may be imposed;

- 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.

5.10. Any person in a public place must not:

- a) Erect or maintain any awning over any public place without permission from Council;
- b) Hang any awning, blind or screen from any portico in any public place without permission from Council;
- c) 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, except where otherwise permitted by this Bylaw; or
- d) Stand on any shop veranda erected over a public place except for the purpose of inspection, maintenance, or egress in the case of an emergency.

5.11. Any projection or obstruction as described in clause 5.8 that was placed before the commencement of this Bylaw and which is contrary to any bylaw in force, may be subject to removal or alteration by notice from Council.

5.12. Council may revoke permission at any time by giving notice to the owner or occupier of a building to remove, or to alter a projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.

6. Requirements for Signs in Public Places

6.1. Subject to clauses 6.4 and 6.5, no person may, without Council approval, erect, install, or display a sign in a public place.

6.2. No person may erect, install, or display a sign in a public place for the purpose of advertising or promoting any political party, political opinion or candidate in any election.

6.3. Exceptions to Requirements for Signs

6.4. Clause 6.1 does not apply to the erection, installation or display of a sign in a public place:

- a) by Council;
- b) that is authorised pursuant to any enactment;
- c) that is authorised pursuant to a resource consent granted under the Resource Management Act 1991 or subsequent legislation that replaces the Resource Management Act 1991;
- d) that is authorised pursuant to the provisions of the Waitomo District Plan;
- e) by an emergency service in the course of official duty;

- f) for the purpose of advertising or giving directions to an event, or to advertise market days, open homes, garage or at-home sales, where the sign is displayed for no more than 8 weeks in any 12 month period.

6.5. Clauses 6.1 and 6.2 do not apply to the erection, installation or display of a sign on a vehicle, whether moving or stationary, where:

- a) the vehicle is not being primarily used for the purpose of exhibiting the sign;
and
- b) the sign does not protrude from the vehicle.

6.6. Removal of Offending Signs

6.7. If any sign, fails to comply with the provisions of this bylaw, Council may issue a notice to the owner and/ or occupier of the land, specifying:

- a) The action to be taken by the owner and/or occupier of the land to remedy the situation including to alter, repair or remove the sign in question; and
- b) When the action required by the notice must be complied with.

7. Alcohol Control

7.1. Acts Prohibited in Specified Public Places within the Waitomo District

7.2. Subject to clauses, 7.4, 7.6 and 7.8 the following acts are prohibited at all times:

- a) The consumption of alcohol in or at any Specified Public Place.
- b) The bringing of alcohol into any Specified Public Place.
- c) The possession of alcohol 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 alcohol.

Specified Public Places are listed in Schedule 2.

7.3. Exceptions to Prohibition for Residents and their Visitors

7.4. Clause 7.2 does not apply to alcohol in an unopened container for the purpose of the transport of that alcohol from outside a Specified Public Place to premises that adjoin a Specified Public Place:

- a) For delivery to, a resident of those premises or by their visitors; or
- b) From those premises to a place outside the Specified Public Place by a resident of those premises or their visitors, provided the alcohol is promptly removed from the Specified Public Place.

7.5. Exceptions to Prohibition for Licensed Premises

7.6. Clause 7.2 does not apply:

- a) In the case of alcohol in an unopened container, to the transport of that alcohol from premises adjoining a Specified Public Place during any period when under the Sale and Supply of Alcohol Act 2012 it is lawful to sell alcohol on those premises provided the alcohol is promptly removed from the Specified Public Place.
- b) In the case of in an unopened container, to the transport of that alcohol 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 alcohol under the Sale and Supply of Alcohol Act 2012.
- c) To the possession and or consumption of alcohol at any premises within the Specified Public Place in compliance with a licence for the sale and or consumption of alcohol under the Sale and Supply of Alcohol Act 2012 including any footpath area that is defined under the appropriate alcohol licence.

7.7. Exceptions for Special Licences

- 7.8. Clause 7.2 does not apply to any part of the Specified Public Place in respect of which a Special Licence under the Sale and Supply of Alcohol Act 2012 has been granted for any occasion or event described in the licences.

8. Damage to Public Places

- 8.1. No person may, without Council approval, damage, interfere with, destroy or remove any property or infrastructure under the control of Council in a public place, including any sign, man-made feature, building, footpath, kerb, road, facility, natural feature, grass plot, flower bed, tree, shrub or plant or any inscription or label.

Guidance Note:

Under section 175 of the Local Government Act 2002, a person who wilfully or negligently destroys, damages, stops, obstructs or otherwise interferes with any works or property owned by a local authority is liable for the amount of the destruction or damage, the cost incurred by the local authority in removing the stoppage or obstruction, or any loss or expense incurred by the local authority by the stoppage or obstruction or interference.

9. Control of Cycles, Skating Devices, Mobility Devices and Wheeled Recreational Devices

- 9.1 A person must not use or ride a cycle, mobility device, skating device, or wheeled recreational device in any Public Place in a manner that is , in the opinion of Council:
 - a) Intimidating; or
 - b) Dangerous; or
 - c) A Nuisance; or
 - d) Likely to cause a health and safety issue; or
 - e) Likely to cause damage to property.

Guidance note:

Part 11 of the Land Transport (Road User) Rule 2004 sets out the requirements for pedestrians, riders of Mobility Devices, and wheeled recreational devices (including Skating Devices). Compliance with the Road Rules is enforced by the New Zealand Police.

- 9.2 A breach of any provision in this clause may result in the offending skateboard or bicycle being seized and impounded in accordance with section 164 or 165 of the Local Government Act 2002. For the avoidance of doubt, and in accordance with any applicable requirements and having regard to the preceding clause, bicycles are permitted to be ridden on any designated cycle way.
- 9.3 Property seized or impounded under clause 9.2 shall be returned to the owner in accordance with section 167 of the Local Government Act 2002 upon the owner:
- a) Supplying their full name and address; or
 - b) Satisfying Council or any officer authorised in that regard that he or she is the owner or otherwise entitled to the custody and control of the skateboard; and
 - c) Making payment to Council of the prescribed fee; and
 - d) The skateboard or recreational device having been impounded for a minimum of five working days following the day of impounding.
- 9.4 Should the owner of seized and impounded property not to collect the property within the period of 6 months from when the property was so seized then Council shall in accordance with section 168 of the Local Government Act 2002 dispose of the seized and impounded property.
- 9.5 Council shall keep a register and enter therein the details of all property impounded and of every person recovering property from Council under this Bylaw.

10. Restrictions on use of barbed wire and electric fences

- 10.1. No person shall erect any barbed wire or electric fencing within 1 metre of any boundary line which borders a public place without the permission of Council where the height of the barbed wire is less than 2 metres and electric fencing less than 3 metres above ground level.
- 10.2. Permission under clause 10.1 is not required where barbed wire is placed not less than 2 metres and electrified fencing not less than 3 metres above ground level.
- 10.3. Sub-clause 10.1 shall not apply within any area which has a predominantly rural character under the Waitomo District Plan except when the fence abuts or adjoins a footpath. Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

11. Requirements for Hawkers, Mobile Shops, Mobile Traders and Events in Public Places

11.1. No person shall place or leave or cause or permit to be placed or leave any material or object, including vehicles, scaffolding and hoardings, signage, amusement devices or items for sale or hire including food, or hold an event on any public place unless:

- a) Such action has first been approved by an authorised officer, and then only in accordance with any other conditions that are imposed.
- b) Such action is taken for the purpose of regular refuse or other collections authorised by Council or is otherwise authorised by law.
- c) Such action is permitted pursuant to any other bylaw.

11.2. Hawkers, Mobile Shops, Mobile Traders and Stalls

11.3. Licence Required

11.4. No person, including Hawkers, Mobile Shops, Mobile Trader and Stalls shall in any public place engage in the sale of goods or services of any description whatsoever, without first having obtained a licence from Council.

