

Document No: A688975

Report To: Council



Meeting Date: 26 September 2023

Subject: Presentation – Mokau Museum

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to advise Council that Murray Seamark, on behalf of the Mokau Museum, will be in attendance at the meeting to present the Museum's planned building project and to seek Council's support for the project.

Suggested Resolutions

The Presentation from Mokau Museum be received.

A handwritten signature in blue ink, appearing to read "Michelle Higgie".

MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

Document No: A688974

Report To: Council



Meeting Date: 26 September 2023

Subject: Presentation – Maru Energy

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to advise Council that Maru Energy Trust Chair, Brian Hanna and Trust Manager, Jo Meads will be in attendance to make a presentation to the Council on the activities of the Trust.

Suggested Resolutions

The Presentation from Maru Energy be received.

A handwritten signature in blue ink, appearing to read "Michelle Higgie".

MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

WAITOMO DISTRICT COUNCIL

MINUTES OF A MEETING OF THE WAITOMO DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBERS, QUEEN STREET, TE KUITI ON TUESDAY 29 AUGUST 2023 AT 9.00AM

PRESENT: Mayor John Robertson
Deputy Mayor Allan Goddard
Councillor Eady Manawaiti
Councillor Janette Osborne
Councillor Dan Tasker
Councillor Gavin Todd

IN ATTENDANCE: 2023 Rangatahi TUIA Representatives - Taetia Kopa and Aroha Wehi-King
Sport Waikato - Matthew Cooper, Chief Executive Officer and Robbie Matthews, Regional Connectivity Coordinator

Chief Executive, Ben Smit
Manager – Governance Support, Michelle Higgie
General Manager – Community Services, Helen Beever (for part only)
Manager – Strategy and Policy, Charmaine Ellery (for part only)
General Manager – Strategy and Environment, Alex Bell (for part only)
General Manager – Infrastructure Services, Shyamal Ram (for part only)
Chief Financial Officer, Tina Hitchen (for part only)
Team Leader – Building Services, Darryn Cosford (for part only)

1. Karakia Tuwhera

2. Apologies

Resolution

The apology from Councillor Janene New be received and leave of absence granted.

Robertson/Manawaiti Carried

3. Declarations of Member Conflicts of Interest

No Member declarations were made.

4. Introduction of Mayor's 2023 Rangatahi TUIA Representatives – Taetia Kopa and Aroha Wehi-King

The Mayor's 2023 Rangatahi TUIA Representatives (Taetia Kopa and Aroha Wehi-King) introduced themselves to the Council and provided a brief on their TUIA activities to date.

Resolution

The verbal report from Taetia Kopa and Aroha Wehi-King, 2023 Tuia Programme Rangatahi, be received.

Tasker/Robertson Carried

Taetia Kopa and Aroha Wehi-King (2023 Rangatahi TUIA Representatives) left the meeting at 9.24am.

5. Presentation – Sport Waikato – Reporting against Multi-Year Community Partnership Grant Agreement

Sport Waikato representatives Matthew Cooper, Chief Executive Officer, and Robbie Matthews, Regional Connectivity Coordinator, were in attendance to present and speak to the Sport Waikato Multi-Year Community Partnership Grant Agreement.

Resolution

The Presentation from Sport Waikato – Reporting against Multi-Year Community Partnership Grant Agreement be received.

Robertson/Tasker Carried

The meeting adjourned for morning tea at 10.15am

Matthew Cooper and Robbie Matthews (Sport Waikato) left the meeting at 10.38am

The meeting reconvened at 10.38am

6. Confirmation of Minutes: 25 July 2023

Resolution

The Minutes of the Waitomo District Council meeting of 25 July 2023, including the public excluded Minutes, be confirmed as a true and correct record subject to the following amendments:

- 1 Correct the date in the Minutes Header to read 25 July 2023.
- 2 Item 5: Verbal Reports – both Cr New and Cr Osborne reported on the Waitomo Sister City - Tatsuno Visit Debrief
- 3 Item 6: Hamilton & Waikato Tourism – in the first paragraph amend “Waitomo Caves Discovery Centre” to read: “Hamilton & Waikato Tourism”

Robertson/Goddard Carried

7. Receipt of Unconfirmed Audit and Risk Committee Minutes: 15 August 2023

Resolution

The Unconfirmed Minutes of the Audit and Risk Committee of 15 August 2023 be received.

Goddard/Todd Carried

8. Verbal Reports: Elected Member Roles and Responsibilities

Elected members gave verbal reports on their individual portfolio roles and responsibilities as follows:

Councillor Gavin Todd

1. Piopio Carpark Meeting
2. Mokau Site Visit

Deputy Mayor Allan Goddard

1. Benneydale Hall Meeting
2. Drop-In Session - Māori Representation

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Councillor Eady Manawaiti

1. Te Whare ki Tokanganui a Noho – Māori Representation Hui
2. Te Whare ki Hauaaaru ki Uta (Rereamanu Paa) - Māori Representation Hui
3. Te Whare Rereahu - Māori Representation hui
4. Drop-In Session - Māori Representation
5. Resident Meeting re Centennial Park proposal

Councillor Janette Osborne

1. Launch of Housing Strategy at Les Munro Centre
2. Regional Transport Committee Workshop
3. Te Kuiti Little Theatre On Stage Production of The Vagina Monologues
4. Drop-In Session - Māori Representation
5. Te Whare ki Tokanganui a Noho – Māori Representation Hui
6. Drop-In Session - Speed Management
7. Webinar – “Not Just A House”

Councillor Dan Tasker

1. Te Whare ki Tokanganui a Noho – Māori Representation Hui
2. Te Whare Rereahu - Māori Representation hui
3. Te Whare ki Hauaaaru ki Uta (Rereamanu Paa) - Māori Representation Hui
4. Drop-In Session - Māori Representation
5. Legendary Te Kuiti

Mayor John Robertson

1. LGNZ AGM and Conference
2. Mayoral Forum
3. Mayors and Iwi Leaders Hui
4. Kahui Aho School Cluster Meeting
5. Crime Group Meeting
6. Community Crime Public Meeting

Resolution

The verbal reports be received.

Robertson/Manawaiti Carried

9. Mayor’s Report – August 2023

Council considered the Mayor’s Report for August 2023.

Resolution

The Mayor’s Report – August 2023 be received.

Robertson/Tasker Carried

The Manager – Strategy and Policy entered the meeting at 10.58am.

10. Adoption of Community and Partnerships Fund Policy

Council considered a business paper presenting a revised Community and Partnerships Fund Policy for adoption.

The General Manager – Community Services expanded verbally on the business paper and answered members’ questions.

Council discussed the sum of the Community Hall grants and agreed to remove the dollar value from the Policy noting that the value will be set by Council.

Resolution

- 1 The business paper on Adoption of Community and Partnerships Fund Policy be received.
- 2 Council adopt the Community and Partnerships Fund Policy (Effective 1 July 2024) as amended (removal of dollar value for Community Hall grants).
- 3 The Chief Executive be authorised to make any final editorial amendments to the Community and Partnership Fund Policy document.

Tasker/Osborne Carried

11. Joint Management Agreement - Te Nehenehenui

Council considered a business paper providing a brief on the development of the Joint Management Agreement (JMA) with Te Nehenehenui.

The General Manager – Strategy and Environment entered the meeting at 11.04am.
The General Manager – Community Services left the meeting at 11.07am.

The Chief Executive and General Manager – Strategy and Environment expanded verbally on the business paper and answered members' questions.

Mayor Robertson noted that the Joint Management Agreement as presented combines the historical Joint Management Agreement under the Nga Wai o Maniapoto (Waipa River) Act 2012 with the newly required Joint Management Agreement under the Maniapoto Claims Settlement Act 2022 and recommended that Council should obtain a "Letter of Comfort" from legal counsel assuring that the Joint Management Agreement as drafted can meet the requirements of both Acts.

Resolution

- 1 The business paper on the Joint Management Agreement – Te Nehenehenui be received.
- 2 A letter of comfort be sought from legal counsel that gives assurance to the parties:
 - That the proposed Joint Management Agreement meets the requirements of the Maniapoto Claims Settlement Act 2022.
 - That the proposed Joint Management Agreement carries through the intent and provisions of the Nga Wai o Maniapoto (Waipa River) Act 2012.
 - Highlighting any variances/inconsistencies between the proposed Joint Management Agreement and the provisions of the two Acts.

Robertson/Goddard Carried

12. Regulatory Activity Update Report

Council considered a business paper providing an update on work programmes that form part of the Regulatory activity.

The Chief Financial Officer entered the meeting at 11.35am.

The General Manager – Strategy and Environment expanded verbally on the business paper and answered members' questions.

Resolution

The business paper on the Regulatory Activity Performance Reporting be received.

Robertson/Tasker Carried

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The General Manager – Strategy and Environment left the meeting at 11.41am.

13. Information Services, Finance and Leadership/ Governance Activity Update Report

Council considered a business paper providing an update on activities of Finance, Information Services and Leadership/Governance.

The Chief Financial Officer expanded verbally on the business paper and answered members' questions.

Resolution

The business paper on Information Services, Finance and Leadership/Governance Activity Update Report be received.

Todd/Osborne Carried

The General Manager – Infrastructure Services entered the meeting at 11.46am.

14. Additional Carpark Sealing Projects from Better-Off Fund (Mokau Museum and Te Kuiti Bowling Club)

Council considered a business paper presenting an opportunity and seeking approval to proceed with utilising unexpended funding from the "Better-Off Fund – Town Amenities Projects" for additional carpark sealing works at Mokau Museum and Te Kuiti Bowling Club.

The General Manager – Infrastructure Services expanded verbally on the business paper and answered members' questions.

Resolution

- 1 The business paper on Additional Carpark Sealing Projects from Better-Off Fund be received.
- 2 Council approve unused funding from the "Better-Off Fund - Town Amenities Projects" be applied for carpark sealing works at Mokau Museum and Te Kuiti Bowling Club within the total funding available of \$525,000.

Robertson/Tasker Carried

15. Interim Unaudited Financial Report - period ended 30 June 2023

Council considered a business paper providing an overall progress report on WDC's financial activities for the year ended 30 June 2023.

The Chief Financial Officer expanded verbally on the business paper and answered members' questions.

Resolution

The business paper on Interim Unaudited Financial Report for period ended 30 June 2023 be received.

Manawaiti/Goddard Carried

16. Motion to Exclude the Public

Council considered a business paper pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987 giving Council the right by resolution to exclude the public and/or staff from the whole or any part of a meeting on one or more of the grounds contained within that Section.

Resolution

- 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
1. Kodiak Consulting Limited	Section 7(2)(g) to maintain legal privilege	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.

Robertson/Goddard Carried

17. Consideration of Public Excluded Items to be made public following Council’s decision taking

Resolution

Following Council’s consideration and decision taking of the public excluded item of business, Council agreed:

1 Kodiak Consulting Limited

To maintain legal privilege, the resolution only be made public as follows:

Resolution

The business paper on Kodiak Consulting Limited be received.

Manawaiti/Goddard Carried
Robertson/Tasker Carried

18. Karakia Whakamutunga

There being no further business the meeting closed at 12.20pm

Dated this day of September 2023

Confidential Confidential

Confidential Confidential

Confidential

Document No: A688972

Report To: Council



Meeting Date: 26 September 2023

Subject: Mayor's Report – September 2023

Mayor Robertson will give a verbal report at the meeting on his attendance at the Local Government New Zealand "Future **by** Local Government Consensus-Building Hui" held in Wellington on Sunday 17 and Monday 18 September 2023.

Note: A second (Part Two) Future **by** Local Government Consensus-Building Hui has now been scheduled for Thursday 2 November 2023 in Wellington to coincide with the already scheduled Rural and Provincial Sector (R&PS) meeting.

The R&PS meeting, which was originally to be a two day meeting (Thursday and Friday) has now been reduced to one day (Friday 3 November 2023) to enable the second consensus building hui to take place on the Thursday.

Mayor Robertson will attend both of these meetings and asks that one other Councillor to attend the meetings with him.

Suggested Resolution

The verbal Mayor's Report – September 2023 be received.

A handwritten signature in blue ink, appearing to read "Michelle Higgie".

MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

Document No: A687905

Report To: Council



Meeting Date: 26 September 2023

Subject: **Approval and Signing of Te Nehenehenui Joint Management Agreement**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to present the final Joint Management Agreement between Te Nehenehenui and the Otorohanga, Waikato, Waipa and Waitomo District Councils and the Waikato Regional Council for approval, and to delegate Mayor Robertson the authority to sign the Agreement on behalf of Waitomo District Council.

Background

2.1 Nga Wai O Maniapoto (Waipa River) Act 2012

- 2.2 The Nga Wai o Maniapoto (Waipa River) Act 2012 Act (Waipa River Act) came into force on 5 April 2012.
- 2.3 The overarching purpose of the Waipa River Act is to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipa River for present and future generations and the care and protection of the mana tuku iho o Waiwaia.
- 2.4 The Waipa River Act provided that a Joint Management Agreement be developed between Council and the Maniapoto Māori Trust Board as part of the co-management arrangements.
- 2.5 In June 2012, Council resolved to enter into a new era of co-management for the Waipa River between Council and the Maniapoto Māori Trust Board.
- 2.6 To assist the JMA process a Nga Wai o Waipa Joint Committee was established involving all local authorities (whose boundaries fall within the legislated boundaries provided for in the Act) as a collective and the Maniapoto Māori Trust Board. The outcome being the development of one JMA being entered into by all of the Parties instead of individual JMAs.
- 2.7 That collective approach also satisfied Council's legislative obligation to form a joint committee and provided for a holistic and collaborative co-governance model for the JMA.

2.8 Maniapoto Claims Settlement Act 2022

- 2.9 The Maniapoto Claims Settlement Act 2022 (Settlement Act) came into force on 27 September 2022.
- 2.10 The purpose of the Settlement Act is -
 - (a) to record the acknowledgements and apology given by the Crown to Maniapoto in the deed of settlement; and
 - (b) to give effect to certain provisions of the deed of settlement that settles the historical claims of Maniapoto.
- 2.11 Pursuant to section 135 of the Settlement Act, Waitomo District Council, Otorohanga District Council and the Waikato Regional Council are required to enter into a Joint Management Act (JMA) no later than 12 months after the commencement date of the Settlement Act.

- 2.12 The relevant provisions of the Settlement Act in relation to the JMA are set out in Sections 135-139. Section 136(2) sets out the scope of the JMA and Section 136(3) sets out responsibilities under the JMA with how the councils and the trustees are to work together to exercise powers, functions, duties, etc. under the Resource Management Act 1991 (RMA).
- (2) *The Agreement must—*
- (a) *contain mechanisms and processes that recognise and reflect the mana of Maniapoto and the relationship of Maniapoto with Ngā Wai o Maniapoto; and*
 - (b) *provide for the management of the following matters within area M:*
 - (i) *Ngā Wai o Maniapoto; and*
 - (ii) *activities within the catchments affecting Ngā Wai o Maniapoto; and*
 - (iii) *any other matters, as provided for in subsection (3), that the councils and the trustees may agree.*
- (3) *The Agreement must provide for the councils and the trustees to work together to exercise or perform the following functions, powers, and duties under the Resource Management Act 1991:*
- (a) *monitoring and enforcement (see section 139); and*
 - (b) *preparation, review, variation, or change of a planning document (see section 140); and*
 - (c) *the functions, powers, and duties under Part 6 of the Resource Management Act 1991 in relation to resource consents (see section 141).*

2.13 Mandated Organisation for Maniapoto

- 2.14 Pursuant to Sections 206 and 210 of the Settlement Act, the Maniapoto Māori Trust Board was dissolved, and Te Nehenehenui (TNN) mandated as the organisation for Maniapoto in place of the Board.

Commentary

- 3.1 During the initial Settlement Act JMA Governance Meeting, it was discussed and agreed that the new Settlement JMA should be combined with the existing Waipa River JMA.
- 3.2 To assist with the JMA process, Council agreed to the establishment of a Technical Working Group involving staff from all the Councils, TNN staff and legal Counsel for TNN. This Work Group was established to draft the JMA with the intention of meeting the required 27 September 2023 deadline.
- 3.3 It was agreed by all parties that the collaborative approach would provide a number of efficiencies and provide a coordinated model for the management of natural and physical resources.
- 3.4 A draft JMA was developed by the Technical Working Group specifying how the parties will work together in carrying out the functions, duties and powers provided for in both the Settlement Act and the Waipa River Act.
- 3.5 The draft JMA also contains Schedules, which will be developed over the 12-month period after the JMA is approved. The Schedules address Maps, Engagement Strategy, Sites and Areas of Significance, Transfer or powers, RMA planning processes, RMA monitoring and enforcement and RMA resource consent process. These were matters that the working group considered would take additional time and resource to develop and should not restrict the JMA from proceeding to meet the 27 September 2023 deadline.
- 3.6 Council will be required to approve the Schedules once completed.
- 3.7 The initial draft JMA was circulated to the JMA Parties for feedback. Council considered that first draft JMA at its Workshop on 8 August 2023 and the provided relevant feedback.
- 3.8 A second draft JMA incorporating feedback received from the Parties was considered by Council at its meeting on 28 August 2023. At that meeting Council resolved as follows:

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Resolution

- 1 *The business paper on the Joint Management Agreement – Te Nehenehenui be received.*
- 2 *A letter of comfort be sought from legal counsel that gives assurance to the parties:*
 - *That the proposed Joint Management Agreement meets the requirements of the Maniapoto Claims Settlement Act 2022.*
 - *That the proposed Joint Management Agreement carries through the intent and provisions of the Nga Wai o Maniapoto (Waipa River) Act 2012.*
 - *Highlighting any variances/inconsistencies between the proposed Joint Management Agreement and the provisions of the two Acts.*

Robertson/Goddard Carried

- 3.9 A final draft has now been provided to the Parties (copy attached) which highlights the further changes recommended and which are summarised as follows:
- Graphic on the front page
 - Whakatauki added
 - New clause 42 (to reflect the discussion in the Joint Committee)
 - 'Definitions and interpretation' section deleted (as not in the existing JMA)
 - Signature blocks included
 - Map included
- 3.10 Paul Beverly of Buddle Findlay, the legal counsel for TNN, has also provided the requested letter of assurance as per Council's resolution of 28 August 2023 (copy attached).
- 3.11 Liaison is currently underway between the Parties to the JMA to arrange a Signing Ceremony for early October.

Recommendation

- 6.1 It is recommended that Council approve the JMA and delegate Mayor Robertson the authority to sign the finalised JMA on behalf of WDC.

Suggested Resolutions

- 1 The business paper on Approval and Signing of the Te Nehenehenui Joint Management Agreement be received.
- 2 Council approve the Te Nehenehenui Joint Management Agreement, including the changes highlighted in the version provided.
- 3 Mayor Robertson be delegated authority to sign the final Te Nehenehenui Joint Management Agreement on behalf of the Waitomo District Council.



MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

Attachments:

- 1 Buddle Findlay – Letter of Assurance (A688004)
- 2 Final Draft Joint Management Agreement (A687910)

14 September 2023

To

Te Nehenehenui
Ōtorohanga District Council
Waikato District Council
Waikato Regional Council
Waipā District Council
Waitomo District Council

From

Paul Beverley

By Email

Tēnā koutou

Joint Management Agreement: Te Nehenehenui and Councils

1. We refer to the ongoing discussions between Te Nehenehenui and the Councils (the **parties**) in relation to the proposed joint management agreement (**JMA**).
2. The JMA is required to be entered into under:
 - (a) the Ngā Wai o Maniapoto (Waipā River) Act 2012; and
 - (b) the Maniapoto Claims Settlement Act 2022.
3. There is an existing JMA in place under the Ngā Wai o Maniapoto (Waipā River) Act 2012.
4. The proposed new JMA will, in one document, constitute the agreement required under both the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 (and will replace the existing JMA).
5. In our view, the JMA meets the requirements of both the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022. While there are some differences between the JMA provisions in the two Acts, in our view those differences are not material nor an impediment to the combined JMA approach. By way of example, those differences include the Maniapoto Claims Settlement Act 2022:
 - (a) including some additional 'principles' for the development and operation of the JMA (section 138);
 - (b) in relation to RMA planning, providing an additional requirement to address the RMA 'freshwater planning process' (which was included in the RMA after the passing of the Ngā Wai o Maniapoto (Waipā River) Act 2012); and
 - (c) in relation to the RMA resource consent process, including an additional matter to be addressed (best practice for when to commission a cultural impact statement).
6. As noted, we do not consider the differences to be material.
7. It is important to note that, even if a matter is provided for under only one of the Acts, both Acts provide the ability for the parties to agree to extend the scope of the JMA (section 28 of the Ngā Wai o Maniapoto (Waipā River) Act 2012 and section 148 of the Maniapoto Claims Settlement Act 2022).

BUDDLE FINDLAY

8. Further, there are provisions in the proposed JMA that acknowledge and reflect that the JMA covers the requirements under both Acts and the two JMA areas, for example:

The parties acknowledge and agree that:

- (a) *this agreement gives effect to commitments under two different statutes: the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022;*
 - (b) *if there is an inconsistency between a provision in this agreement and a provision in one or both of those statutes, the provision in the relevant statute prevails; and*
 - (c) *depending on the area concerned, the statutory basis for the agreement will either be the Ngā Wai o Maniapoto (Waipā River) Act 2012 or the Maniapoto Claims Settlement Act 2022, and the provisions of the relevant statute will apply accordingly.*
9. There are similar provisions in Schedules Five, Six and Seven of the JMA (in relation to RMA processes) as follows:

If there is an inconsistency between the provisions of the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 in relation to this schedule, the provision of the relevant statute will prevail in relation to the area covered by that statute.

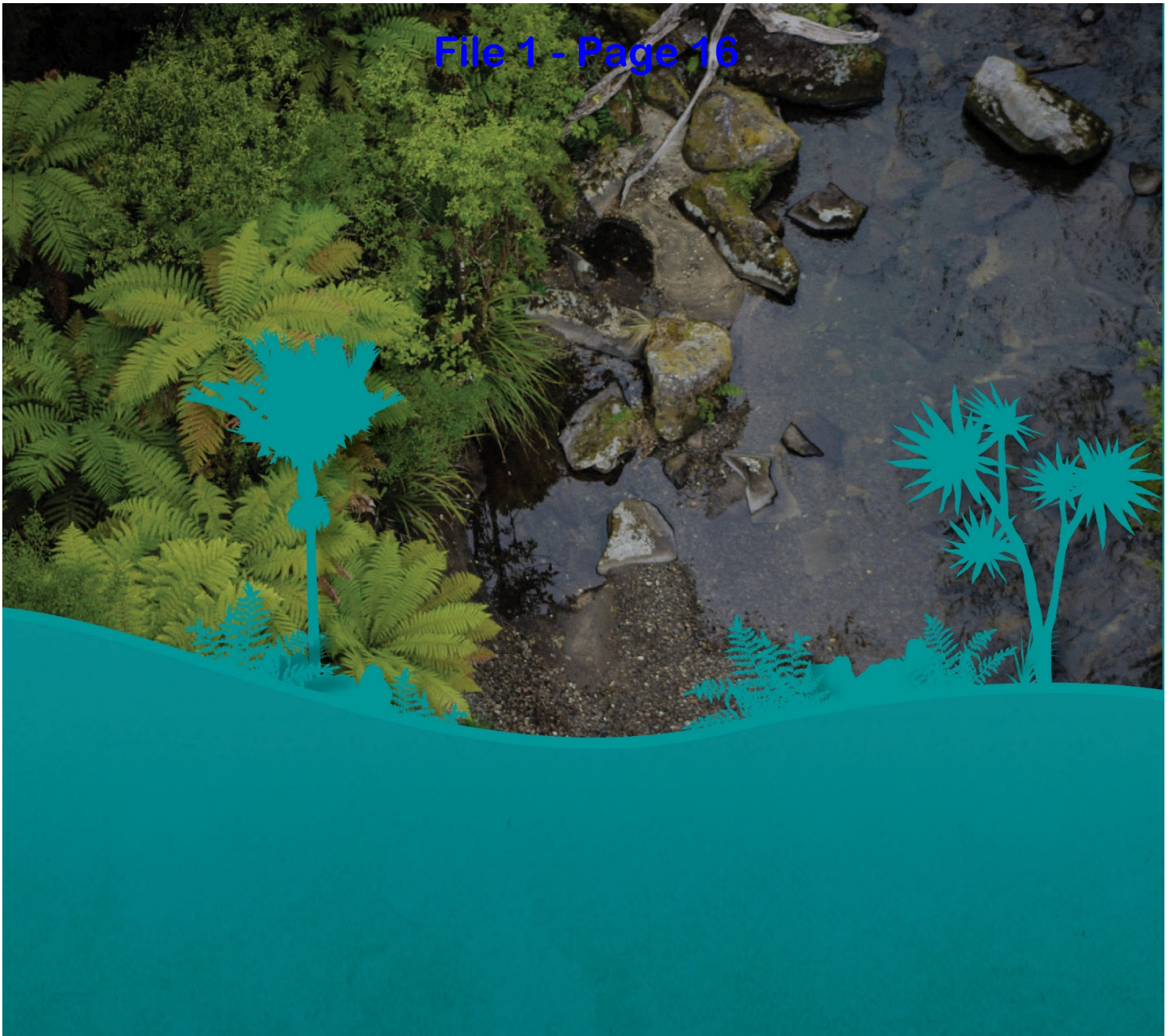
10. We do not anticipate that there will be inconsistencies in terms of how the JMA will apply across the different geographical areas, but if that does arise, the clauses noted above provide confirmation that the relevant empowering statute applies in that area.
11. Further, the intention of the JMA is to provide a process for the development of more detailed schedules, and if any differences arise in terms of the application of the two Acts in those geographical areas, those matters can be worked through between Te Nehenehenui and the Councils before the schedules are agreed and included in the JMA.
12. We have appreciated working with Te Nehenehenui and Councils in the JMA development process and we are very happy to answer any further queries if that would assist.

Ngā mihi nui



Paul Beverley
Partner

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**JOINT MANAGEMENT
AGREEMENT**

TE NEHENEHENUI

AND

ŌTOROHANGA DISTRICT COUNCIL

WAIKATO DISTRICT COUNCIL

WAIKATO REGIONAL COUNCIL

WAIPĀ DISTRICT COUNCIL

WAITOMO DISTRICT COUNCIL

Hanga Paitia tatou kia piri ai ki te piringa pono...

*Conduct us in a proper way, so that we may be bound together
by a bond of faith...*

Wahanui, 1883

Deed of Settlement of Historical Claims, 11 Nov 2021, pg. 143

DATED:

PARTIES

Te Nehenehenui

and

Ōtorohanga District Council

Waikato District Council

Waikato Regional Council

Waipā District Council

Waitomo District Council

(together, the **councils**)

(all together, the **parties**).

MANIAPOTO

Maniapoto have since time immemorial, maintained their mana whakahaere including exercising rights and responsibilities in relation to their rohe in accordance with their kawa and tikanga.

The Maniapoto rohe includes their whenua, maunga, awa, wai and other taonga (lands, mountains, rivers, waters, flora and fauna). These natural and traditional resources have their own mauri, which represents the spiritual and physical well-being of Maniapoto.

It is critical that Maniapoto are able to exercise their mana whakahaere within their rohe, particularly over the wai within their rohe, for the benefit of present and future generations.

NGĀ WAI O MANIAPOTO

In the Maniapoto Claims Settlement Act 2022, the Crown acknowledged the statement by Maniapoto of the significance of Ngā Wai o Maniapoto, including the following statement:

Ngā Wai o Maniapoto are awa tūpuna and living taonga to Ngāti Maniapoto. The relationship between Ngāti Maniapoto and Ngā Wai o Maniapoto is historic, cultural, physical, and spiritual. Generations of the tribe have long exercised their kaitiakitanga responsibilities and other tikanga in relation to the waterways and the associated beds, banks, fisheries, plants, taniwha, and mauri (life force) of Ngā Wai o Maniapoto; ...

[further elements of that statement could be potentially included as well?]

PART A: OVERARCHING PROVISIONS

BACKGROUND

1. Te Nehenehenui is the post settlement governance entity established through the Maniapoto Treaty settlement process and the Maniapoto Claims Settlement Act 2022.
2. Ōtorohanga District Council is a local authority established under the Local Government Act 2002, with functions in the Ōtorohanga district.
3. Waikato District Council is a local authority established under the Local Government Act 2002, with functions in the Waikato district.
4. Waikato Regional Council is a local authority established under the Local Government Act 2002, with functions in the Waikato region.
5. Waipā District Council is a local authority established under the Local Government Act 2002, with functions in the Waipā district.
6. Waitomo District Council is a local authority established under the Local Government Act 2002, with functions in the Waitomo district.
7. The Ngā Wai o Maniapoto (Waipā River) Act 2012 provides for joint management agreements to be entered into between Maniapoto and the councils. A joint management agreement was entered into between those parties on 3 April 2013.
8. The Maniapoto Claims Settlement Act 2022 provides for joint management agreements to be entered into between Maniapoto and the councils [identified in that Act](#).
9. The parties have agreed to enter into one combined joint management agreement to provide for the obligations under both the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 [\(agreement\) over the area set out in Schedule One](#).
10. The parties commit to the implementation of this ~~joint management~~ agreement in the spirit of respect, partnership and good faith.

PURPOSE OF AGREEMENT

11. The purpose of this agreement is to:
 - (a) implement in one document the joint management agreement provisions in the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022; and
 - (b) provide a constructive and effective basis for Te Nehenehenui and the councils to build partnerships and work together.