11.5. No person shall cause nuisance or create harm or expose the public to risk while undertaking their activity.

11.6. No Hawkers, Mobile Shops, Mobile Trader and Stalls may trade in any place or area except those identified in Schedule 3, or in a location approved by Council.

11.7. Application

11.8. Every person including Hawkers, Mobile Shops, Mobile Trader and Stalls who wishes to sell goods in a public place shall make written application to Council by completing an Application for Registration on the prescribed form. The information, to be supplied by the applicant, shall include the following:

- a) name and address of the applicant;
- b) name and address of the person(s) selling the goods or services;
- c) the location/site;
- d) the telephone number of the applicant;
- e) the type of goods or services for sale;
- f) the period of time sought for selling;
- g) duration of use;
- h) the type and number of vehicles and the registration numbers, if applicable; and
- i) evidence of good character.

11.9. Considerations for licences

11.10. Council may consider the following before issuing a licence:

- a) Any trade licences previously granted to the applicant for the same activity.
- b) The nature and extent of the activity proposed, such as hours of operation, generation of pedestrian and road traffic, and impact on surrounding area(s)
- c) If the site is within the approved locations in Schedule 3.
- d) whether the application is supported by any affected parties (including nearby business owners)
- e) any previous breaches of this Bylaw.
- f) whether the applicant has breached any other relevant local or national regulations (if known or able to be known by Council – especially for travelling businesses).
- g) whether the activity will or may pose or promote any public health or safety risks.
- h) whether the activity will or may cause any negative environmental impact.
- i) any other such matter that Council deems relevant to the application.

11.11. Licence conditions

11.12. The Council may, either upon the issue of any licence to any Hawkers, Mobile Shops, Mobile Trader and Stalls or at any time by notice in writing served on any licensed Hawkers, Mobile Shops, Mobile Trader and Stalls:

- a) Prescribe any condition or conditions in compliance with which such Hawkers, Mobile Shops, Mobile Trader and Stalls must carry on their trade or business; or
- b) Require such Hawkers, Mobile Shops, Mobile Trader and Stalls to discontinue the use of any vehicle so employed by them.

11.13. 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.

11.14. Council may impose conditions including but not limited to the number of sites the licence covers and the maximum licence period.

11.15. Cleanliness of Vehicle

11.16. Every licensed Hawker, Mobile Shop and Mobile Trader or any person operating on behalf of such Hawker, Mobile Shop and Mobile Trader 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 therewithin a thoroughly clean and sanitary condition to the satisfaction of the Council's Environmental Health Officer.

11.17. Exemptions

11.18. The exemptions to clauses 11.1-11.16 are as follows:

- a) Selling by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996;

- b) Service delivery vehicles including milk vendors;
- c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of Council;
- d) Any market, stall or stand which has been initiated by Council for the benefit of the community;
- e) Any motor vehicle advertising any business or service;
- f) Buskers and street entertainers provided that no sale of any items is involved and provided that permission is first obtained from the owners or occupiers of any business premises outside which they intend to perform.

11.19.State Highways

11.20. In the case of a state highway, with the prior consent of the Waka Kotahi (New Zealand Transport Agency), Council may prohibit hawker, mobile shop, mobile trader and stalls (including vehicles used as stalls), 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.

12. Specific Provisions

12.1. Animals and stock in public places

12.2. 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.

12.3. Any person having control of stock in any public place shall ensure that the stock is kept under proper control, with consideration for other persons using the public place.

12.4. 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.

12.5. 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 area prohibited to stock without the prior consent of an authorised officer;
- c) Graze stock in any public place without the prior consent of an authorised officer.
- d) Graze stock on road reserves in a predominantly rural area, unless the animal is contained in adequate temporary fences.

- 12.6. 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.
- 12.7. 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.
- 12.8. Any person being the owner of or having control of any horse in a public place in an urban area shall immediately remove any manure deposited by that horse from the public place.
- 12.9. Subject to the requirements Clause 12.1-12.8 every owner or person 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.

Guidance note:

Nothing in this Bylaw applies to dogs (see the definition of "Animal" in clause 4.1 of this Bylaw). The rules concerning dogs are in the Waitomo District Dog Control Bylaw. Information on Council's animal and dog control activities including a copy of the Dog Control Bylaw can be viewed on Council's website here:
<https://www.waitomo.govt.nz/our-services/animal-control/>

13. Administration of Bylaw

13.1. Offences and Penalties

- 13.2. A person who breaches this Bylaw commits an offence and is liable on conviction to a penalty under the Local Government Act 2002.
- 13.3. A person must not 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. Failure to do so is a breach of this Bylaw. This clause does not limit clause 13.2.
- 13.4. The continued existence of any work, building, land, premises or thing in a state or form that contravenes this Bylaw is deemed to be a continuing offence under this Bylaw.

Guidance note:

A person who is convicted of an offence against this Bylaw is liable to a fine not exceeding \$20,000 under section 242 of the Local Government Act 2002 (as consolidated on 13 April 2023).

Council's enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165 and 168), liability for

costs to remedy damage (section 176), power to request name and address (section 178) and power to execute works and recover costs (sections 186 and 187).

Some breaches of this Bylaw may be infringement offences. They will be identified as infringement offences by Regulations made under section 259(a) of the Local Government Act 2002. If a person commits an infringement offence they may be charged in court or served with an infringement notice.

14. Fees and Charges

- 14.1 The fees for any licences, permits, 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 Schedule from time to time.
- 14.2 Fees are payable before the issue of any licence or permit granted under this Bylaw.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:

Mayor

Chief Executive

SCHEDULE 1 | WAHANGA 1

Skateboards

1.1 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)
- Moa Street, Piopio (from Kea Street North to Tui Street).

SCHEDULE 2 | WAHANGA 2

Alcohol Control

1.2 Specified Places where the Alcohol Control section of this Bylaw applies:

- 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.

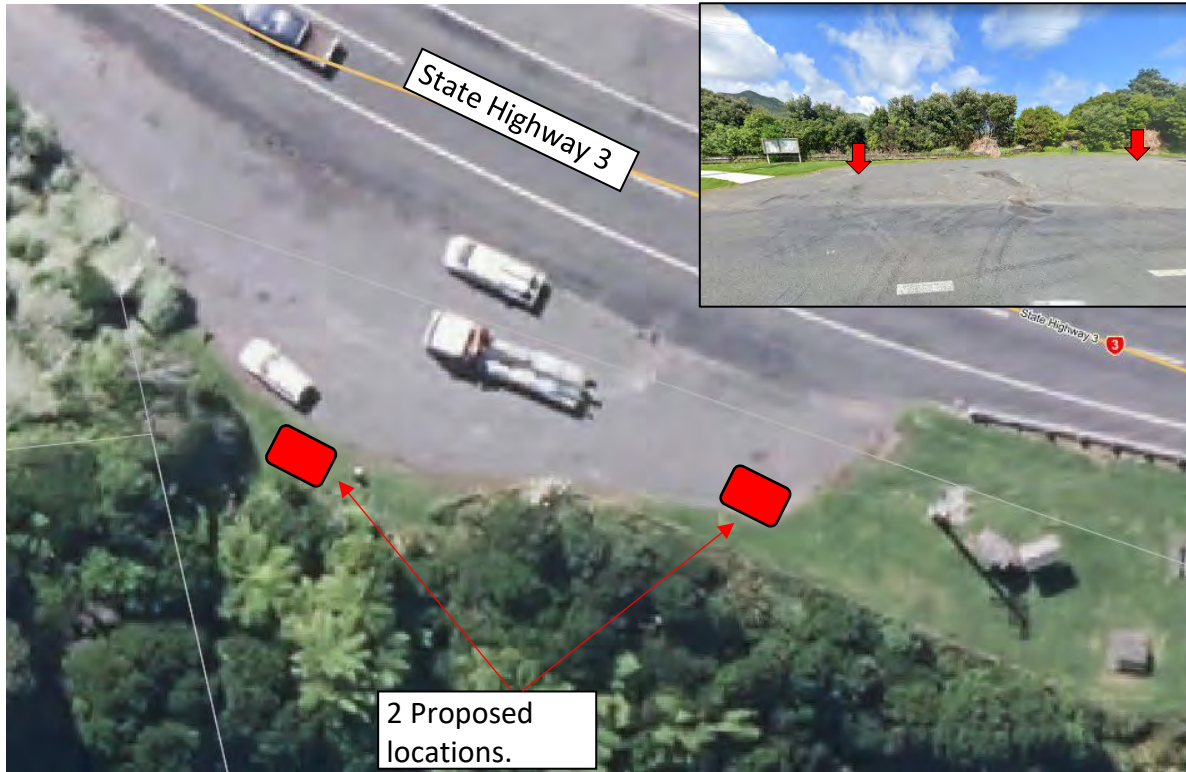
This schedule may be amended from time to time by public notice made by the Waitomo District Council. Such notices shall be made in the public notice section of newspapers as Waitomo District Council sees fit and be made no less than fourteen (14) days before the change is to apply.