MANIAPOTO: VISION, PRINCIPLES AND ASPIRATIONS

12. The vision of Maniapoto as set out in the Maniapoto Claims Settlement Act 2022 is:¹

The vision of Maniapoto is for a constructive ongoing relationship between Maniapoto, the Crown, and local authorities in relation to Ngā Wai o Maniapoto in a way that:

(a) respects Maniapoto tikanga; and

(b) supports the relationship of Maniapoto and their culture and traditions with their ancestral lands, waters, sites, wāhi tapu, and other taonga.

Maniapoto seek to develop relationship agreements with the Crown to enhance the oranga (well-being) of their people, including developing relationship agreements that will contribute to the social, economic, and cultural aspirations of the individuals, whānau, and hapū of Maniapoto, including their health, well-being, and success.

13. The Maniapoto vision as set out in the Maniapoto Claims Settlement Act 2022 is underpinned by the following principles:²

Te Mana o te Wai: *the quality and integrity of the waters sustaining the physical and spiritual well-being of Maniapoto, and the continuing health and well-being of current and future generations and all living things that depend on water are important to Maniapoto.*

Ngā Wai o Maniapoto: *the deeply felt obligation of Maniapoto to restore, maintain, and protect the waters within Ngā Wai Maniapoto. Maniapoto participation in decision-making arrangements will ensure that Ngā Wai o Maniapoto are enhanced and protected.*

Te mana tuku iho o Waiwaiā: *Waiwaiā is the spiritual kaitiaki of the Waipā and other rivers within the Maniapoto rohe. Maniapoto has a deeply felt obligation to care for and protect te mana tuku iho o Waiwaiā and to instil knowledge and understanding in Maniapoto and Ngā Wai o Maniapoto communities about the nature and history of Waiwaiā, and for that reason it is important that Maniapoto are consulted on all matters that impact on Maniapoto.*

Kaitiakitanga: *kaitiakitanga is integral to the mana of Maniapoto and requires:*

(a) the restoration of the relationship of Maniapoto with wai; and

(b) the restoration and maintenance of the ability of Ngā Wai o Maniapoto to provide for the practice of manaakitanga; and

(c) the recognition and respect for the kawa, tikanga, and kaitiakitanga of Maniapoto; and

(d) the encouragement and empowerment of active involvement of Maniapoto in the expression of their kaitiaki responsibilities.

¹ Section 134(2) and 134(3) of the Maniapoto Claims Settlement Act 2022.

² Section 134(4) of the Maniapoto Claims Settlement Act 2022.

Recognition of the mana of Maniapoto: *respect for the mana of Maniapoto and recognition of the significance of Ngā Wai o Maniapoto and the wider environment to the mana of Maniapoto.*

Recognition of Maniapoto as kaitiaki and rangatira: *recognition of the status and role of Maniapoto as rangatira and kaitiaki within resource management and decision making.*

Te Tiriti o Waitangi/the Treaty of Waitangi: *recognition and respect for Maniapoto and the Crown as Treaty partners under te Tiriti o Waitangi/the Treaty of Waitangi, and the roles and responsibilities of local authorities to act in accordance with provisions that refer to the principles of te Tiriti o Waitangi/the Treaty of Waitangi.*

14. The Maniapoto aspirations as set out in the Maniapoto Claims Settlement Act 2022 are as follows:³

That resource users and decision makers will collaborate with the people of Maniapoto to ensure that any adverse effects on Maniapoto or the environment arising from resource use are appropriately avoided or mitigated to the extent agreed by Maniapoto, the users, and the decision makers.

That Maniapoto and the Crown and Maniapoto and local authorities will develop and strengthen 2-way building of capacity and capability in reviewing, regulating, and managing activities that have an impact on Ngā Wai o Maniapoto so as to promote the vision of Maniapoto:

That Maniapoto perspectives and the strategic documents of Maniapoto, such as the environmental plan, and any that may be developed and implemented in the future for the Maniapoto rohe, will be appropriately recognised and incorporated into the functions and decisions of public agencies:

That Maniapoto will work with local authorities to co-design and co-govern programmes for:

- (a) developing appropriate data resources, research services, and Maniapoto data capability; and*
- (b) designing programmes and supporting investment in innovation and research to improve the skills that provide for a process designed by Maniapoto to deliver positive outcomes for Maniapoto; and*
- (c) establishing monitoring and accountability methods for measuring equitable outcomes for Maniapoto and assessing progress towards those outcomes.*

15. In the context of the Waipā River, appropriate weight must also be given to the relevant matters and documents provided for under the Ngā Wai o Maniapoto (Waipā River) Act 2012 including:

³ Section 134(5) of the Maniapoto Claims Settlement Act 2022.

- (a) the overarching purpose of the [Ngā Wai o Maniapoto \(Waipā River\) Act 2012](#) ~~Waipā River Act~~, being to restore and maintain the quality and integrity of the waters that flow into and form part of the Waipā River for present and future generations and the care and protection of the mana tuku iho o Waiwaiā;
- (b) Te Ture Whaimana;
- (c) the Waipā River integrated river management plan;
- (d) the Maniapoto objectives for the Waipā River;
- (e) Ko Tā Maniapoto Mahere Taiao (the Maniapoto Iwi environmental management plan); and
- (f) the principles for the development and operation of the joint management agreement as set out in section 20 of [the Ngā Wai o Maniapoto \(Waipā River\) Act 2012](#) ~~that Act~~.

THE COUNCILS: VISION, PRINCIPLES AND ASPIRATIONS

16. The councils:

- (a) deeply respect and acknowledge the Maniapoto vision, principles and aspirations;
- (b) both individually and collectively, and in a commitment to a robust partnership, aim to collaborate with Maniapoto in a respectful, constructive and mutually advantageous manner;
- (c) are united in the pursuit of positive outcomes for our communities, reflecting the aspirations and strategic directions set out in councils' strategic documents; and
- (d) confirm that this statement serves as our commitment to this agreement and the subsequent collaborative efforts that will arise from it.

17. The councils may, individually or collectively, give notice to Te Nehenehenui that a further statement of council vision, principles and aspirations will be added to this agreement through the process set out in clause 41.

RELATIONSHIP PRINCIPLES

18. The parties commit to the following relationship principles in working together under this agreement:⁴

- (a) ~~of~~ promoting the overarching purpose of the Raunairoa (natural resources redress), which is:
 - (i) to care for and protect Ngā Wai o Maniapoto; and

⁴ Section 138(2) of the Maniapoto Claims Settlement Act 2022.

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- (ii) to restore and maintain, for present and future generations, the quality and integrity of the waters that flow into, and form part of, Ngā Wai o Maniapoto;
 - (b) ~~of~~ acting in a manner consistent with the principles of te Tiriti o Waitangi/the Treaty of Waitangi;
 - (c) ~~of~~ recognising the statutory functions, powers, and duties of the local authorities within the area where the Agreement applies;
 - (d) ~~of~~ respecting the mana of Maniapoto; and
 - (e) ~~of~~ jointly committing:
 - (i) to work together in good faith and in a spirit of co-operation;
 - (ii) to recognise and acknowledge that the parties benefit from working together by sharing their respective vision, knowledge, and expertise;
 - (iii) to participate effectively in co-management;
 - (iv) to communicate in an open, honest, and transparent way;
 - (v) to ensure that they work together from an early stage;
 - (vi) to make their best endeavours to ensure that the purpose of the Agreement is achieved and enduring;
 - (vii) to recognise that the relationship between the parties will evolve;
 - (viii) to recognise that the Agreement operates within statutory frameworks and the importance of complying with those statutory frameworks; and
 - (ix) to meeting statutory time frames and minimising costs and delays associated with those time frames.
19. In relation to the Waipā River, the parties also acknowledge and commit to acting consistently with the guiding principles as set out in section 20 of the Ngā Wai o Maniapoto (Waipā River) Act 2012.

PART B: GENERAL PROVISIONS

SCOPE AND STATUS OF AGREEMENT

20. This agreement:
- (a) constitutes the joint management agreement provided for in the Ngā Wai o Maniapoto (Waipā River) Act 2012;
 - (b) replaces the current joint management agreed on 3 April 2013 pursuant to the Ngā Wai o Maniapoto (Waipā River) Act 2012;
 - (c) constitutes the joint management agreement provided for in the Maniapoto Claims Settlement Act 2022;
 - (d) provides an overarching framework for the relationship between Maniapoto, Te Nehenehenui and the councils (individually and collectively); and
 - (e) provides for a range of mechanisms to enhance the relationship between Maniapoto, Te Nehenehenui and the councils (individually and collectively).
21. The parties acknowledge that they will work together to explore how the scope of this agreement can be extended:
- (a) to other statutory functions of the councils beyond those provided for in the [Maniapoto Claims Settlement Act 2022 and Ngā Wai o Maniapoto \(Waipā River\) Act 2012](#) ~~legislation~~ (such as [under](#) the Reserves Act 1977); and
 - (b) to cover all of the areas of the Maniapoto rohe.

CO-GOVERNANCE FORUM

22. A co-governance forum will be established to be the guardian of this agreement.
23. The role of the co-governance forum will be to keep this agreement under review to determine whether the agreement is being implemented to the satisfaction of all the parties and in accordance with the principles set out in clauses 18 and 19.
24. Unless otherwise agreed, the co-governance forum will be made up of equal numbers of representatives appointed by Te Nehenehenui and the councils as follows:
- (a) Te Nehenehenui will appoint five members; and
 - (b) each of the councils will appoint one member.
25. There will be two co-chairs presiding over the meetings:
- (a) one co-chair will be appointed by Te Nehenehenui; and
 - (b) one co-chair will be appointed by the councils.

26. The co-governance forum will meet at least once each year, or more frequently if the co-governance forum considers it necessary.
27. The parties will develop and agree a terms of reference for the co-governance forum, and may agree to amend that document from time-to-time.
28. Staff members will attend the co-governance forum meetings to provide advice and technical support as required.
29. The parties will each appoint a senior staff member to be the key contact person and to oversee the implementation of this agreement.

KO TĀ MANIAPOTO MAHERE TĀIAO – MANIAPOTO ENVIRONMENTAL MANAGEMENT PLAN

30. Maniapoto has prepared an environmental management plan (**MEMP**) in relation to the Maniapoto rohe.
31. The MEMP is:
 - (a) a high-level direction setting document and describes issues, objectives, policies and actions to protect, restore and enhance the relationship of Maniapoto with the environment including their economic, social, cultural and spiritual relationships;
 - (b) a tool to support the leadership of Maniapoto at the forefront of kaitiakitanga and rangatiratanga within the Maniapoto rohe; and
 - (c) intended to raise awareness and understanding of Maniapoto values, interests and aspirations in the management of physical and natural resources.⁵
32. The parties acknowledge that the MEMP is a key guiding document for:
 - (a) processes undertaken by councils in the Maniapoto rohe; and
 - (b) applicants and other stakeholders in processes in the Maniapoto rohe.

MANIAPOTO ENGAGEMENT STRATEGY

33. The parties acknowledge that best practice involves ~~and~~ early engagement and consultation with Maniapoto and is to working with the right people on the right issues, so that Maniapoto can ~~when~~ exercising its responsibilities of as kaitiakitanga. This approach is required in assessing potential environmental effects, including effects on Maniapoto cultural values for natural and physical resources within the Maniapoto rohe.
34. Te Nehenehenui will develop a Te Nehenehenui engagement strategy to guide the councils and others on how to engage with Maniapoto on matters affecting its rohe.

⁵ Part 1.0, 1.1.2, 1.1.5 and, 1.1.8, of the Maniapoto Environmental Management Plan.

35. That engagement strategy will be agreed with the councils and added as a schedule to this agreement as part of the process set out in clause 41.
36. The 12-month timeframe for the development of schedules under clause 41 does not apply to the preparation and agreement of that engagement strategy.

ANNUAL WORK PROGRAMME

37. Each year the parties will work together to develop and agree an annual joint work programme for the implementation of this agreement.
38. Each annual work programme will:
 - (a) be developed in a manner that aligns with the timeframes for the preparation and approval of the councils' annual plan process;
 - (b) be submitted to the co-governance forum for approval; and
 - (c) take effect from 1 July each year.
39. The first annual work programme:
 - (a) will be agreed no later than six months after the signing of this agreement;
 - (b) will include provisions addressing the work to be undertaken to develop and agree the further schedules to this agreement in accordance with the process set out in clause 41; and
 - (c) may identify matters for Te Nehenehenui and individual (or collectives of) councils to work on.
40. Each subsequent annual work programme will cover the following matters:
 - (a) any remaining work required to develop and agree the further schedules to this agreement in accordance with the process set out in clause 41;
 - (b) implementation of the matters set out in this agreement and the schedules;
 - (c) collaborative projects between Te Nehenehenui and the councils (collectively or individually) for that year;
 - (d) areas of focus between Te Nehenehenui and the councils (collectively or individually) for that year;
 - (e) if agreed, matters for Te Nehenehenui and individual (or collectives of) councils to work on; and
 - (f) other matters as agreed.

PROCESS TO DEVELOP FURTHER SCHEDULES

41. In addition to the provisions of this agreement, the parties commit to completing or updating the following schedules of this agreement within 12 months of the signing of this agreement (or such longer period as agreed in writing):
- (a) Schedule Two: Maniapoto engagement strategy;⁶
 - (b) Schedule Three: sites of significance;
 - (c) Schedule Four: transfer of powers;
 - (d) Schedule Five: RMA planning processes;
 - (e) Schedule Six: RMA monitoring and enforcement processes;
 - (f) Schedule Seven: RMA resource consent processes;
 - (g) Schedule Eight: Local Government Act processes;
 - (h) Schedule Nine: other statutory frameworks;
 - (i) Schedule Ten: resourcing and capacity building; and
 - (j) Other schedules as agreed.
42. To avoid doubt, schedules may only be added to this agreement with the written agreement of all relevant parties acting under the appropriate delegated authority.

INFORMATION SHARING

43. The parties recognise the benefit of mutual information exchange.
44. The councils will make available to Te Nehenehenui all information held by the councils (subject to the Local Government ~~and~~ Official Information and Meetings Act 1987) where that information is requested by Te Nehenehenui for the purposes of assisting it to exercise its mana in respect of the Maniapoto rohe and to enable Te Nehenehenui to exercise its rights fully under this agreement.
45. Te Nehenehenui may make available to the councils information, where appropriate, and when requested by a particular council, to enable the council to fulfil its statutory obligations and obligations under this agreement.

COMMUNICATION

46. Te Nehenehenui and the councils will establish and maintain effective and efficient communication with each other on a continuing basis by:

⁶ The 12-month period does not apply to this schedule.

- (a) Te Nehenehenui providing, and the councils maintaining, contact details for Te Nehenehenui personnel responsible for engagement under this agreement;
- (b) the councils providing, and Te Nehenehenui maintaining, contact details for council personnel responsible for engagement under this agreement; and
- (c) identifying and educating staff who will be working closely with each other from each respective party and informing them of the obligations under this agreement.

REVIEW AND AMENDMENT OF AGREEMENT

- 47. Te Nehenehenui and the councils may at any time agree in writing to undertake a review of this agreement.
- 48. There will be a review undertaken no later than two years after the signing of this agreement, and biennially after that.
- 49. As a result of the review, or otherwise, Te Nehenehenui and the councils may agree in writing to amend the agreement.