SCHEDULE 3 | WAHANGA 3

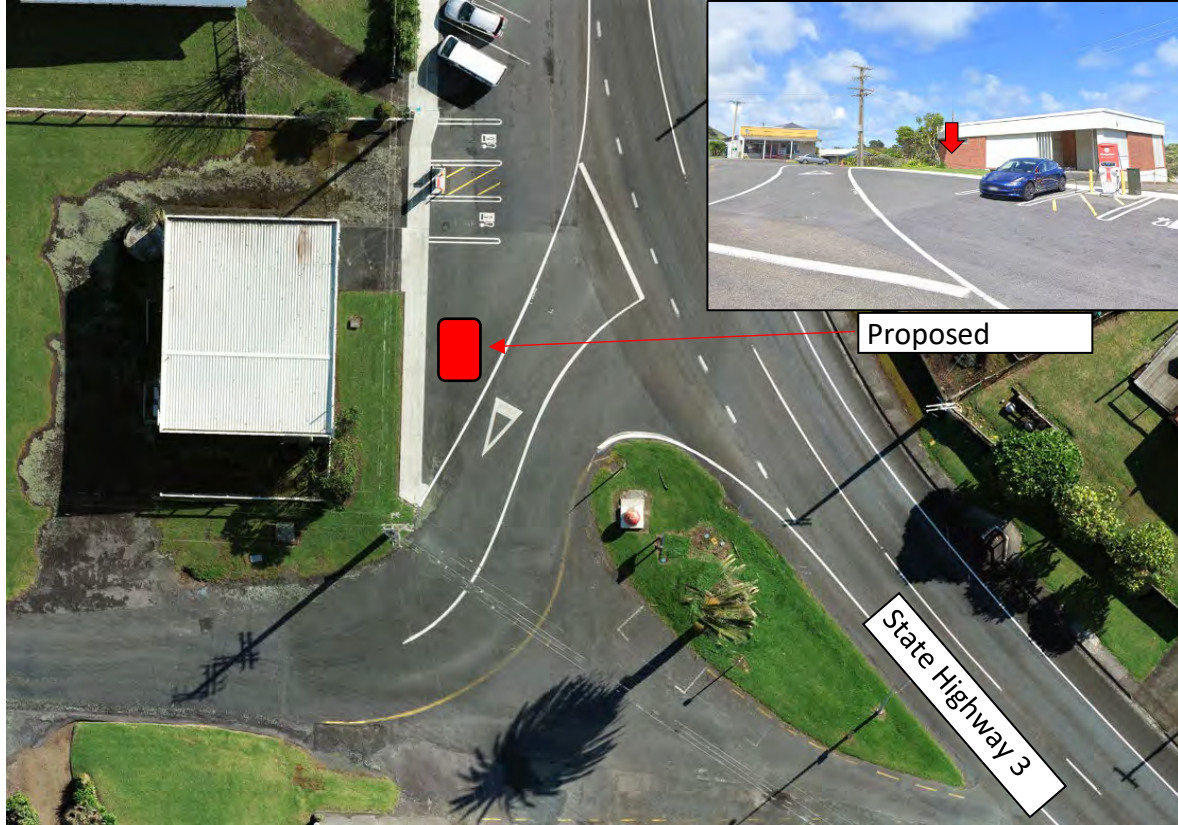
Mobile Shop Locations

Mokau

In front of Whitebait Inn on SH3: Council owned area



Near the EV charging station on SH3: Road reserve



Piopio

Near the Public toilet: Road reserve



Maniaiti (Benneydale)

Opposite Maniaiti Road: Road Reserve



Waitomo Caves

Opposite i-site Waitomo Village Road (Waitomo Caves parking space 2): Road reserve



Te Kuiti

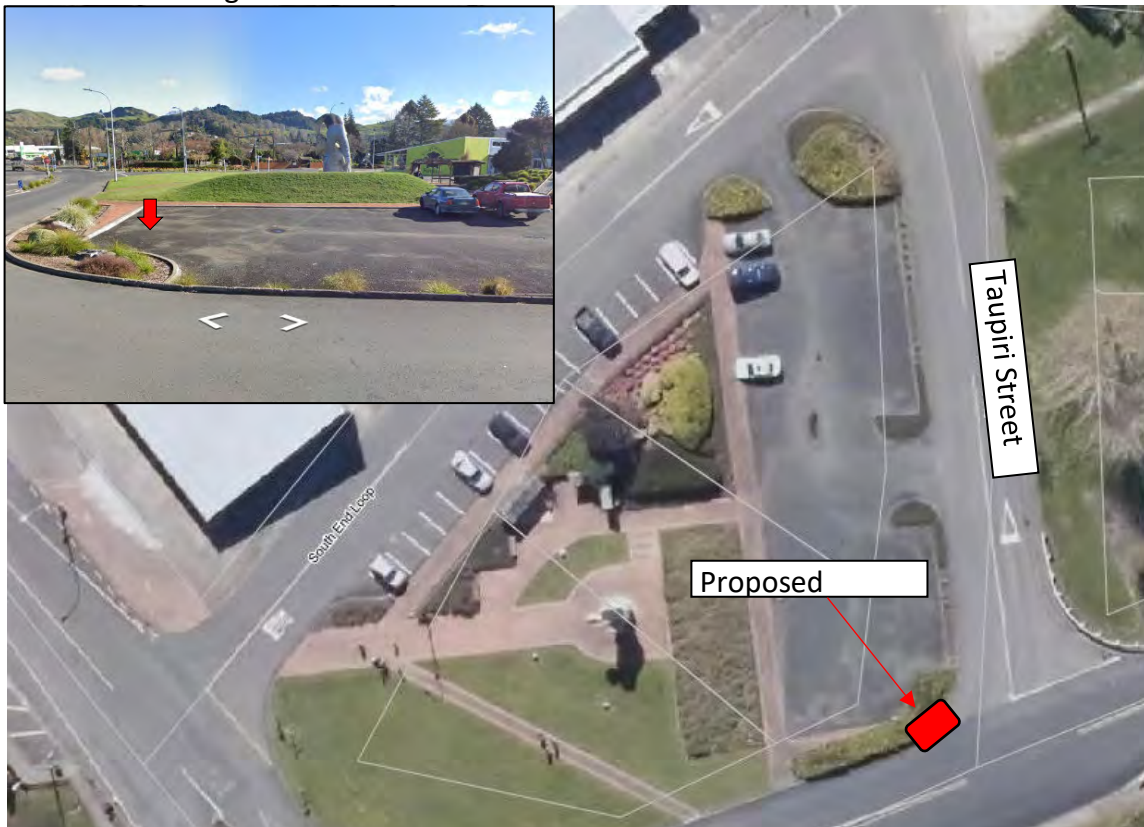
North of the northern public toilet (opp. Warehouse): Road reserve



Near Citizens Advice Bureau - A is existing, and B is proposed location: Road reserve



Near the shearing statue: Road reserve



Submission Form

Draft Public Places Bylaw 2023

Submissions close at 5.00pm 29 October 2023

You can share your views by:

- Completing this Submission Form and returning it to us by:
 - Visiting our office on 160 Rora Street, Te Kuiti
 - Emailing it to: haveyoursay@waitomo.govt.nz (scan and pdf or take a photo)
 - Posting to: FREEPOST 112498, Waitomo District Council, PO Box 404, Te Kuiti 3941
- Visiting our website: waitomo.govt.nz/haveyoursay and complete an online Submission Form

Full Name:	
Organisation: <i>(if responding on behalf of)</i>	
Phone: (home/mobile)	
Address:	
Postcode:	
Email:	

The Local Government Act 2002 requires submissions to be made available to the public. Your name and/or organisation will be published with your submission and made available in a report to elected members and to the public. Other personal information supplied (such as address / email address) will be removed from the public copy.