DISPUTE RESOLUTION

- 50. The parties agree and acknowledge that for this agreement to be effective, the resolution of issues between them must be addressed in a constructive, co-operative and timely manner that is consistent with the principles set out in clauses 18 and 19.
- 51. The dispute resolution process is as follows:
 - (a) if the parties cannot reach agreement or if one party considers that there has been a breach of this agreement, then that party may give notice to the other party or parties that they are in dispute;
 - (b) as soon as practicable upon receipt of the notice, the council concerned will meet with the other council (if appropriate) and Te Nehenehenui representatives in good faith to resolve the dispute;
 - (c) if the dispute has not been resolved within 20 working days after receipt of the notice, the chief executive of Te Nehenehenui and the chief executive of the relevant council(s) will meet to work in good faith to resolve the issue;
 - (d) if the dispute has still not been resolved within 30 working days after a meeting between the chief executives, and as a matter of last resort, the respective mayor/chair (or nominee) or the [co-governance](#) forum will meet to work in good faith to resolve the issue; and
 - (e) at any point in the dispute resolution process, the parties may agree to refer the matter to mediation or another form of alternative dispute resolution.

TERMINATION AND SUSPENSION

52. Te Nehenehenui and the councils may, at any time, agree in writing to suspend, in whole or in part, the operation of this agreement.
53. The scope and duration of any suspension must be specified in that written agreement.
54. There is no right to terminate this agreement.

WAIVER OF RIGHTS UNDER AGREEMENT

55. Te Nehenehenui may, at any time, notify the councils in writing that:
 - (a) it waives any rights provided for in this agreement; or
 - (b) it revokes a notice of such a waiver.
56. The notice given by Te Nehenehenui must specify the nature and duration of the waiver.

EXERCISE OF POWERS IN CERTAIN CIRCUMSTANCES

57. A council may exercise or perform a statutory power or function that is affected by [this](#) agreement on its own account and not in accordance with [this](#) agreement:
 - (a) if the statutory time frame for the exercise or performance of that power or function cannot be complied with under this agreement; or
 - (b) in the event of an emergency.
58. However, a council must use its best endeavours to work with Te Nehenehenui and comply with the agreement if practicable in the circumstances.

EFFECT OF AGREEMENT

59. This agreement constitutes:
 - (a) the joint management agreement referred to in section 17 of the Ngā Wai o Maniapoto (Waipā River) Act 2012; and
 - (b) the joint management agreement referred to in section 135 of the Maniapoto Claims Settlement Act 2022.
60. This agreement supersedes the joint management agreement entered into on 3 April 2013 under the Ngā Wai o Maniapoto (Waipā River) Act 2012.
61. The parties acknowledge and agree that:
 - (a) this agreement gives effect to commitments under two different statutes: the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022;
 - (b) if there is an inconsistency between a provision in this agreement and a provision in one or both of those statutes, the provision in the relevant statute prevails; and

- (c) depending on the area concerned, the statutory basis for the agreement will be either the Ngā Wai o Maniapoto (Waipā River) Act 2012 or the Maniapoto Claims Settlement Act 2022, and the provisions of the relevant statute will apply accordingly.

SIGNED BY THE PARTIES

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

Kruger Wetere

Te Nehenehenui Deputy
Chairman

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

Wikitoria Tane

Te Nehenehenui Trustee/Joint
Committee Co-chair

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

John Kaati

Te Nehenehenui Trustee

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

Gabrielle Morgan-Logan

Te Nehenehenui Trustee

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

Shannon Manawaiti

Te Nehenehenui Trustee

SIGNED for and on behalf of

TE NEHENEHENUI by its authorised signatory

Signature

Samuel Mikaere

Te Nehenehenui Chief
Executive Officer

SIGNED for and on behalf of

**ŌTOROHANGA DISTRICT
COUNCIL** by its authorised signatory
acting under delegated authority

Signature

Name

Position

SIGNED for and on behalf of

WAIKATO DISTRICT COUNCIL by
its authorised signatory acting under
delegated authority

Signature

Name

Position

SIGNED for and on behalf of

WAIKATO REGIONAL COUNCIL by
its authorised signatory acting under
delegated authority

Signature

Name

Position

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SIGNED for and on behalf of

WAIPĀ DISTRICT COUNCIL by its
authorised signatory acting under
delegated authority

Signature

Name

Position

SIGNED for and on behalf of

WAITOMO DISTRICT COUNCIL by
its authorised signatory acting under
delegated authority

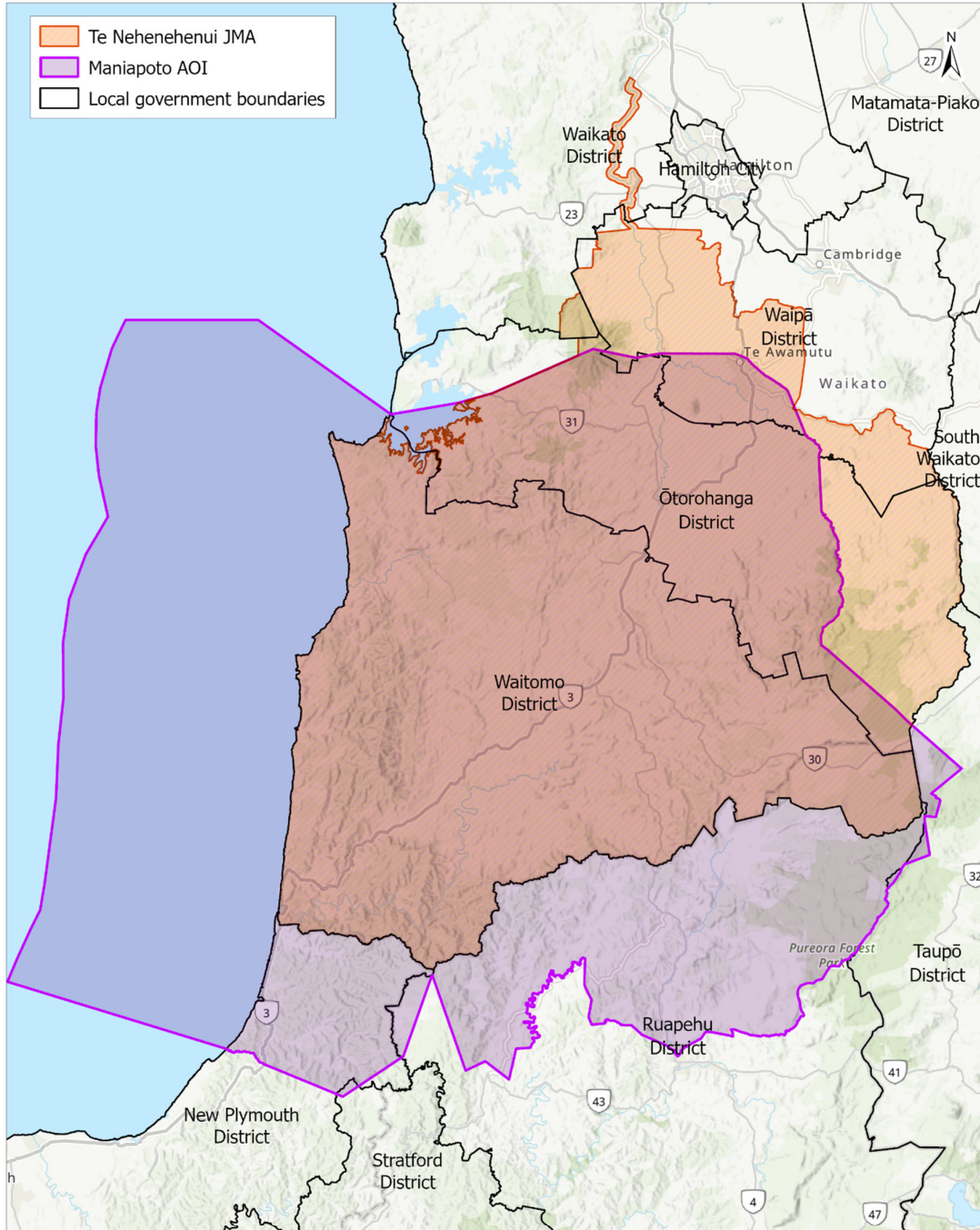
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Name

Position

SCHEDULE ONE

MAP

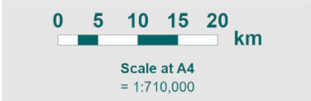


Acknowledgements and Disclaimers
 The proposed Te Nehenehenui JMA equates to the following 3 areas combined:
 1) Waipā River (redress Area C) [SO 409144],
 2) Raumatiroa: Natural resources redress Area M,
 3) The existing Maniapoto JMA with councils.

Maniapoto AOI as supplied by Te Nehenehenui, and Te Arawhiti - Office of Treaty Settlements Area of Interest dataset for Maniapoto.

Te Nehenehenui

JMA zone



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SCHEDULE TWO

MANIAPOTO ENGAGEMENT STRATEGY

To be developed and agreed as part of the process referred to in clause 41 of this agreement (but the 12-month time limit does not apply to this schedule)

SCHEDULE THREE SITES OF SIGNIFICANCE

To be developed and agreed as part of the process referred to in clause 41 of this agreement

SCHEDULE FOUR

TRANSFERS OF POWERS

To be developed and agreed as part of the process referred to in clause 41 of this agreement

SCHEDULE FIVE

RMA PLANNING PROCESS

1. This part applies to preparing, reviewing, changing, or varying any planning document as referred to in:
 - (a) section 22 of the Ngā Wai o Maniapoto (Waipā River) Act 2012; and
 - (b) section 140 of the Maniapoto Claims Settlement Act 2022.
2. The parties will review and as necessary update this schedule in accordance with the process set out in clause 41 of this agreement.
3. If, as a result of emerging issues, any one of the councils is prompted to consider the preparation, review, change or variation of an RMA planning document (including requests for private plan changes), key personnel from the council concerned will, as soon as reasonably practicable, contact key personnel from Te Nehenehenui for initial discussions on the issues and whether there is a need to participate in the processes by convening a Joint Working Party (**JWP**).
4. Before beginning the process to prepare, review, change, or vary a planning document, a relevant council and Te Nehenehenui must convene a JWP to discuss and recommend to the councils:
 - (a) the process to be adopted for the preparation, review, change, or variation; and
 - (b) the general form and content of any document to be drafted for the purposes of consultation or notification under clause 5 of Schedule 1 of the Resource Management Act 1991.
5. Te Nehenehenui and the relevant council considering the preparation, review, change or variation of an RMA planning document will:
 - (a) meet at an appropriate time to convene the JWP;
 - (b) determine the composition of the JWP;
 - (c) discuss whether to include other parties to this agreement in the JWP; and
 - (d) confirm how the parties to the JWP will work together and how they will resolve disputes.
6. When working together the JWP will adopt the principles as outlined in clause 18 and 19 of this agreement.
7. Te Nehenehenui and the relevant council and must decide jointly on the final recommendation to the council on whether to commence a review of, or to amend, a planning document.

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8. Te Nehenehenui and the relevant council must decide jointly on the final recommendation to the council on the content of a planning document to be notified under clause 5 of Schedule 1 of the RMA.
9. Te Nehenehenui and the relevant council must discuss the potential for Te Nehenehenui to participate in making decisions on the provisions and matters raised in submissions on a planning document under clause 10 of Schedule 1 of the RMA.
10. In clause 8, a final recommendation may, if necessary, include a recommendation that reflects different views on the matter.
11. Any recommendation to review or amend a planning document is subject to compliance with:
 - (a) any statutory requirement to review or amend the planning document; and
 - (b) any relevant statutory time frames.
12. The parties will further discuss a mechanism for Te Nehenehenui to participate in processes under Parts 2 and 4 of Schedule 1 of the RMA.
13. If a request is made under Clause 21 of Schedule 1 of the RMA (in relation to a private plan change), and relates to the area covered by this agreement, the council concerned will provide a copy of the request to key personnel from Te Nehenehenui as soon as practicable.
14. Te Nehenehenui will advise the council concerned whether it wishes to participate in the private plan change process, and if that is the case, the council concerned will convene a meeting between the council and Te Nehenehenui to discuss the statutory and internal processes for considering a request.
15. If Te Nehenehenui confirms it wishes to participate in considering a request, a JWP will be convened to develop and agree upon a process for Te Nehenehenui to be involved.
16. Te Nehenehenui and the councils will each bear their own costs of the processes under this schedule.
17. Schedule 7 of the Local Government Act 2002 does not apply to Te Nehenehenui or a council ~~or~~ when, under this agreement, they perform the duties and functions or exercise the powers described in this schedule.
18. If there is an inconsistency between the provisions of the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 in relation to this schedule, the provision of the relevant statute will prevail in relation to the area covered by that statute.

SCHEDULE SIX

RMA MONITORING AND ENFORCEMENT

1. This part applies to RMA monitoring and enforcement as referred to in:
 - (a) section 21 of the Ngā Wai o Maniapoto (Waipā River) Act 2012; and
 - (b) section 139 of the Maniapoto Claims Settlement Act 2022.
2. The parties will review and as necessary update this schedule in accordance with the process set out in clause 41 of this agreement.
3. The parties will:
 - (a) meet at least twice each year to:
 - (i) discuss and agree the priorities for the monitoring and enforcement of the matters set out in section 35(2)(a) to (e) of the RMA;
 - (ii) discuss and agree the methods for, and the extent of, the monitoring of those matters; and
 - (iii) discuss the opportunities for Te Nehenehenui to participate in the monitoring of those matters;
 - (b) meet at least twice each year to discuss appropriate responses to deal with the outcomes of the monitoring of those matters, including:
 - (i) the potential for review of planning documents; and
 - (ii) enforcement under the RMA, including criteria for the commencement of prosecutions, applications for enforcement orders, the service of abatement notices, and the service of infringement notices; ~~and~~
 - (c) agree appropriate procedures for reporting back to Te Nehenehenui on the enforcement action taken by the councils;
 - (d) discuss and agree the role of the Te Nehenehenui in the 5-yearly review provided for in section 35(2A) of the RMA; and
 - (e) discuss the opportunities for persons nominated by Te Nehenehenui to participate in enforcement action under the RMA.
4. Te Nehenehenui and the councils will each bear their own costs of the processes under this schedule.
5. Schedule 7 of the Local Government Act 2002 does not apply to Te Nehenehenui or a council ~~or~~ when, under this agreement, they perform the duties and functions or exercise the powers described in this schedule.

6. If there is an inconsistency between the provisions of the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 in relation to this schedule, the provision of the relevant statute will prevail in relation to the area covered by that statute.