I wish to speak to Council about my submission.

(Hearings are scheduled for 9 November 2023.. We will contact you to arrange a time.)

Yes No

YOUR FEEDBACK

Please give us your feedback on the Draft Public Places Bylaw 2023



Submissions Booklet

Public Places Bylaw 2023

File 2 - Page 132

Sub No.	Submitter Name	Page
1	Maude Green Jnr (The Valley Foodtruck)	3
2	Michelle Wi	5

From: noreply@gurudigital.nz
Sent: Sunday, 29 October 2023 1:10 pm
To: haveyoursay
Subject: Submission Form

Caution! This message was sent from outside your organization.

[Block sender](#)

Submission form - Freedom Camping

Full Name

Maude Green Jnr

Organisation

The Valley Foodtruck

Phone

[REDACTED]

Address

[REDACTED]

Te Kuiti

Postcode

3910

Email

[REDACTED]

Submissions

I wish to speak to Council about my submission

Yes

Your FEEDBACK

Tena koutou,

My name is Maude Green, I am born and raised in Te Kuiti. I am 37 years old, my partner and our 3 children have lived in Te Kuiti township for the past 11 years with our tamariki attending Pukenui and Pio Pio kura.

We love Te Kuiti, Ngaati Maniapoto is our iwi, and we have enjoyed the past 2.5years of being small business owners of our whanau owned and operated mobile food trailer The Valley Foodtruck.

Firstly I would like to acknowledge the option to review and ammend the current bylaw,

I myself alongside my whaanau and foodtruck team, support the Proposals 2 & 3, and the locations noted in the Statement of Proposal - Schedule 3.

The food truck industry is a thriving industry full of innovation and at times can bring excitement and interest to environments and communities throughout for all ages from one day pop-up markets to local and community event/s and more.

We currently park our food trailer 1 day a week, at the existing Site A - Near Citizens Advice Bureau noted in Schedule 3.

We are thankful for the opportunity to park on Rora Street, it allows great foot traffic of not only local customers but also the many travelling and passing through visitors to our township, who at times have mentioned how much they have enjoyed a stop over in Te Kuiti, the vibrancy and the variety of food on offer throughout our township, and to be honest its just great to work alongside my whanau in our own pakihi maaori situated on the main street of our Home town.

We continue to support the local businesses here within our community whether it be for supplies/goods and sourcing local products and services to supporting local school and fundraising initiatives and events.

I only have one question regarding the existing Mobile Shop License Registration, and that is condition 7 : For

safety reasons, trading may only occur during daylight hours.

- would/could this be specified more for the possibility of night time trading of a mobile shop? we have had queries from customers at times if and why we do not open our food trailer for night/dinner services. Could this be a possibility in the future?

Thankyou for your time, we look forward to hearing more,

ngaa mihi nui

Maude Green Jnr

I am not a robot

From: noreply@gurudigital.nz
Sent: Sunday, 29 October 2023 7:57 pm
To: haveyoursay
Subject: Submission Form

Caution! This message was sent from outside your organization.

[Block sender](#)

Submission form - Freedom Camping

Full Name

Michelle Wi

Organisation

Phone

[REDACTED]

Address

[REDACTED] Te Kuiti

Postcode

3910

Email

[REDACTED]

Submissions

I wish to speak to Council about my submission

No

Your FEEDBACK

Kia Ora Koutou, I would like all areas along the new path along our river to be alcohol free. There is an area by Te Kuiti Primary that is used by community members to sit and drink alcohol and police have been called to incidents there.

The walk is a wonderful addition for all members of the public to use without having to walk past unsavoury behaviour and also with its close proximity to Te Kuiti Primary its a matter of keeping our Tamariki safe.

Thank You for your consideration on this matter Nga Mihi Michelle Wi

I am not a robot

DRAFT

Waitomo District Council

Public Places Bylaw 2023

First Adopted:	24 March 2009
Review History:	February 2011 (Amendment), March 2014, March 2023
Date of Next Review:	March 2033
Responsibility:	GM Environment and Strategy
Adopted by:	Council (date of adoption) on 28 November 2023

Contents

INTRODUCTION KUPU ARATAKI	4
1. TITLE TAITARA.....	5
2. COMMENCEMENT TĪMATA.....	5
3. PURPOSE AND SCOPE TE ARONGA ME TE KORAHĪ.....	5
4. DEFINITIONS NGĀ WHAKAMĀRAMATANGA.....	6
5. Use of Public Places	9
6. Requirements for Signs in Public Places	11
7. Alcohol Control.....	12
8. Damage to Public Places	13
9. Control of Cycles, Skating Devices, Mobility Devices and Wheeled Recreational Devices	13
10. Restrictions on use of barbed wire and electric fences	14
11. Requirements for Hawkers, Mobile Shops, Mobile Traders and Events in Public Places	15
12. Specific Provisions	17
13. Administration of Bylaw	18
14. Fees and Charges	19
SCHEDULE 1 WAHANGA 1	20
Skateboards	20
SCHEDULE 2 WAHANGA 2	20
Alcohol Control	20
SCHEDULE 3 WAHANGA 3	22
Mobile Shop Locations.....	22

INTRODUCTION | KUPU ARATAKI

This Bylaw controls a diverse range of activities that occur within our district's public places to ensure that acceptable standards of convenience, safety, visual amenity, and civic values are maintained in public places for the well-being and enjoyment of citizens, businesses and visitors within the district now and in the future. This Bylaw addresses a wide range of issues that could have an adverse effect on public places and their users.

The initial resolution to create this Bylaw, by combining existing bylaws pertaining to public places, was passed by the Waitomo District Council at an ordinary meeting of the Council held on 29 October 2008. The Bylaw was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 24 March 2009. This Bylaw came into force on 1 April 2009.

Council resolved on 3 February 2011 to make an amendment to Schedule 2 (previously Schedule B) of the Bylaw to expand the alcohol ban area, in order to assist Police in controlling alcohol consumption in public places. A full review was conducted in March 2014 and the amended Bylaw adopted in June 2014.

A review was undertaken in March 2023 and amendments were made to remove provisions that were covered by other Bylaws, statutes, and the Waitomo District Plan.

Other documents that should be referred to as relevant to this Bylaw include:

- Local Government Act 2002
- Health Act 1956
- Land Transport Act 1998
- Operative Waitomo District Plan
- Amusement Devices Regulations 1978
- Waitomo District Council Dog Control Bylaw and Policy
- Waitomo District Council Public Health and Safety Bylaw
- Waitomo District Comprehensive Reserve Management Plan
- Waitomo District Council Local Alcohol Policy

1. TITLE | TAITARA

This Bylaw is the Waitomo District Council Public Places Bylaw 2023.

2. COMMENCEMENT | TĪMATA

2.1. This Bylaw will come into effect once adopted by Council with the commencement date being part of the Council resolution.

Guidance note:

This Bylaw comes into force on [date / month] 2023 by order of Council.

This Bylaw remains in force until [date/month] 2035, unless reviewed or repealed earlier.