SCHEDULE SEVEN

RMA RESOURCE CONSENT PROCESS

1. This part applies to the resource consent process as referred to in:
 - (a) section 23 of the Ngā Wai o Maniapoto (Waipā River) Act 2012; and
 - (b) section 141 of the Maniapoto Claims Settlement Act 2022.
2. The parties will review and as necessary update this schedule in accordance with the process set out in clause 41 of this agreement.
3. Each council will provide Te Nehenehenui with a summary of applications for resource consents received by the council.
4. The information provided under clause 3 will be:
 - (a) the same as would be given to affected persons through limited notification under section 95B of the RMA or as the council and Te Nehenehenui agree otherwise; and
 - (b) provided as soon as is reasonably practicable after the application is received and before a determination is made under sections 95A or 95B of the RMA.
5. The councils and Te Nehenehenui must jointly develop and agree criteria to assist council decision making under the following processes or sections of the RMA:
 - (a) best practice for pre-application processes;
 - (b) best practice for the circumstances in which to commission cultural impact and similar assessments;
 - (c) section 87D: (request that an application be determined by the Environment Court rather than the consent authority);
 - (d) section 88(3): (incomplete application for resource consent);
 - (e) section 91: (deferral pending additional consents);
 - (f) section 92: (requests for further information);
 - (g) sections 95 to 95F: (notification of applications for resource consent); and
 - (h) sections 127 and 128: (change, cancellation, or review of consent conditions).
6. The criteria developed and agreed under clause 5:
 - (a) are additional to, and must not derogate from, the criteria that the local authorities must apply under the RMA; and

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- (b) do not impose a requirement on a consent authority to change, cancel, or review consent conditions.
- 7. Te Nehenehenui and the councils will each bear their own costs of the processes under this schedule.
- 8. Schedule 7 of the Local Government Act 2002 does not apply to Te Nehenehenui or a council ~~or~~ when, under this agreement, they perform the duties and functions or exercise the powers described in this schedule.
- 9. If there is an inconsistency between the provisions of the Ngā Wai o Maniapoto (Waipā River) Act 2012 and the Maniapoto Claims Settlement Act 2022 in relation to this schedule, the provision of the relevant statute will prevail in relation to the area covered by that statute.

SCHEDULE EIGHT

LOCAL GOVERNMENT ACT PROCESSES

To be developed and agreed as part of the process referred to in clause 41 of this agreement

SCHEDULE NINE

OTHER STATUTORY PROCESSES

To be developed and agreed as part of the process referred to in clause 41 of this agreement

SCHEDULE TEN RESOURCING AND CAPACITY BUILDING

To be developed and agreed as part of the process referred to in clause 41 of this agreement

Document No: A687033

Report To: Council



Meeting Date: 26 September 2023

Subject: **Community and Partnerships Activity Update Report**

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to update Council on activities that form part of the Community and Partnerships Group.
- 1.2 The business paper also provides an update on a range of council recreation services and activities.

Background

- 2.1 At its meeting of 28 February 2023, Council adopted a new reporting framework detailing bi-monthly financial reporting and Council group activity reporting.
- 2.2 A reporting schedule was agreed, with Infrastructure and Community reporting on the same bi-monthly agenda.
- 2.3 The Community and Partnerships report incorporates commentary and its activities, along with commentary on the Aquatic Centre, Libraries, Les Munro Centre, Stadium and Emergency Management.

Community Support and Development

- 3.1 The Community Support and Development group of activities incorporates Safe Communities, Community Grants, Youth Engagement, Events and Emergency Management.
- 3.2 **CURRENT ACTIVITY**
- 3.3 **RANGATAHI PATHWAYS**
- 3.4 On 3 August 2023 Waitomo District Council (WDC) hosted 12 students from Pukenui Primary and St Joseph's schools. The students visited the Water Treatment Plant and then met with the WDC Building Team. This was organised through the Rangatahi Pathways Programme as a career exposé event.
- 3.5 Students were taken on a tour of the plant, and they met with the WDC treatment plant operators to talk about how they had started on their career pathway, and about the treatment plant operator job.
- 3.6 Students then met with the Building Team and were given an overview of what their job entails and how they became Building Inspectors.
- 3.7 The final part of the day was a trip to a residential new-build site where students were shown what the Building Inspectors look at during site inspections.
- 3.8 These workplace exposure events are one of the components of the Rangatahi Pathways Programme, with students shown what opportunities and different career paths are available.

3.9 **VIBRANT WAITOMO – COMMUNITY CONNECTORS**

3.10 The Vibrant Waitomo Community Connectors held their first meeting on 8 September 2023.

3.11 The Community Connectors Group will leverage their experience and grass-roots connections to help with the implementation of the Vibrant Waitomo strategy, contributing feedback and support to the direction and the focus of the Coalition.

3.12 The group will meet on a monthly basis.

3.13 **CHORUS CABINETS**

3.14 The Chorus Cabinet Art initiative provides an opportunity for local artists to paint their communities beautiful. Since Chorus initiated the programme in 2010 there has been a significant decrease in the frequency of tagging on cabinets where artwork is present.

3.15 WDC has partnered with Chorus to help manage and run the programme in the Waitomo District.

3.16 Four cabinets have been selected for artwork this year. Two (side by side) at 25 Waitomo Village Road, one at the corner of Te Kumi and Hospital Roads, and one in the vicinity of 20 Awakino Road, Te Kuiti.

3.17 16 submissions were received, with four artworks selected by Council at a recent workshop.

3.18 **WAITOMO BIKES IN SCHOOLS LAUNCH**

3.19 The Waitomo Bikes in Schools Launch was held on 21 September 2023 at the Les Munro Centre.

3.20 The project, funded by Sport New Zealand Tū Manawa funding has enabled the purchase of two bespoke trailers, bicycles and accessories.

3.21 The funding proposal was submitted by WDC on behalf of Waitomo Arotahi Kahui Ako (WAKA) and reflected a collective partnership between the Council, WAKA and Sport NZ.

3.22 The proposal was accepted by Sport New Zealand, supported by Sport Waikato, and the funds were received by Council to manage and administer.

3.23 The Council and WAKA have signed a Memorandum of Understanding to ensure both parties comply with the Tū Manawa funding terms and conditions.

3.24 At the launch event all assets purchased will be gifted by the Council to WAKA.

3.25 **EMERGENCY MANAGEMENT**

3.26 The Western Waikato Civil Defence Welfare team are working with Te Nehenehenui on a joint Marae preparedness journey which will see key Marae assessed to see what is required for them to be effectively set up to operate as a Civil Defence Centre in the event of an emergency. A recent survey has seen a number of Maniapoto Marae within the Waitomo District showing interest in preparing and planning as part of the community.

3.27 Staff training across the Western Waikato group over recent months has included 3 staff trained in Foundation (online version), 16 in Intermediate, 2 in Operations, 3 in Intelligence, and 9 in Welfare Needs Assessment. This training has included Council staff, Civil Defence Centre volunteers and lifeline utilities staff.

3.28 The current Western Waikato Emergency Operating Area Shared Service Agreement for CDEM has been in place since 1st July 2020 and details the arrangements between Waitomo, Waipā, and Ōtorohanga councils for shared services for CDEM. The basis of the agreement is to develop and support the capacity and capability of the partnering councils to prepare for, respond to, and plan the recovery from a civil defence emergency in any part of their districts. This Agreement is administered through Waipā District Council and is currently under review, for renewal in October 2023.

- 3.29 Civil Defence workshops facilitated by TOA Consulting were held on 16 and 17 August 2023 focusing on CDEM evacuation planning (Day one) and waste/debris management in a CDEM emergency (Day two). Waitomo staff attended and provided local input necessary for planning outcomes. The first draft(s) of both the Evacuation Plan and the Waste Management Plan have now been received and are in the first stage of review.
- 3.30 On 23 August 2023, Civil Defence staff and WDC management visited the Lines Company with CDEM emphasis being on sharing information where appropriate, response planning and training opportunities.
- 3.31 Rapid Building Assessment training was held on 29 and 30 August 2023. Four WDC Building Inspectors attended the training which also provided the relevant MBIE qualification necessary to complete rapid building assessments during emergencies.
- 3.32 **Emergency Management – Recovery**
- 3.33 The draft Waitomo District Building Assessment Plan and an Operational Building Response Manual have been developed and are now being reviewed by the WDC Building Team, before being tested. Other Western Waikato councils, (Waipa and Otorohanga) Building Teams are interested in using these documents once they are finalised.
- 3.34 **RISKS AND OPPORTUNITIES**
- 3.35 The Waitomo District Building Assessment Plan and Operational Building Response Manual will support safe and efficient management of people, processes and critical documentation that occurs during the response and into the recovery phase from an Emergency Management perspective.
- 3.36 **LOOKING FORWARD – THE NEXT 3 MONTHS**
- 3.37 Review of Council’s Citizens Awards Policy.
- 3.38 Planning for the 2023 Waitomo District Christmas Parade.
- 3.39 Testing the Waitomo District Building Assessment Plan and Operational Building Response Manual to ensure they are fit for purpose.
- 3.40 Collating a register of holders of hazardous materials within the District and their locations to assist in pre-planning and any event management where these may be impacted.
- 3.41 The three Western Waikato councils have embarked on joint promotion for the ‘Are you Ready for Shakeout 2023’ which is being held on 19 October 2023. This includes concurrent Facebook and social media sessions as well as a colouring competition for children up to 12 years old. This was very popular for the Waitomo District last year and has been extended to include the Waipa and Otorohanga districts.

District Promotion / Development

- 4.1 The District Promotion / Development group of activities incorporates Economic Development, Visitor Information Centre, District and Regional Promotion and Sister City.
- 4.2 **CURRENT ACTIVITY**
- 4.3 **WAITOMO HOUSING STRATEGY**
- 4.4 The Waitomo Housing Strategy, funded through Better-off Funding, came into effect in June 2023.
- 4.5 One of the actions identified in the strategy is the establishment of the Waitomo Housing Taskforce. The overall goal of the Taskforce is to work collectively to achieve the strategic actions outlined in the strategy. The Taskforce aims to bring about positive change and success in addressing housing needs throughout the Waitomo District.

- 4.6 The Taskforce held its first meeting on 21 September 2023. Membership includes representation from the following organisations:
- Waikato Housing Initiative
 - Habitat For Humanity
 - Kāinga Ora
 - Ngāti Maniapoto Marae Pact Trust
 - Momentum Waikato
 - Ministry of Social Development
 - Ministry of Urban Development
 - Te Nehenehenui
 - Te Puni Kōkiri
 - Waitomo District Council
- 4.7 The Terms of Reference for the Taskforce are being finalised. The group will meet on a quarterly basis.
- 4.8 **SPORT WAIKATO – STATE OF SPORT FORUM**
- 4.9 A State of Sport Workshop was held at the Te Kuiti High School Pavillion on 18 September 2023, facilitated by Sport Waikato.
- 4.10 The purpose of this forum is to create an opportunity for the sporting community within the district to consider potential needs and opportunities for the future, as a collective.
- 4.11 This initiative will gather information from the sporting community to consider the aspirations and opportunities with a future focus as a collective.
- 4.12 The information gathered will also contribute towards the Centennial Park Concept Development project.
- 4.13 **RISKS AND OPPORTUNITIES**
- 4.14 To successfully deliver the Housing Strategy outcomes, engagement and investment from key stakeholders is essential. There is a risk that some stakeholders elect to 'not be involved' during the life of the strategy.
- 4.15 **LOOKING FORWARD – THE NEXT 3 MONTHS**
- 4.16 Project planning – Better-off Funding Gateways Project and Centennial Park Concept Development Plan.
- 4.17 A review and scoping of WDC's Image Library requirements.

Customer Services and Library

- 5.1 **CURRENT ACTIVITY**
- 5.2 **RELOCATION OF CUSTOMER SERVICES**
- 5.3 The WDC Customer Service Centre building opened to customers on Monday 28 August 2023.
- 5.4 The Customer Service Centre has been well received by most customers, with comments made about it being accessible, easy parking and looking nice.
- 5.5 Window signage will be displayed showing the Centre offers both WDC and i-site services.
- 5.6 **DOG REGISTRATION**
- 5.7 The Customer Service team completed a call and email campaign contacting dog owners who were yet to register their dogs after 1 August 2023.

5.8 This campaign was well received and resulted in a further 1,356 dogs being registered before penalties were applied.

5.9 **LIBRARY SERVICES**

5.10 The Library is developing a new app for members. The app is called Beanstack and allows users to log their reading hours, participate in reading challenges, win badges, get recommendations and even team up for read-a-thon competitions. Staff aim to launch this no later than mid-December.

5.11 Unfortunately, our Stem Literacy Program last holidays did not produce the intended results due to only a 35% completion rate. This, however, has not deterred staff. Reaching some children is preferable to reaching none, and those who finished the program benefited.

5.12 Next year the program will be available through the Beanstack app, allowing for those who live further away to take part.

5.13 The book "When I Grow Up" that was published utilising children's artwork last holidays has been a huge hit. It turned out beautifully, and the children who contributed artwork are overjoyed to see the finished product on the Library shelf.

5.14 A couple of school groups visited the Library last month. The visits comprised a sit-down discussion with staff about the Library, followed by story time. The children then divided into two groups. One group visited the children's area, completed a quick challenge, and spent some time exploring the Library's resources. The second group participated in a Stem challenge which can be a lego-based, paper-based, or block-based activity in which they are given a particular problem to solve. The teams then switched places so that everyone experienced the resources. These visits are always enjoyable, and staff hope to have many more in the future.

5.15 **RISKS AND OPPORTUNITIES**

5.16 There are no immediate identified risks with this activity.

5.17 **LOOKING FORWARD – THE NEXT 3 MONTHS**

5.18 In-depth process review of WDC's Service Request system continues.

5.19 Library staff are working on events and activities for the next school holidays. The Library and Solid Waste teams have developed an activity that encourages creative recycling as well as building a collaborative sculpture.

5.20 During the month of October, a Library promotion will play on Cruise FM. The promotion will showcase the range of Library services and spread the word that the Library has a fine free book collection.

Council Recreation Services

6.1 Council Recreation Services incorporates the Waitomo Aquatic Centre, Les Munro Centre, and Gallagher Recreation Centre.

6.2 **CURRENT ACTIVITY**

6.3 **GALLAGHER RECREATION CENTRE**

6.4 The Centre continues to be a popular destination for many in the community. With spring weather now here, schools and sports teams are using the resources available at the Centre. As of 18 September 2023, the membership was 353.

6.5 There are plans in place to hold a Secondary School Basketball Tournament in Term 4, which will include teams from Taumarunui, Hamilton, Cambridge and Te Aroha.

- 6.6 Mini-Ball has commenced at the Centre, with an estimated 400-500 children taking part during the Wednesday and Thursday sessions.
- 6.7 Futsal is proving to be a popular activity at the Centre on Monday nights. 12 teams are competing in this round with both courts in use.
- 6.8 The Mixed Netball Competition ended on 19 September, with finals held. This competition has opened the possibility for netball players to play indoors during the next season.
- 6.9 The King Country Rugby Academy is rotating between Taupo and the Gallagher Recreation Centre to cater for young local rugby talent.
- 6.10 The "Fit for 50's +" class has proved popular with patrons, with up-to 15 patrons taking part each Wednesday and Friday.
- 6.11 A range of retail items are now available onsite for members and the general public. This includes water, confectionery and beverages.
- 6.12 **RISKS AND OPPORTUNITIES**
- 6.13 There are no immediate identified risks with this activity.
- 6.14 **LOOKING FORWARD – THE NEXT 3 MONTHS**
- 6.15 Ongoing advertising and promotion of the Gallagher Recreation Centre by the Belgravia Team, with the development of new programs and activities for the community.
- 6.16 Opening of the Waitomo District Aquatic Centre for the 2023/24 swim season.

Human Resources

- 7.1 For the period 1 August to 26 September 2023, WDC has been successful in recruiting the following positions:
- Community Services Administrator
 - Environmental Technician
- 7.2 At the time of writing this business paper, the Manager – Programme Delivery position remains vacant, with the recruitment process underway.

Suggested Resolution

The business paper on Community and Partnerships Performance Reporting be received.



HELEN BEEVER
GENERAL MANAGER – COMMUNITY SERVICES

19 September 2023

Document No: A686162

Report To: Council



Meeting Date: 26 September 2023

Subject: **2023 Community Events Fund – Consideration of Funding Applications**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is for Council to consider the 2023 Community Events Fund Applications and to allocate funding.

Background

- 2.1 In July 2021 Council adopted the Community and Partnerships Fund (CPF) Policy, previously named the Community Development Fund Policy. The Policy was renamed to align with the new Waitomo District Council Group of Activities which came into effect on 1 July 2021.
- 2.2 The Community Events Fund forms part of Waitomo District Council's (WDC) broader Community and Partnerships Fund which aims to ensure that projects undertaken make a positive contribution to achieving WDC's strategic community outcomes.
- 2.3 Applications will be considered that:
- Align with and support WDC's Community Outcomes.
 - Strengthen participation across diverse communities.
 - Work collaboratively across community sectors.
 - Facilitate and support strong and sustainable partnerships.

Commentary

- 3.1 The assessment and allocation of the Community Events Fund is at the discretion of the Elected Members.
- 3.2 The amount available for allocation is \$15,000.00.
- 3.3 Two applications were received, as follows:
1. Te Whanau Kohanga Reo o Piopio – A Te Reo and Maturanga Day.
 2. Te Kuiti Development Inc. T/A Legendary Te Kuiti – Legends Gallery Launch.
- 3.4 To maintain the integrity of the assessment process, Elected Members independently completed an application assessment for the applications. The assessment was undertaken in accordance with the CPF Policy.
- 3.5 At a Workshop held on 29 August 2023, Council reviewed and discussed the applications. The average score and a recommended grant value, independently assigned by Elected Members was reviewed to reach agreed funding allocations.

Considerations

4.1 **RISK**

- 4.2 If Council does not consider the applications to the Community Events Fund, it will not be meeting its obligation under the Community and Partnerships Fund Policy.

4.3 CONSISTENCY WITH EXISTING PLANS AND POLICIES

4.4 The consideration of the funding applications has been undertaken consistently in accordance with the Community and Partnerships Fund Policy.

4.5 SIGNIFICANCE AND COMMUNITY VIEWS

4.6 This decision is not a significant decision in terms of Council's Significance and Engagement Policy.

Suggested Resolutions

1. The business paper on 2023 Community Events Fund – Consideration of Funding Applications be received.
2. Council approves the allocation of Community Events Fund grants, as follows:

Name of Applicant	Allocation
1. Te Whanau Kohanga Reo o Piopio	\$4,000.00
2. Te Kuiti Development Inc T/A Legendry Te Kuiti	\$2,500.00
TOTAL	\$6,500.00



HELEN BEEVER
GENERAL MANAGER – COMMUNITY SERVICES

1 September 2023

Document No: A687554

Report To: Council



Meeting Date: 26 September 2023

Subject: **2023 Single-Year Community Assistance Grant – Consideration of Funding Applications**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is for Council to consider the 2023 Single-Year Community Assistance Grant Applications and to allocate funding.

Background

- 2.1 The Single-Year Community Assistance Grant forms part of the Waitomo District Council's (WDC) broader Community and Partnerships Fund (CPF) Policy.
- 2.2 The Single-Year Community Assistance Grant focuses on providing assistance for not-for-profit community organisations that support community led projects. These projects are aligned with Council Plans and Strategies and contribute and support the social, cultural, economic and environmental well-being of the Waitomo District.
- 2.3 Of particular interest for Council is those projects and initiatives that align and support WDC's Community Outcomes.

Commentary

- 3.1 The assessment and allocation of the Single-Year Community Assistance Grant is at the discretion of the Elected Members and is for one-off projects or initiatives that will be completed within a 12-month period from receiving the grant.
- 3.2 The amount of \$72,000 has been allocated to the Single-Year Community Assistance Grant, with \$5,000 ring-fenced to support community-based hall hire grant applications throughout the year.
- 3.3 Applications were received as follows:

Bluelight Te Kuiti	Waikato Role Playing Guild Inc
Te Kuiti Playcentre	Te Kuiti Amateur Swimming Club
Pukeko Country Preschool	Piopio Primary School
Centennial Park School	

- 3.4 To maintain the integrity of the assessment process, Elected Members independently completed an assessment of the applications. The assessments were undertaken in accordance with the CPF Policy.
- 3.5 At a Workshop held on 12 September 2023, Council reviewed and discussed the applications. The average score and a recommended grant value was independently assigned by Elected Members and then reviewed to reach agreed funding allocations.

Considerations

4.1 **RISK**

- 4.2 If Council does not consider the applications to the Single-Year Community Assistance Grant, it will not be meeting its obligation under the Community and Partnerships Fund Policy.

4.3 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**

4.4 The consideration of the funding applications has been undertaken consistently in accordance with the Community and Partnerships Fund Policy.

4.5 **SIGNIFICANCE AND COMMUNITY VIEWS**

4.6 This decision is not a significant decision in terms of the Council's Significance and Engagement Policy.

Suggested Resolutions

1. The business paper on 2023 Single-Year Community Assistance Grant – Consideration of Funding Applications be received.
2. Council approves the allocation of the 2023 Single-Year Community Assistance Grants, as follows:

Name of Applicant	Allocation
Bluelight Te Kuiti	\$845
Waikato Role Playing Guild Inc	\$817
Te Kuiti Amateur Swimming Club	\$5,000
Te Kuiti Playcentre (grant condition - evidence the balance of funds has been obtained to complete the project before Council funds are released)	\$10,000
Pukeko Country Preschool	\$0
Piopio Primary School	\$2,489
Centennial Park School (grant condition - deputation to Council upon completion of festival)	\$6,360
TOTAL	\$25,511



HELEN BEEVER
GENERAL MANAGER – COMMUNITY SERVICES

26 September 2023

Document No: A685788

Report To: Council



Meeting Date: 26 September 2023

Subject: **Waitomo District Council Grant Allocations 2022/2023**

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to provide Council with details of grant allocations made by Waitomo District Council for the 2022/2023 financial year.

Background

- 2.1 Waitomo District Council (WDC) is committed to annually allocating funds and resources to support community initiatives through grants managed in accordance with Council's Community and Partnerships Fund Policy.

- 2.2 Set out below is a description of each of the grant categories that form Council's Community and Partnerships Fund Policy.

2.3 SINGLE-YEAR COMMUNITY ASSISTANCE GRANT

- 2.4 The Single-Year Community Assistance Grant focuses on providing assistance for not-for-profit community organisations that support community led projects. The grant is for one-off projects or initiatives that will be completed within a 12-month period from receiving the grant.

2.5 MULTI-YEAR COMMUNITY PARTNERSHIP GRANT

- 2.6 The Multi-Year Community Partnership Grant supports community organisations that offer services or facilities that make a significant contribution and improved well-being in the Waitomo District.

- 2.7 The Multi-Year Community Partnership Grant is for a three-year period.

2.8 COMMUNITY EVENTS FUND

- 2.9 The Community Events Fund supports community events that create opportunities to build and celebrate community pride and for the community to connect and celebrate.

2.10 COMMUNITY HALLS GRANT

- 2.11 The Community Halls Grant provides funding to assist with the maintenance of Community Halls throughout the District.

2.12 SPECIAL GRANTS - CREATIVE COMMUNITIES SCHEME, SPORT NZ RURAL TRAVEL FUND AND DC TYNAN GRANT

- 2.13 There are two special grants administered by WDC on behalf of Central Government: Creative Communities Scheme and the Sport NZ Rural Travel Fund. Funding for both of these grants is provided by Central Government and each is administered by WDC in alignment with their own specific criteria.

- 2.14 WDC administers the DC Tynan Grant which is a generous bequest left by the late Daniel Circuit Tynan to the Borough of Te Kuiti. The purpose of the grant fund is to support organisations within the Te Kuiti Urban Ward that are involved with social, cultural, educational, or recreational activities.

Commentary

- 3.1 Attached to and forming part of this business paper is a summary setting out details of grants allocated for the 2022/2023 financial year under each of the grant categories, including:
- Single-Year Community Assistance Grant
 - Multi-Year Community Partnership Grant
 - Community Events Fund
 - Community Halls Grants
 - Creative Communities Scheme
 - Sport NZ Rural Travel Fund
 - DC Tynan Grant

Suggested Resolution

The business paper on Waitomo District Council Grant Allocations 2022/2023 be received.



SARAH MCELROY
MANAGER – COMMUNITY DEVELOPMENT

26 September 2023

Attachment: Summary of Grants 2022/2023

Summary of Grants 2022/2023

Single-Year Community Assistance Grant

Name of Applicant	Project Description	Amount Granted
Benneydale Hall Inc	Building repairs to the exterior of the Benneydale Hall	\$9,775.00
Waitomo District Education Trust	To provide affordable Chromebooks to students in the Waitomo District at affordable prices	\$10,000.00
Piopio Primary PTA Incorporated	Installation of Security Cameras	\$7,100.00
Road Safety Education Limited	Road Safety Project	\$2,056.00
Te Kuiti Primary School	To provide a safe and engaging learning environment where Waitomo tamariki get to connect with their local environment with their peers by experiencing a school camp	\$10,000.00
Maniapoto Maara Kai Roopu Trust	Services to repair roof and install appropriate spouting to connect water tank to the building	\$3,584.00
Te Kuiti Amateur Swimming Club	Lane hire for 2022/2023 swimming season	\$5,000.00
TOTAL		\$47,515.00

Multi-Year Community Assistance Grant

Name of Applicant	Project Description	Annual Amount Granted
Tainui Historical Society (Mokau Museum)	Operational costs to support the Mokau Museum operations	\$10,000.00
Te Kuiti and District Highland Pipe Band Inc	Operational costs	\$2,000.00
Citizens Advice Bureau Te Kuiti Incorporated	Operational costs	\$4,500.00
Te Kuiti Community House Trust	Operational costs	\$12,000.00
Te Kuiti and District Historical Charitable Trust	Operating costs to protect and preserve the communities cultural and historical heritage	\$15,000.00
New Zealand Shearing Championships Inc	Hall hire for the annual New Zealand Shearing and Wool handling Championships event in Te Kuiti	\$6,000.00
Sport Waikato	Support the provision of sport and recreation services	\$35,000.00
Te Kuiti Development Inc/Legendary Te Kuiti	Operational costs	\$10,000.00
Pinetree No.5 Trust	Operating costs to support the Gallagher Meads Brothers Exhibition	\$3,000.00
Piopio Amateur Swimming Club	Lane hire for pre-season training	\$400.00
Maniapoto Netball Association Incorporated	Operating costs to run the Maniapoto Netball Centre	\$10,000.00
Piopio Community Swimming Pool Charitable Trust	Operational costs	\$10,000.00
The Hillview Trust Incorporated	Operational costs to support extension	\$20,000.00
Waitete RFC	Operational costs	\$5,000.00
Maniapoto Rugby Football Sub-Union Incorporated	Support operational expenses to maintain Rugby Park in Te Kuiti	\$20,000.00
Waitomo Sister City Incorporated	To facilitate cultural exchange visits to experience the Japanese culture	\$3,000.00
Waitomo Caves Museum	Operating costs of the museum and provision of community/visitor facilities	\$44,000.00
TOTAL		\$209,900.00

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Note: The following Multi-Year Community Partnership Grants were approved by Council however the funds were not uplifted by the applicants in the 2022/2023 financial year.

Name of Applicant	Project Description	Annual Amount Granted
Youthline Auckland Charitable Trust	Costs associated with operating the Youthline helpline service	\$2,000.00
Piopio Lions Club	Hall hire for Senior Citizens luncheon and market in Piopio	\$550.00
TOTAL		\$2,550.00

Community Halls Grant

Name of Applicant	Project Description	Amount Granted
Aria	Operational Costs	\$1,000.00
Awakino	Operational Costs	\$1,000.00
Benneydale	Operational Costs	\$1,000.00
Kinohaku	Operational Costs	\$1,000.00
Mahoenui	Operational Costs	\$1,000.00
Mairoa	Operational Costs	\$1,000.00
Marokopa	Operational Costs	\$1,000.00
Mokau	Operational Costs	\$1,000.00
Mokauti	Operational Costs	\$1,000.00
Mapiu	Operational Costs	\$1,000.00
Waitanguru	Operational Costs	\$1,000.00
Rangitoto	Operational Costs	\$1,000.00
TOTAL		\$12,000.00

DC Tynan Trust

Name of Applicant	Project Description	Amount Granted
There were no grants allocated during the 2022/2023 year		\$0.00

Community Events Fund

Name of Applicant	Project Description	Amount Granted
Waitomo Waipa Womens Refuge	"She is not your rehab" Bringing guest speakers to speak on creating violence free communities	\$5,600.00
Rotary Club of Te Kuiti	Rotary District Governor Conference	\$8,245.00
TOTAL		13,845.00

Hall Hire Subsidy

Name of Applicant	Project Description	Amount Granted
Friends of the Timber Trail Inc	Committee meetings	\$60.00
Rotary Club of Te Kuiti Inc	Rotary District Change Over	\$306.00
Waitomo Waipa Womens Refuge	Shama Cultural Training for services	\$127.00
Maniapoto Marae Pact Trust	Manaaki Tamariki Manaaki Whanau	\$594.00
Piopio Volunteer Fire Brigade	Service Honours Evening / Gold Stars	\$630.00
TOTAL		\$1,717.00

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Creative Communities Scheme Nov-22

Name of Applicant	Project Description	Amount Granted
Aria Primary School	Annual School Production	\$750.00
Rangitoto Primary School	2023 Performance Arts Production	\$2,645.00
TOTAL		\$3,395.00

Note: The following Creative Community Scheme Grant was approved by the Committee however the funds were not uplifted by the applicant in the 2022/2023 financial year.

Name of Applicant	Project Description	Amount Granted
Roberta Borell	Te Rito	\$9,135.00
TOTAL		\$9,135.00

May-23

Name of Applicant	Project Description	Amount Granted
EFKS Te Kuiti Congregational Christian Church Samoa	Samoa Art Youth	\$4,000.00
Brydie Walker Bain	Poetry book and reading in Waitomo	\$4,000.00
Waitomo Society of Art	Art Workshops	\$3,000.00
TOTAL		\$11,000.00

Note: The following Creative Community Scheme Grant was approved by the Committee however the funds were not uplifted by the applicant in the 2022/2023 financial year.