~~This Bylaw comes into force on [date / month] 2023 by order of Council.~~

~~2.1. This Bylaw remains in force until [date/month] 2033, unless reviewed or repealed earlier.~~

3. PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

3.1. The purpose of this Bylaw is to ensure that acceptable standards of convenience, safety, visual amenity, and civic values are maintained in public places for the well-being and enjoyment of citizens, businesses and visitors within the district now and in the future.

3.2. To achieve the purpose in clause 3.1, this Bylaw regulates:

- a) use of public places;
- b) mobile trading and events;
- c) signage in public places;
- d) Alcohol control in public places; and
- e) animals (excluding dogs) in public places.

3.3. This Bylaw is made under the general authority given to it by the Local Government Act 2002, as well as other legislation which outlines some of the powers and requirements of the Council in regards to public places. These include:

- a) Health Act 1956
- b) Land Transport Act 1998
- c) Amusement Device Regulations 1978, pursuant to section 21A of the Machinery Act 1950

3.4. Areas of control so prescribed by the empowering legislation are not necessarily repeated within this Bylaw and therefore the relevant sections of these Acts should be read in conjunction with the Bylaw.

4. DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

4.1. In this Bylaw, unless the context otherwise requires, the following words have the meanings as specified:

Alcohol	has the meaning given to it by the Sale and Supply of Alcohol Act 2012.
Animal	means stock, poultry and any other vertebrate creature of any age or sex that is kept in a state of captivity or is dependent upon human beings for its care and sustenance but excludes dogs.
Approved	means approved by Council.
Authorised Officer	means any person appointed or authorised by Council to act on its behalf and with its authority.
Carriageway	means the part of a road, sealed or unsealed and including any shoulder areas, where a normal wheeled vehicle can traverse.
Council	means Waitomo District Council.
Cycle	means a Vehicle having at least one wheel and that is designed primarily to be propelled by the muscular energy of the rider and includes a power-assisted cycle. Children's cycles having wheels less than 355 mm diameter are excluded. BMX cycles are included no matter the diameter of the wheels.
District	means the area within the jurisdiction and under the control of the Waitomo District Council.
District Plan	means the Operative Waitomo District Plan.
Event	means an organised, temporary activity that takes place on one or more days for the purpose of attracting revenue, support, awareness, and/or for entertainment, community connection or competition. Examples include a parade, wedding, protest, festival, concert and a multi-venue sports event of a significant scale, such as a fun run, marathon, duathlon or triathlon.
Hawker	means any person who sells goods or services or displays or offers goods or services for sale in a Public Place, or who carries or talks about goods from door to door.

Licensed Premises	means premises licensed for the sale or consumption of alcohol under the Sale and Supply of Alcohol Act 2012.
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.
Psychoactive 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: <ul style="list-style-type: none">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; andd) Alcohol as defined in the Sale and Supply of Alcohol Act 2012.
Mobile shop	means a vehicle, whether self-propelled or not, from which goods and/ or services, wares or merchandise are offered or exposed for sale in a public place.
Mobile trader	means any person who, in a public place: <ul style="list-style-type: none">a) solicits for orders;b) offers, distributes, or sells any goods or services by foot or from any vehicle or stall or any part thereof.
Mobility device	means a vehicle that is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment and is powered by a motor that has a maximum power output not exceeding 1500 W; or a vehicle declared to be a mobility device under section 168A(1) of the Land Transport Act 1998.
Nuisance	Has the meaning given by section 29 of the Health Act 1956 and its amendments and applies to a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a Public Place.
Owner	of any property, land, building, or premises, means any person for the time being entitled to receive the rent of such property, land, building, or premises, 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.
Portico	includes every awning, porch, verandah, lean-to, 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.

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.

Public Notice

has the meaning given to it by the Local Government Act 2002.

Public Place

means an area that is open to or used by the public, with or without payment of a charge, and which is owned, managed, maintained or controlled by the Council, and includes every road, street, public car park, footpath, court, land, cemetery, reserve, park, access way, Council operated or controlled facility, thoroughfare and walkway of a public nature.

Road

has the meaning given to it by Part 1 section 2 of the Land Transport Act 1998.

Sign

means any device, character, graphic or electronic display, whether temporary or permanent, which:

- (a) is for the purposes of:
 - (i) identification of or provision of information about any activity, property or structure or an aspect of public safety;
 - (ii) providing directions; or
 - (iii) promoting goods, services or events; and
- (b) is projected onto, or fixed or attached to, any structure or natural object; and
- (c) includes the frame, supporting device and any ancillary equipment whose function is to support the message or notice.

Skating device

means a wheeled device controlled or propelled by gravity or by the energy of the rider, including skateboards, roller skates, scooters, rollerblades, in-line skates, and wheeled recreation devices that have motors with a maximum output of 300W. It does not include cycles, wheelchairs, baby or invalid carriages.

Specified Public Place

means any public place that is within the area described in Schedule 3 to this Bylaw.

Stall

Stall includes a tent, tables, chairs, framework or structure of any description which is established in any public place where the purpose is to sell any goods or display any goods for sale or offer any services.

Stock	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.
Urban Area	Any of the towns situated within the District and includes any community consisting of ten or more dwellings with or without any ancillary commercial building.
Veranda	includes any awning, porch, portico, shade, or covering upon, across, or over any public footway or part of a road, private road, or accessway for the purpose of shade or shelter, together with any supports, other than the support provided by the building.
Wheeled recreational device	means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300W.

- 4.2 Any guidance or explanatory notes do not form part of this Bylaw, and may be made, amended and revoked without formality.
- 4.3 Unless otherwise defined by clause 4, a word or expression used in this Bylaw has the same meaning as it has from time to time in the relevant legislation as covered by the Legislation Act 2019.

5. Use of Public Places

5.1. Public Nuisance

- 5.2. Any person in a public place must not, without the prior written permission of Council:
- 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;
 - Cause or allow any material or thing to be deposited onto a public place or road;
 - 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;
 - Solicit any subscription, collection or donation, preach or undertake any busking;
 - Distribute any printed or written material advertising any product, service or entertainment;
 - Fly from or land any aeroplane including model aeroplanes, a hot air balloon or hang glider, parachutes or similar except in an emergency;
 - Play any game or use any object including skateboards, roller blades, bicycles or motorised or human propelled scooters, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to any person in the public place, or damage the public place; or

- h) Erect or place any structure on, over or under the public place except in compliance with this Bylaw.
- 5.3. 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 cause injury to any passing person, 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.
- 5.4. No person shall permit vegetation to encroach onto or over any public place that may obstruct or interfere with the free movement of persons using that public place, or restrict visibility for road users.
- 5.5. Notwithstanding any other clause of this Bylaw and subject to any restriction imposed by Council in relation to the lighting of fires, no person shall in any public place light any fire except at fireplaces specially provided or in an appliance designed for outdoor cooking.

Guidance note:

The Council may use a range of enforcement powers to remove any obstructions. If the owner does not remove the obstruction when asked by an authorised officer, the Council may remove it and recover the costs of removing the obstruction from the owner under sections 164 and 168 of the Local Government Act 2002.

5.6. Obstructing Public Places

- 5.7. Any person in a public place must 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) Permit or allow vegetation to encroach onto or over any public place that obstructs or interferes with the free movement of persons using that public place;
 - d) Allow any gate or door on property abutting a public place, to swing over or across the public place; or-
 - e) 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.

5.8. Placing of articles on Public Places

- 5.9. Any person in a public place 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, unless:
 - a) Such action has first been approved by Council and then only in accordance with such conditions as may be imposed;
 - 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.
- 5.10. Any person in a public place must not:
- a) Erect or maintain any awning over any public place without permission from Council;
 - b) Hang any awning, blind or screen from any portico in any public place without permission from Council;
 - c) 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, except where otherwise permitted by this Bylaw; or
 - d) Stand on any shop veranda erected over a public place except for the purpose of inspection, maintenance, or egress in the case of an emergency.
- 5.11. Any projection or obstruction as described in clause 5.8 that was placed before the commencement of this Bylaw and which is contrary to any bylaw in force, may be subject to removal or alteration by notice from Council.
- 5.12. Council may revoke permission at any time by giving notice to the owner or occupier of a building to remove, or to alter a projection or obstruction, and such owner or occupier shall, within the time stated in such notice, remove, or alter such projection or obstruction.