Name of Applicant	Project Description	Amount Granted
On-Stage Te Kuiti	Producing 'Vagina Monologues'	\$1,000.00
TOTAL		\$1,000.00

Sport NZ Rural Travel Fund

Name of Applicant	Project Description	Amount Granted
Piopio Amateur Swimming Club	Subsidise travel costs	\$1,000.00
Piopio College	Subsidise travel costs	\$2,500.00
Aria Primary School	Subsidise travel costs	\$1,000.00
Te Kuiti High School	Subsidise travel costs	\$2,000.00
Benneydale Primary School	Subsidise travel costs	\$1,000.00
Rangitoto Primary School	Subsidise travel costs	\$750.00
TOTAL		\$8,250.00

Document No: A688159

Report To: Council Meeting



Date: 26 September 2023

Subject: **Adoption of Statement of Proposal for Consultation on reviewed Public Health & Safety Bylaw 2014**

Purpose of Report

- 1.1 The purpose of this business paper is to seek approval of a draft reviewed Public Health and Safety Bylaw 2023 (PH&S Bylaw) and a statement of proposal for public consultation.

Background

2.1 PUBLIC HEALTH AND SAFETY BYLAW 2014 (PH&S Bylaw)

- 2.2 In 2014, the Council adopted the current PH&S Bylaw. It was reviewed in 2019 to give effect to section 446 of the Food Act 2014, reflecting the change in the way food premises are regulated; and section 152B of the Local Government Act 2002 (LGA), to reflect the transition of fire regulatory powers to the new Entity under the Fire and Emergency New Zealand Act 2017. A copy of the current version is attached to this business paper as **Attachment 2**.
- 2.3 The PH&S 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.
- 2.4 The PH&S 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 as well as including some specific public health provisions.
- 2.5 The PH&S Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002 (LGA). It is also made under the relevant public health and safety sections of the Health Act 1956 and the Prostitution Reform Act 2003. The draft reviewed PH&S Bylaw does not repeat all relevant legislation and other relevant regulation, which should be read in conjunction with this Bylaw.
- 2.6 Under section 158 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 PH&S Bylaw, which must be completed by 25 June 2024.
- 2.7 At the 28 March 2023 meeting the Council determined that a Bylaw was no longer the most appropriate way to deal with some matters under the current PH&S Bylaw. These matters are - scaffolding and deposit of building materials, food safety, and accommodation establishments.

Commentary

3.1 REVIEW PROCESS

- 3.2 Council staff have undertaken a comprehensive review of the current PH&S Bylaw. The draft reviewed Bylaw is included in the statement of proposal document which is **Attachment 1**. The content of the draft reviewed PH&S Bylaw is substantially the same as

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the current PH&S Bylaw, but the wording, layout and structure has been changed to meet current best practices in Bylaw making.

3.3 The following sections of this report summarise the clauses of the draft reviewed PH&S Bylaw and the changes proposed.

3.4 **Proposal 1: Remove duplicate or expired clauses**

3.5 The review identified the following matters as either duplicating other regulations, or no longer relevant to be included within the PH&S Bylaw. This is largely due to changes to legislation and to the Waitomo District Plan rules since this Bylaw's last review.

- a) Food safety – this is regulated by the Food Act 2014. A previous review of the Bylaw revoked the active provisions of the Bylaw, but it is recommended that Council removes the section from the Bylaw entirely.
- b) 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. It is recommended that Council remove this matter from this Bylaw to avoid duplication.
- c) Scaffolding and building material deposits – public health and safety of such activities is regulated by the Health and Safety Act 2015. It is recommended that Council remove this matter from the Bylaw to avoid duplication.
- d) Accommodation establishments – regulations around ensuring publicly available accommodation meets health and safety requirements are comprehensively 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. It is recommended that Council remove this matter from the Bylaw to avoid duplication.

3.6 **Proposal 2: Changes to bee keeping clause**

3.7 As a result of the review, it is recommended that the Bylaw allow a maximum of two hives on urban premises over 1,000m², as long as they are not located near certain sensitive sites as defined in the Bylaw. Properties smaller than 1,000m² will not be allowed any hives on premises, and rural properties will remain unaffected by this clause. This change ensures consistency with the rules in the District Plan while also allowing Council a mechanism to apply additional restrictions such as the setback from sensitive sites.

3.8 **Proposal 3: Changes to body piercing clause**

3.9 It is recommended that Council makes changes to update this clause to ensure all body piercing businesses are required to comply with the most recent health standards and safety guidelines, such as New Zealand and Australian Standards on management of healthcare waste, and collection of medical sharps.

3.10 Some minor wording changes are also recommended within this section of the PH&S Bylaw to clarify that the responsibility to comply with these provisions is the responsibility of the manager or owner of a body piercing premises. There are no changes recommended to how the existing licensing provisions operate for these practitioners.

3.11 It is recommended that all general requirements for body piercing activities be moved into a Schedule of the Bylaw, in order to make it easier for practitioners to access this information.

3.12 **Proposal 4: Add a 'general nuisance' clause**

3.13 This review identified that general nuisance behaviour in public places was not clearly covered as an offence under this Bylaw. It is recommended that the Bylaw includes a

general nuisance clause to clarify this as an offence, which allows the Bylaw the flexibility it needs to adapt to new or emerging issues while not being administratively complex.

3.14 This new clause also combines some existing parts of the Bylaw to reduce repetition and make it easier to read and navigate for the public and enforcement officers.

3.15 **Proposal 5: Add a 'feral animals' clause**

3.16 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. It is recommended that the Bylaw clarifies this by making it an offence to encourage nuisance behaviour by feral animals, and placing responsibility on the property owner to act to resolve the nuisance if the feral animal is coming from their property. This can include notifying Council and working collaboratively to resolve the issue.

3.17 **Proposal 6: Update Bylaw definitions, structure, format and wording**

3.18 It is recommended that changes be made in order 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.

3.19 In addition to this, it is also recommended that the reviewed Bylaw consolidates 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.

3.20 **STATEMENT OF PROPOSAL**

3.21 The special consultative procedure in section 86 of the LGA is required to be used when Council makes Bylaws under the LGA. Section 86(2) of the LGA requires a statement of proposal for a Bylaw to include:

- A draft of the bylaw as proposed to be made.
- The reasons for the proposal.

3.22 The statement of proposal in **Attachment 1** to this report complies with these requirements.

3.23 **Determinations under section 155 of the LGA.**

3.24 Before adopting a draft reviewed PH&S Bylaw for consultation, Council must make the following determinations:

- That the draft revised Bylaw is the most appropriate way to address the perceived problem
- That the draft revised Bylaw is the most appropriate form of Bylaw.
- That the draft revised Bylaw does not give rise to implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

3.25 Council considered other mechanisms for addressing the perceived problems the Bylaw addresses at the 28 March 2023 meeting, including the option to not have a Bylaw. In the report received by Council, non-regulatory measures were assessed as not being sufficient. The fundamental difficulty with any voluntary compliance regime in this area is that individuals do not have an adequate incentive to comply. The Council has Bylaw-making powers that allow it to make Bylaws to address the perceived problems.

3.26 The form, or structure and format, of the draft reviewed PH&S Bylaw has been amended to better group like clauses in the substantive section of the Bylaw, consolidate administrative sections, and to follow the local government sector's most recent best practice for plain English drafting.

- 3.27 Part 2 of the NZBORA sets out the rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society. The draft reviewed PH&S Bylaw could possibly be inconsistent with the following rights (section numbers are references to the sections in the NZBORA):
- Section 14 – right to freedom of expression.
 - Section 15 – right to manifestation of religion and belief.
 - Section 26 – right to not be tried or punished for an offence again, if finally acquitted or convicted of, or pardoned for, that offence.
- 3.28 Council staff have assessed the possible inconsistencies as follows:
- 3.29 Sections 14 and 15 – the draft reviewed PH&S Bylaw contains general nuisance clauses which include the prohibition of preaching or make public speeches that are defamatory, inciting of public disorder, abusive, offensive, or delivered in a manner or in a place that causes nuisance or obstruction. Exercising freedom of expression and manifestation of religion and belief in ways in which have negative impacts and cause nuisance are already limited, including the right to be free from discrimination (section 19).
- 3.30 Section 26 – breaching the draft reviewed PH&S Bylaw’s provisions for keeping animals could be an offence under both the Bylaw and other legislation, such as under sections 12 and 14 of the Animal Welfare Act 1999. However, the right is only impacted if a person is prosecuted for the same act under more than one provision or enactment.
- 3.31 Staff do not consider the draft Bylaw gives rise to any implications under the NZBORA. This assessment will be repeated before a final Bylaw is adopted by Council.

Considerations

4.1 **Risk**

4.2 There is very little risk involved in undertaking a Bylaw review. The Statement of Proposal has been prepared to fulfil the requirements of sections 83 and 87 of the Local Government Act 2002 (LGA). A consultation period of 1 month allowing public submissions has been suggested which meets the legislative requirement.

4.3 **Consistency with existing plans and policies**

4.4 Adopting a reviewed Public Health and Safety Bylaw for consultation retains consistency with the historical Council position to maintain a bylaw on this matter.

4.5 **Significance and Community Views**

4.6 The Council’s Significance and Engagement Policy requires the Council to assess the degree of significance of proposals and decisions, which informs the appropriate level of engagement.

4.7 Based on the list of criteria for significance listed in the Significance and Engagement Policy, this draft Bylaw is considered to be of medium significance for the people of the District, which corresponds to the ‘consult’ level of engagement.

4.8 Additionally, the Significance and Engagement Policy states that Council will use the special consultative procedure set out in section 83 of the LGA for reviewing Bylaws.

4.9 Staff therefore recommend that Council undertake public consultation in accordance with the requirements of the LGA and its Significance and Engagement Policy.

4.10 Section 83 of the LGA requires the Council to make some specific decisions which are summarised as follows:

- Prepare and adopt a Statement of Proposal.
- Ensure the Statement of Proposal is publicly available.
- Ensure a description of how the Council will provide persons interested in the Proposal with an opportunity to present their views is publicly available.
- Ensure a statement of the period (not less than 1 month) within which views on the Proposal may be provided to the Council is publicly available.
- Provide an opportunity for persons to present their views to the Council in a manner that enables spoken interaction between the person and Elected Members (or delegated representatives) and ensure that any such person is informed about how and when they may take up that opportunity.

4.11 The proposed timetable for consultation and the adoption process is:

Key Milestone	Planned timeframe
Council Meeting – adoption of the proposed Bylaw for public consultation	26 September 2023
Consultation Period	29 September to 29 October 2023
Hearing of submitters who wish to speak to their submission, and deliberations	9 November 2023
Council Meeting – adoption of a final bylaw	28 November 2023

Suggested Resolutions

- 1 The Business Paper on the Adoption of Statement of Proposal for consultation on reviewed Public Health and Safety Bylaw 2023 be received.
- 2 Council adopts the Statement of Proposal, which includes the draft revised Public Health and Safety Bylaw 2023, for public consultation.
- 3 Council approves that the public consultation period begins on 29 September 2023 and concludes on 29 October 2023.
- 4 Council authorises the Chief Executive to make any editorial or layout changes to the Statement of Proposal that may be necessary before it is made publicly available.



CHARMAINE ELLERY
MANAGER – STRATEGY AND POLICY

8 September 2023

Attachments:

- 1 DRAFT Statement of Proposal - Review of the Public Health and Safety Bylaw 2023
- 2 Draft Public Places Bylaw 2014

STATEMENT OF PROPOSAL

REVIEW OF PUBLIC HEALTH & SAFETY BYLAW 2023

Waitomo District Council

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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.

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

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 (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. 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)

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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. COMMENCMENT | 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:

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: <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:
- 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:
- 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 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),
 - d) 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) A health practitioner registered with the relevant authority in accordance with the Health Practitioners Competence Assurance Act 2003.
 - b) 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.
 - c) Traditional tattooing.
 - d) 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



**Public Health and Safety Bylaw
2014**

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Adopted:	25 June 2014
Amended	26 February 2019 to give effect to section 446 of Food Act 2014 and section 152B of the Local Government Act 2002

1.0 SCOPE

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

2.0 INTERPRETATION

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

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

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

but does not include:

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

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

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

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

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

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

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

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

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

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

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

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

COMMERCIAL SEXUAL SERVICES means sexual services that-

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

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

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

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

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

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

EXEMPTED FOOD HANDLER means:

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

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

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

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

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

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

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

HOURS OF DARKNESS means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PROSTITUTION means the provision of commercial sexual services.

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

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

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

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

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

SEX WORKER means a person who provides commercial sexual services.

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

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

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

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

3.0 OFFENCES AND PENALTIES

3.1 Offences

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

- (f) Obstructs or hinders any officer of the Council in the performance of any duty to be discharged by such officer under or in the exercise of any power, conferred by this Bylaw: or
- (g) Fails to comply with any notice or direction given in this Bylaw.

3.2 Penalties

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

4.0 FEES AND CHARGES

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

5.0 SCAFFOLDING AND DEPOSIT OF BUILDING MATERIALS

5.1 Objectives of this part of the Bylaw

- 5.1.1 To ensure that scaffolding erected in public areas does not pose a risk to public safety or public and private property.
- 5.1.2 To limit the disruption of vehicular or pedestrian traffic flow due to unmanaged depositing of building materials or use of engines or concrete mixers in public areas.

5.2 Authority required for scaffolding and deposit of materials

- 5.2.1 No person shall, without first obtaining permission from the Council:
 - a) Erect or cause to be erected any scaffold, gantry, hoarding, or barricade on or over any public place or any part thereof; or
 - b) Deposit any building material or building rubbish on, or make or maintain a hole or excavation in, or disturb the surface of any public place or any part thereof; or
 - c) Prepare building materials on any public place or part thereof.

5.3 Shutting of fence or hoarding

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

5.4 Security for possible damage

- 5.4.1 Council may grant approval for the work to be undertaken subject to the provisions of this part of the Bylaw to ensure the safety and convenience of the public and protection of the street. An applicant must deposit with the Council such a sum as Council shall direct, to be held as security for the making good by the applicant of any damage that may be caused to the public property by such work or act. If the applicant does not make good such damage Council may repair or

make good to the original standard, and charge the cost of such work to the applicant or deduct the cost needed aforesaid.

- 5.4.2 Council shall not grant approval until satisfied that the applicant has taken out insurance under a public liability policy in respect of injury to persons and damage to property arising out of the work involved for such sums and in such form as the Council may require.

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

5.5.1 Where in the opinion of the Council it is necessary in the public interest, the person intending to erect any scaffolding shall, before commencing the erection of the scaffold, form a gantry over the public footway, so as to allow pedestrians to pass beneath it. Such gantry shall be substantially constructed to the approval of the Council, and so constructed as to prevent tools, dust, rubbish, materials, or water falling upon the pedestrians, vehicular traffic and adjoining properties, and the applicant receiving the consent of the Council to erect such scaffold shall keep the public way beneath it clean to the satisfaction of the Council.

5.5.2 Where gantries are not required over the footway, the lower stage of the scaffold shall be close-boarded, such close-boarding to extend to a line with the outside edge of the kerb, or such other precautions taken as the Council may require so as to prevent tools, dust, rubbish, materials, or water falling upon the public.

5.5.3 No material shall be deposited under any scaffold on any portion of a footway used by the public.

5.5.4 Where needed, or where required by the Council, a boarded platform not less than 1m wide with stout post rails and wheel-kerbs on the outside of it shall be constructed outside the scaffold or enclosure.

5.5.5 In all cases where street channels are covered over, the person to whom the permit is issued shall prevent the obstruction of such channels during the currency of the permit.

5.6 Hoardings, etc, to be lighted

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

5.7 Construction of Hoardings

5.7.1 Builders' hoarding shall be not less than 2m in height; they shall be constructed in a substantial and workmanlike manner of approved material, the ends shall be splayed, and the outside sheeting, whatever the material, shall be left with a smooth and even surface and when required by the Council, any hoarding or any part thereof encroaching on any street or footway shall be painted white or other appropriate colour.

5.7.2 Openings in hoardings shall be provided with sliding panels, hung with approved hangers, and shall slide inside the line of hoarding, or such openings may be provided with a door fixed so as not to swing outwards. No such hoarding shall be used for advertising purposes.

5.7.3 All fire hydrants shall be left unenclosed in recesses formed of such size and in such a manner as to enable the hydrant to be easily accessible.

5.7.4 Access shall be provided to all underground services within the enclosed area.

5.7.5 Street lamps shall not be enclosed without the permission of Council. When such enclosure is permitted, the applicant shall put a lamp or lamps temporarily outside the scaffold so that the public way may be properly lit.

5.8 Guarding against injury to traffic

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

5.9 Erection of engine or concrete mixer

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

6.0 FIRES IN THE OPEN AIR

6.1 Objectives of this part of the Bylaw

- 6.1.1 To prevent nuisances from fires in the open air.

6.2 Fires In The Open

- 6.2.1 No person shall light any fire in the open air:

- (a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:
- (i) A smoke or ash nuisance to any person
 - (ii) An odour or fumes nuisance to any person.

- 6.2.2 Where a fire has been lit or allowed to burn that in the option of any officer or agent of the Council creates a nuisance, the 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.

- 6.2.3 Where an authorised officer or agent of the Council has extinguished a fire pursuant to clause 6.2.2, 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.

7.0 THE KEEPING OF ANIMALS, POULTRY AND BEES

7.1 Objectives of this part of the Bylaw

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

7.2 Pig Keeping

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

7.3 Stock In Urban Areas

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

7.4 Feedlots And Stock Standoff Areas

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

7.5 Poultry Keeping

- 7.5.1 No poultry caged or otherwise (which shall include geese, ducks, pigeons, turkeys, and domestic fowls of all descriptions) shall be kept in an urban area except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nib wall, to which a poultry run may be attached.

- 7.5.2 Except with the written consent of Council not more than 12 head of poultry and no roosters shall be kept in any urban area.
- 7.5.3 No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10m from any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 m of the boundary of adjoining premises.
- 7.5.4 Every poultry run in an urban area shall be enclosed to confine the poultry.
- 7.5.5 Every poultry house and poultry run shall be maintained in good a clean condition free from any offensive smell or overflow and vermin.
- 7.6 Noise From Animal, Bird, Or Fowl**
- 7.6.1 No person shall keep on any premises in a predominantly urban area any noisy animal, which causes a nuisance to residents in the neighbourhood.
- 7.7 Bee Keeping**
- 7.7.1 No person shall keep bees in a predominantly urban area if in the opinion of an authorised officer the keeping of bees is, or is likely to become a nuisance or annoyance to any person or potentially dangerous to health.
- 7.7.2 An authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place within an urban area of the District.

8.0 BODY PIERCING

8.1 Objectives of this part of the Bylaw

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

8.2 Application of Bylaw

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

8.3 Licensing

- 8.3.1 A person must only carry out body piercing on a premises licensed by Council for that purpose.
- 8.3.2 A person must apply for a body piercing licence if they are the owner or manager of premises used or intended to be used for body piercing. Council will process an application for a body piercing licence if it is made by a natural person or persons, is on the form prescribed and includes all information requested by the Council and the required licence fee.
- 8.3.3 A body piercing licence will be granted by Council, if and only if the Council is satisfied that the premises and the proposed body piercing service will comply with:
- (a) The requirements of all relevant Acts and Regulations.
 - (b) The relevant provisions of any District Plan.

- (c) Relevant New Zealand and Australian Standards including AS 4031:1992, AS 2182:1994, AS 2773:1985, NZS 4303:1990, AS/NZS 3816:1998, and AS/NZS 4261:1994.
- (d) The Ministry of Health's current Guidelines for the Safe Piercing of Skin (1998).

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

8.4 Transfer of Licence

8.4.1 A body piercing licence may not be transferred to another person or to another premise.

8.4.2 The person holding the body piercing licence will be responsible for ensuring that the provisions of this part of the Bylaw are complied with and that all persons working on the premises of the body piercing operation are adequately trained and supervised to prevent any breach of the requirements of this part of the Bylaw.

8.4.3 A body piercing licence must be displayed in a part of the premises to which the licence relates. The licence must be displayed in an area where the public has access to so that any member of the public or authorised officer can easily see it when visiting the premises.

8.4.4 Council will specify the date that the licence expires; this date will be recorded on the licence. The licence holder must apply for a renewal of expired licences, if body piercing is to continue. Applications for renewal of licences will be assessed as if it were a new application.

8.4.5 Council may grant a licence on such terms and conditions as are deemed necessary. The person applying must comply with any special terms and conditions specified in the licence in addition to the general requirements for body piercing set out below.

8.5 General Requirements

8.5.1 The person holding the licence must comply with the standards in 8.3.3 (c) and (d) above to the extent that they are relevant to the body piercing premises and service.

8.5.2 It is the responsibility of the licence holder to ensure that no jewellery thinner than 14 gauge is used below the neck.

8.5.3 Body piercing must not be carried out on any person less than 16 years of age without the written permission of that person's parent or guardian.

8.5.4 A notice must be displayed in a prominent place within the public part of the premises asking customers to inform the licence holder if they have any communicable or infectious disease, which is likely to have an effect on body piercing.

8.5.5 If the licence holder or any other employee at the body piercing premises knows or suspects that they or any other staff member, whether paid or unpaid is suffering from or is carrying a skin infection or a communicable disease, or associated condition, body piercing must not be carried out, without first taking adequate precautions to prevent the transmission of that infection, disease or condition.

8.5.6 Before beginning body piercing on a customer, the customer must be advised of the risks associated with body piercing and the potential for infection to occur during and after the process. Written advice appropriate to the procedure to be undertaken must be given, in relation to precautions and post-piercing procedures, which should be followed by the customer.

8.5.7 Before any piercing of the skin is commenced, all potential customers must sign a consent form recording the following;

- (a) Whether they have any reason to believe they have a communicable disease or skin disease.
- (b) Whether they have a history of haemophilia (bleeding).
- (c) Whether they are taking any medication, such as anticoagulants, which thin the blood or interfere with blood clotting.
- (d) Whether they have a history of allergies or adverse reactions to pigments, dyes or other skin sensitivities, or a history of epilepsy or seizures.

- 8.5.8 Any customer who knows or suspects that he or she has any of the above diseases or conditions is required to inform the person who appears to be in charge of the premises before the body piercing begins.
- 8.5.9 The licence holder may decline to carry out any body piercing on such a person, or may agree to carry out the body piercing subject to such conditions and safeguards that are considered appropriate by the licence holder in the circumstances. Nothing in this Part of the Bylaw requires the licence holder to perform body piercing on any person.
- 8.5.10 The licence holder must keep records of the names, phone numbers and addresses of any person who undergoes body piercing at the premises, the date on which the body piercing was carried out, the nature of the body piercing, and the location on the body where the body piercing was undertaken. Those records must be kept for at least three years and made available to an Environmental Health Officer, Health Protection Officer or a Medical Officer of Health as defined in the Health Act 1956 who is carrying out any investigation pursuant to Part III of the Health Act 1956 or the Health (Infectious and Notifiable Diseases) Regulations 1966.
- 8.5.11 A copy of this part of the Bylaw and the Ministry of Health's current Guidelines for the Safe Piercing of skin must be kept on the premises and must be freely available for reading by any person employed on the premises and by any person attending the premises for the purpose of undergoing any body piercing.
- 8.5.12 Where Council is satisfied that compliance with any requirement of this part of the Bylaw would be impractical or unreasonable having regard to the premises and body piercing service in question, Council may grant a written exemption from the requirement. The exemption will be granted on such terms and conditions, as are considered desirable in the interest of public health.

8.6 Exemptions from Licensing Requirement

- 8.6.1 The requirement to obtain a licence for body piercing premises does not apply to:
- (a) Carrying out acupuncture at a person's home where the person wishing to undergo acupuncture is unable to attend the licensed premises because of injury, infirmity or medical emergency, if the acupuncture is carried out in compliance with the general requirements in this part of the Bylaw, or
 - (b) Carrying out any body piercing in any temporary structure or premises for a maximum period of five days in any 30 day period, if the person carrying out the body piercing complies with all conditions specified by Council.
- 8.6.2 The written approval of Council and the payment of any fee for any inspection required and payment for Council's time to consider the matter may be required before an exemption from the licensing requirement is granted.

9.0 FOOD SAFETY

[Revoked pursuant to section 446 of the Food Act 2014]

10.0 PROSTITUTION

10.1 Objectives of this part of the Bylaw

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

10.1.5 To control the establishment of signage associated with brothels to minimise community harm or offence.

10.1.5 To control the soliciting of commercial sexual services in Waitomo District.

Location of Brothels

10.1 Permitted Areas of Operation

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

10.2 Proximity to Sensitive Sites

10.2.1 Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site.

10.2.2 Where a sensitive site establishes within 100m of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

10.3 Signage of Commercial Sexual Services

10.3.1 Signage of commercial sexual services must conform with the provisions of the Waitomo District Plan and the additional limitations set out in 10.3.2 to 10.3.4 below.

10.3.2 Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.

10.3.3 Only one sign is permitted per premises.

10.3.4 Signs must not:

- contain neon lighting or include or be lit by flashing lights; or
- contain words reasonably considered to be sexually explicit or offensive by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
- contain any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

10.4 Soliciting of Commercial Sexual Services

10.4.1 No person shall solicit within the Waitomo District area including in any street, road, footpath, road reserve or public place.

10.4.2 No person shall solicit within the Waitomo District area where that person is, or may be visible from any public place or reserve.

11.0 ACCOMMODATION ESTABLISHMENTS

11.1 Objectives of this part of the Bylaw

11.1 To ensure that establishments providing commercial accommodation services are maintained in a clean and hygienic condition.

11.2 To set requirements so that cooking and dining facilities for the use of guests in commercial accommodation establishments are of an acceptable standard.

11.1 Responsibilities of Keeper

11.1.1 The keeper of an accommodation establishment shall maintain all of the building and all appliances, fixtures fittings and bedding in the building in good repair and in a clean and hygienic condition and cause all rooms, passages, stores, floors, ceilings, windows, doors and walls of the building to be kept clean and free from vermin;

11.1.2 The keeper of an accommodation establishment shall not:

- (a) At any time permit to be occupied any room in an accommodation establishment wholly or partly as a sleeping room unless such room has at least the area specified in the first column of the Second Schedule to the Housing Improvement Regulations 1947 for the number of persons sleeping in such room calculated in accordance with the second column of such schedule.
- (b) Permit any room that is not approved for use as a bedroom to be occupied or used for that purpose;
- (c) Permit equipment for the cooking or heating of food to be provided or used in any room except a kitchen.

11.2 Kitchen Standards

11.2.1 Where a kitchen and a dining room is provided in an accommodation establishment it shall be to the following minimum standards for the preparation of meals for guests or where guests can provide their own individual meals:

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

11.3 Exemptions

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

12.0 Signed under Common Seal

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



A handwritten signature in blue ink, appearing to be "A. B. Jones", written over a horizontal line.

Mayor

A handwritten signature in blue ink, appearing to be "S. Jones", written over a horizontal line.

Chief Executive

Document No: A688160

Report To: Council Meeting



Date: 26 September 2023

Subject: **Adoption of Statement of Proposal for Consultation on reviewed Public Places Bylaw 2023**

Purpose of Report

- 1.1 The purpose of this business paper is to seek approval of a draft reviewed Public Places Bylaw 2023 and a Statement of Proposal for public consultation.

Background

2.1 PUBLIC PLACES BYLAW 2009

- 2.2 The initial resolution to create this Bylaw 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 Public Places Bylaw (the Bylaw) was adopted by Council following the special consultative procedure, by a resolution at a meeting of the Council on 24 March 2009. The Bylaw initially came into force on 1 April 2009. A copy of the current version of the Bylaw is enclosed as **Attachment 2**.
- 2.3 A partial review occurred on 3 February 2011 when Council resolved to amend the bylaw to expand the Schedule B liquor ban area. A full review was conducted in March 2014, as is required by the Local Government Act 2002 (LGA) within a new Bylaw's first 5 years of operation. Further amendments were also made in 2019 due to the implementation of the Freedom Camping Bylaw 2018.
- 2.4 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.
- 2.5 The scope of the Bylaw is regulating activities in public places, including roads and reserves, to protect against public nuisance issues.
- 2.6 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 Proposed Bylaw does not repeat all relevant legislation and other relevant regulations, which should be read in conjunction with this Bylaw.
- 2.7 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 REVIEW PROCESS

- 3.2 Council staff have undertaken a comprehensive review of the current Public Places Bylaw. The Proposed Bylaw is included in the Statement of Proposal document which is **Attachment 1**.

3.3 The content of the Proposed Bylaw is substantially the same as the current Bylaw, but the wording, layout and structure has been changed to meet current best practices in Bylaw making.

3.4 The following sections of this report summarise the clauses of the draft reviewed Public Places Bylaw and the changes proposed.

3.5 **Proposal 1: Remove duplicate clauses**

3.6 Several clauses within the current Bylaw have been identified as duplicating rules already within other Council documents. It is recommended that these be removed from the Bylaw to avoid duplication. These are:

- a) 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.
- b) Road and building identification – this matter is currently regulated through provisions of the District Plan, to which this section does not add anything further.
- c) Vehicular crossings – this matter is currently regulated through provisions of the District Plan, to which this section does not add anything further.

3.7 **Proposal 2: Add schedule of approved places for mobile trading**

3.8 To help make the provisions around mobile trading easier and fairer to apply, it is recommended that the Bylaw identify certain areas throughout the district which are appropriate for mobile traders to operate within.

3.9 This will reduce regulatory barriers for both new and existing mobile traders by adding clarity around where mobile traders may operate and will manage the impact of the activity on commercial areas. The areas recommended for inclusion in the