6. Requirements for Signs in Public Places

- 6.1. Subject to clauses 6.4 and 6.5, no person may, without Council approval, erect, install, or display a sign in a public place.
- 6.2. No person may erect, install, or display a sign in a public place for the purpose of advertising or promoting any political party, political opinion or candidate in any election.

6.3. Exceptions to Requirements for Signs

- 6.4. Clause 6.1 does not apply to the erection, installation or display of a sign in a public place:
- a) by Council;
 - b) that is authorised pursuant to any enactment;
 - c) that is authorised pursuant to a resource consent granted under the Resource Management Act 1991 or subsequent legislation that replaces the Resource Management Act 1991;
 - d) that is authorised pursuant to the provisions of the Waitomo District Plan;
 - e) by an emergency service in the course of official duty;
 - f) for the purpose of advertising or giving directions to an event, or to advertise market days, open homes, garage or at-home sales, where the sign is displayed for no more than 8 weeks in any 12 month period.

6.5. Clauses 6.1 and 6.2 do not apply to the erection, installation or display of a sign on a vehicle, whether moving or stationary, where:

- a) the vehicle is not being primarily used for the purpose of exhibiting the sign; and
- b) the sign does not protrude from the vehicle.

6.6. Removal of Offending Signs

6.7. If any sign, fails to comply with the provisions of this bylaw, Council may issue a notice to the owner and/ or occupier of the land, specifying:

- a) The action to be taken by the owner and/or occupier of the land to remedy the situation including to alter, repair or remove the sign in question; and
- b) When the action required by the notice must be complied with.

7. Alcohol Control

7.1. Acts Prohibited in Specified Public Places within the Waitomo District

7.2. Subject to clauses, 7.4, 7.6 and 7.8 the following acts are prohibited at all times:

- a) The consumption of alcohol in or at any Specified Public Place.
- b) The bringing of alcohol into any Specified Public Place.
- c) The possession of alcohol 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 alcohol.

Specified Public Places are listed in Schedule 2.

Guidance note:

Police Powers of arrest, search and seizure ~~under this Bylaw~~ in relation to alcohol bans are outlined in sections 169 and 170 of the Local Government Act 2002.

7.3. Exceptions to Prohibition for Residents and their Visitors

7.4. Clause 7.2 does not apply to alcohol in an unopened container for the purpose of the transport of that alcohol from outside a Specified Public Place to premises that adjoin a Specified Public Place:

- a) For delivery to, a resident of those premises or by their visitors; or
- b) From those premises to a place outside the Specified Public Place by a resident of those premises or their visitors, provided the alcohol is promptly removed from the Specified Public Place.

7.5. Exceptions to Prohibition for Licensed Premises

7.6. Clause 7.2 does not apply:

- a) In the case of alcohol in an unopened container, to the transport of that alcohol from premises adjoining a Specified Public Place during any period when under the Sale and Supply of Alcohol Act 2012 it is lawful to sell alcohol on those premises provided the alcohol is promptly removed from the Specified Public Place.
- b) In the case of in an unopened container, to the transport of that alcohol 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 alcohol under the Sale and Supply of Alcohol Act 2012.
- c) To the possession and or consumption of alcohol at any premises within the Specified Public Place in compliance with a licence for the sale and or consumption of alcohol under the Sale and Supply of Alcohol Act 2012 including any footpath area that is defined under the appropriate alcohol licence.

7.7. Exceptions for Special Licences

7.8. Clause 7.2 does not apply to any part of the Specified Public Place in respect of which a Special Licence under the Sale and Supply of Alcohol Act 2012 has been granted for any occasion or event described in the licences.

8. Damage to Public Places

8.1. No person may, without Council approval, damage, interfere with, destroy or remove any property or infrastructure under the control of Council in a public place, including any sign, man-made feature, building, footpath, kerb, road, facility, natural feature, grass plot, flower bed, tree, shrub or plant or any inscription or label.

Guidance Note:

Under section 175 of the Local Government Act 2002, a person who wilfully or negligently destroys, damages, stops, obstructs or otherwise interferes with any works or property owned by a local authority is liable for the amount of the destruction or damage, the cost incurred by the local authority in removing the stoppage or obstruction, or any loss or expense incurred by the local authority by the stoppage or obstruction or interference.

9. Control of Cycles, Skating Devices, Mobility Devices and Wheeled Recreational Devices

9.1 A person must not use or ride a cycle, mobility device, skating device, or wheeled recreational device in any Public Place in a manner that is , in the opinion of Council:

- a) Intimidating; or

- b) Dangerous; or
- c) A Nuisance; or
- d) Likely to cause a health and safety issue; or
- e) Likely to cause damage to property.

Guidance note:

Part 11 of the Land Transport (Road User) Rule 2004 sets out the requirements for pedestrians, riders of Mobility Devices, and wheeled recreational devices (including Skating Devices). Compliance with the Road Rules is enforced by the New Zealand Police.

- 9.2 A breach of any provision in this clause may result in the offending skateboard or bicycle being seized and impounded in accordance with section 164 or 165 of the Local Government Act 2002. For the avoidance of doubt, and in accordance with any applicable requirements and having regard to the preceding clause, bicycles are permitted to be ridden on any designated cycle way.
- 9.3 Property seized or impounded under clause 9.2 shall be returned to the owner in accordance with section 167 of the Local Government Act 2002 upon the owner:
- a) Supplying their full name and address; or
 - b) Satisfying Council or any officer authorised in that regard that he or she is the owner or otherwise entitled to the custody and control of the skateboard; and
 - c) Making payment to Council of the prescribed fee; and
 - d) The skateboard or recreational device having been impounded for a minimum of five working days following the day of impounding.
- 9.4 Should the owner of seized and impounded property not to collect the property within the period of 6 months from when the property was so seized then Council shall in accordance with section 168 of the Local Government Act 2002 dispose of the seized and impounded property.
- 9.5 Council shall keep a register and enter therein the details of all property impounded and of every person recovering property from Council under this Bylaw.

10. Restrictions on use of barbed wire and electric fences

- 10.1. No person shall erect any barbed wire or electric fencing within 1 metre of any boundary line which borders a public place without the permission of Council where the height of the barbed wire is less than 2 metres and electric fencing less than 3 metres above ground level.
- 10.2. Permission under clause 10.1 is not required where barbed wire is placed not less than 2 metres and electrified fencing not less than 3 metres above ground level.
- 10.3. Sub-clause 10.1 shall not apply within any area which has a predominantly rural character under the Waitomo District Plan except when the fence abuts or adjoins a footpath. Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

11. Requirements for Hawkers, Mobile Shops, Mobile Traders and Events in Public Places

- 11.1. No person shall place or leave or cause or permit to be placed or leave any material or object, including vehicles, scaffolding and hoardings, signage, amusement devices or items for sale or hire including food, or hold an event on any public place unless:
- a) Such action has first been approved by an authorised officer, and then only in accordance with any other conditions that are imposed.
 - b) Such action is taken for the purpose of regular refuse or other collections authorised by Council or is otherwise authorised by law.
 - c) Such action is permitted pursuant to any other bylaw.

11.2. Hawkers, Mobile Shops, Mobile Traders and Stalls

11.3. Licence Required

- 11.4. No person, including Hawkers, Mobile Shops, Mobile Trader and Stalls shall in any public place engage in the sale of goods or services of any description whatsoever, without first having obtained a licence from Council.
- 11.5. No person shall cause nuisance or create harm or expose the public to risk while undertaking their activity.
- 11.6. No Hawkers, Mobile Shops, Mobile Trader and Stalls may trade in any place or area except those identified in Schedule 3, or in a location approved by Council.

11.7. Application

- 11.8. Every person including Hawkers, Mobile Shops, Mobile Trader and Stalls who wishes to sell goods in a public place shall make written application to Council by completing an Application for Registration on the prescribed form. The information, to be supplied by the applicant, shall include the following:
- a) name and address of the applicant;
 - b) name and address of the person(s) selling the goods or services;
 - c) the location/site;
 - d) the telephone number of the applicant;
 - e) the type of goods or services for sale;
 - f) the period of time sought for selling;
 - g) duration of use;
 - h) the type and number of vehicles and the registration numbers, if applicable; and
 - i) evidence of good character.

11.9. Considerations for licences

11.10. Council may consider the following before issuing a licence:

- a) Any trade licences previously granted to the applicant for the same activity.
- b) The nature and extent of the activity proposed, such as hours of operation, generation of pedestrian and road traffic, and impact on surrounding area(s)
- c) If the site is within the approved locations in Schedule 3.
- d) whether the application is supported by any affected parties (including nearby business owners)
- e) any previous breaches of this Bylaw.
- f) whether the applicant has breached any other relevant local or national regulations (if known or able to be known by Council – especially for travelling businesses).
- g) whether the activity will or may pose or promote any public health or safety risks.
- h) whether the activity will or may cause any negative environmental impact.
- i) any other such matter that Council deems relevant to the application.

11.11. Licence conditions

11.12. The Council may, either upon the issue of any licence to any Hawkers, Mobile Shops, Mobile Trader and Stalls or at any time by notice in writing served on any licensed Hawkers, Mobile Shops, Mobile Trader and Stalls:

- a) Prescribe any condition or conditions in compliance with which such Hawkers, Mobile Shops, Mobile Trader and Stalls must carry on their trade or business; or
- b) Require such Hawkers, Mobile Shops, Mobile Trader and Stalls to discontinue the use of any vehicle so employed by them.

11.13. 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.

11.14. Council may impose conditions including but not limited to the number of sites the licence covers and the maximum licence period.

11.15. Cleanliness of Vehicle

11.16. Every licensed Hawker, Mobile Shop and Mobile Trader or any person operating on behalf of such Hawker, Mobile Shop and Mobile Trader 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 therewithin a thoroughly clean and sanitary condition to the satisfaction of the Council's Environmental Health Officer.

11.17. Exemptions

11.18. The exemptions to clauses 11.1-11.16 are as follows:

- a) Selling by commercial fishermen of limited quantity of fish in the vicinity of a fishing vessel as specified in section 191 of the Fisheries Act 1996;

- b) Service delivery vehicles including milk vendors;
- c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of Council;
- d) Any market, stall or stand which has been initiated by Council for the benefit of the community;
- e) Any motor vehicle advertising any business or service;
- f) Buskers and street entertainers provided that no sale of any items is involved and provided that permission is first obtained from the owners or occupiers of any business premises outside which they intend to perform.

11.19.State Highways

11.20. In the case of a state highway, with the prior consent of the Waka Kotahi (New Zealand Transport Agency), Council may prohibit hawker, mobile shop, mobile trader and stalls (including vehicles used as stalls), 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.

12. Specific Provisions

12.1. Animals and stock in public places

12.2. 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.

12.3. Any person having control of stock in any public place shall ensure that the stock is kept under proper control, with consideration for other persons using the public place.

12.4. 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.

12.5. 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 area prohibited to stock without the prior consent of an authorised officer;
- c) Graze stock in any public place without the prior consent of an authorised officer.
- d) Graze stock on road reserves in a predominantly rural area, unless the animal is contained in adequate temporary fences.

- 12.6. 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.
- 12.7. 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.
- 12.8. Any person being the owner of or having control of any horse in a public place in an urban area shall immediately remove any manure deposited by that horse from the public place.
- 12.9. Subject to the requirements Clause 12.1-12.8 every owner or person 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.

Guidance note:

Nothing in this Bylaw applies to dogs (see the definition of "Animal" in clause 4.1 of this Bylaw). The rules concerning dogs are in the Waitomo District Dog Control Bylaw. Information on Council's animal and dog control activities including a copy of the Dog Control Bylaw can be viewed on Council's website here:
<https://www.waitomo.govt.nz/our-services/animal-control/>

13. Administration of Bylaw

13.1. Offences and Penalties

- 13.2. A person who breaches this Bylaw commits an offence and is liable on conviction to a penalty under the Local Government Act 2002.
- 13.3. A person must not 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. Failure to do so is a breach of this Bylaw. This clause does not limit clause 13.2.
- 13.4. The continued existence of any work, building, land, premises or thing in a state or form that contravenes this Bylaw is deemed to be a continuing offence under this Bylaw.

Guidance note:

A person who is convicted of an offence against this Bylaw is liable to a fine not exceeding \$20,000 under section 242 of the Local Government Act 2002 (as consolidated on 13 April 2023).

Council's enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165 and 168), liability for

costs to remedy damage (section 176), power to request name and address (section 178) and power to execute works and recover costs (sections 186 and 187).

Some breaches of this Bylaw may be infringement offences. They will be identified as infringement offences by Regulations made under section 259(a) of the Local Government Act 2002. If a person commits an infringement offence they may be charged in court or served with an infringement notice.

14. Fees and Charges

14.1 The fees for any licences, permits, 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 Schedule from time to time.

14.2 Fees are payable before the issue of any licence or permit granted under this Bylaw.

Common Seal of Waitomo District Council:

The Common Seal of the Waitomo District Council
was hereto affixed in the presence of:

Mayor

Chief Executive

SCHEDULE 1 | WAHANGA 1

Skateboards

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

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

SCHEDULE 2 | WAHANGA 2

Alcohol Control

1.2 Specified Places where the Alcohol Control section of this Bylaw applies:

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

[Specified](#) Public Places include, but are not limited to, Streets, Service Lanes, Lanes, Footpaths, Carparks and Reserves [in Te Kuiti. The alcohol ban area only applies to public spaces, commercial and privately owned areas within the zone are not part of the ban.](#)

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.

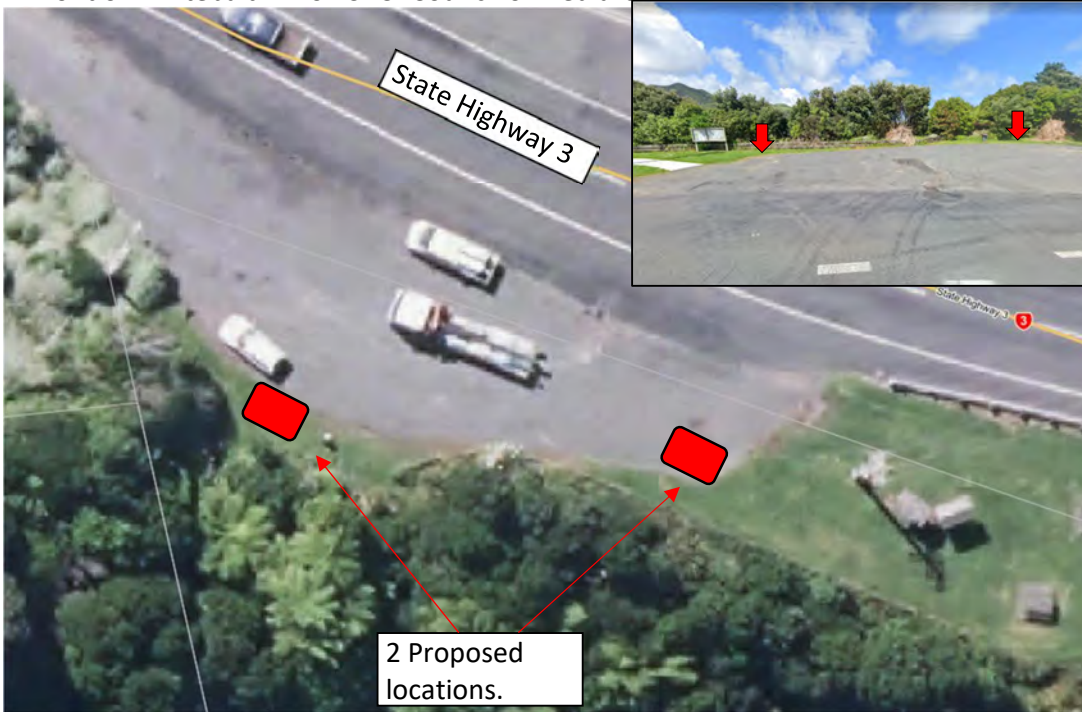


SCHEDULE 3 | WAHANGA 3

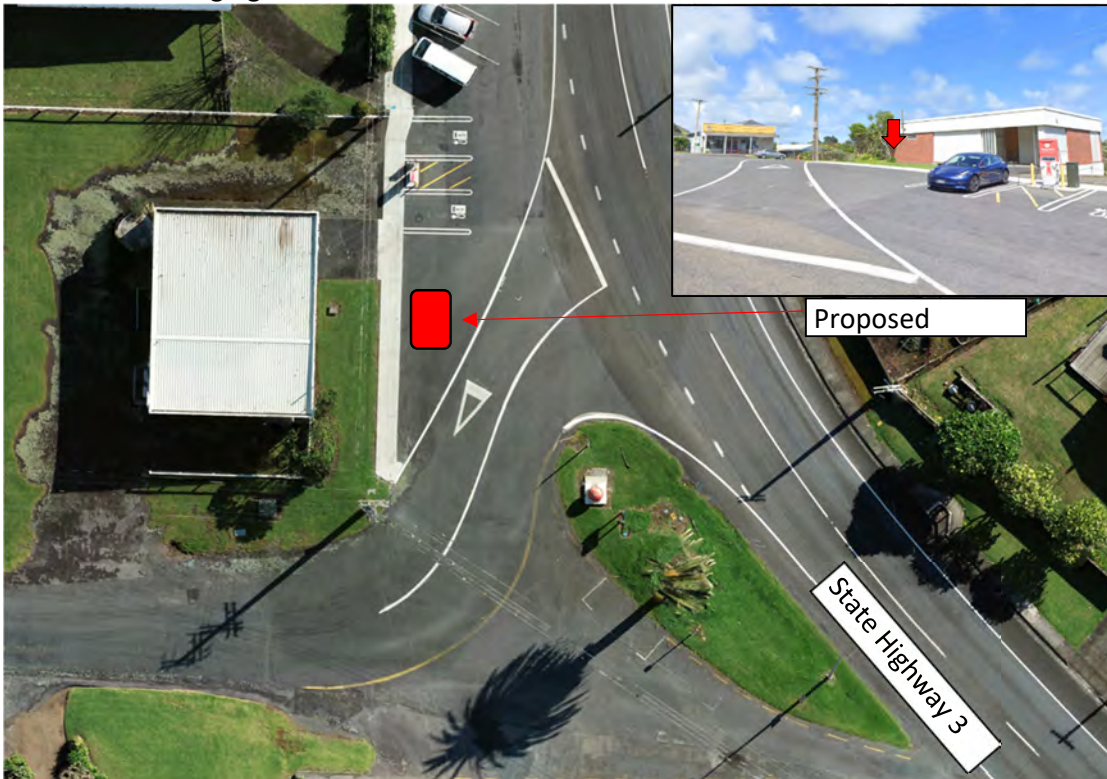
Mobile Shop Locations

Mokau

In front of Whitebait Inn on SH3: Council owned area



Near the EV charging station on SH3: Road reserve



Piopio

Near the Public toilet: Road reserve



Maniaiti (Benneydale)

Opposite Maniaiti Road: Road Reserve



Waitomo Caves

Opposite i-site Waitomo Village Road (Waitomo Caves parking space 2): Road reserve



Te Kuiti

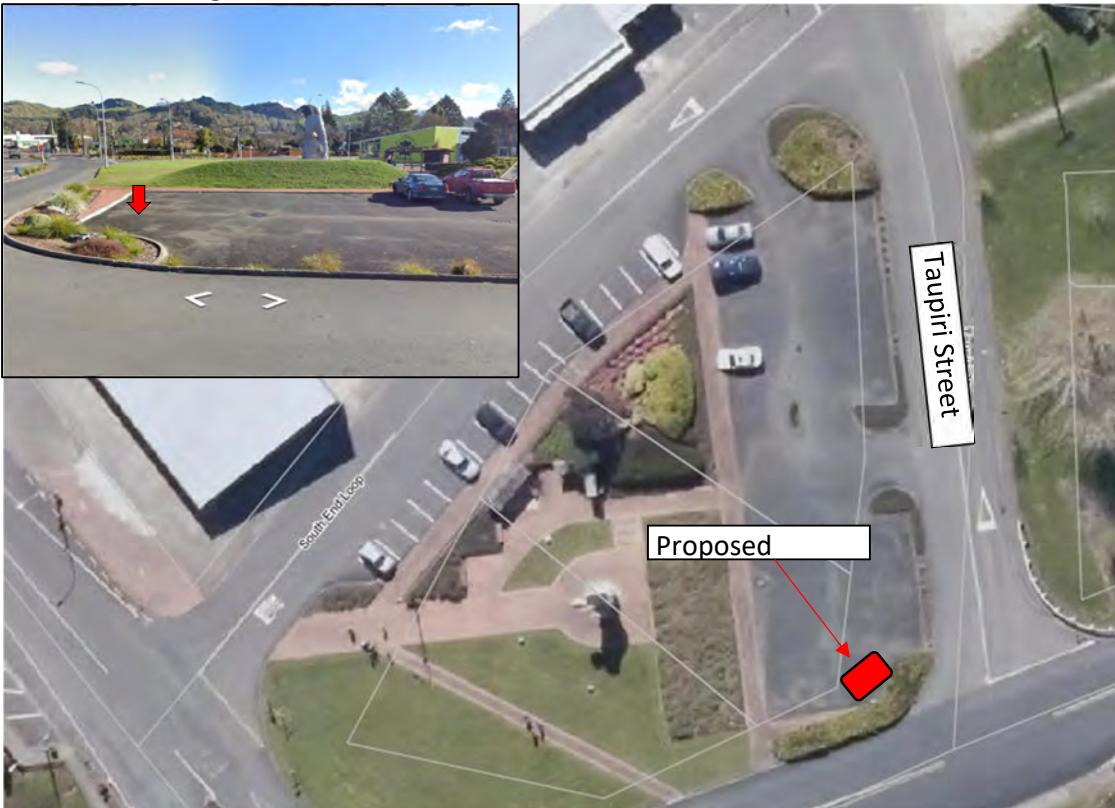
North of the northern public toilet (opp. Warehouse): Road reserve




Near Citizens Advice Bureau - A is existing, and B is proposed location: Road reserve.



Near the shearing statue: Road reserve



Document No: A199229	
Report To: Council	
	Meeting Date: 28 November 2023 Subject: Motion to Exclude the Public Type: Decision Required

Purpose

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

Note: It is Council's choice whether to consider any of the items listed below in the public or public excluded portion of the meeting.

Commentary

2.1 Section 48 of the Local Government Official Information and Meetings Act 1987 gives 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 The general subject of each matter to be considered while the public is excluded and the reason for passing this resolution in relation to each matter, as specified by Section 48(1) of the Local Government Official Information and Meetings Act 1987 are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Section 48(1) grounds for the passing of this resolution
Point Road, Mokau - Erosion	Section 7(2)(j) To prevent the disclosure or use of official information for improper gain or improper advantage.	Section 48(1)(a)(1)

- 3 Council agree the following staff, having relevant knowledge to assist in the consideration of the items of business to be public excluded, remain in attendance to assist the Committee with its decision making:

Staff Member	Reason for Remaining in Attendance
Chief Executive	Council CEO
Manager – Governance Support	Committee Secretary
General Manager – Strategy and Environment	Portfolio Holder

- 4 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 which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in the public.



MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT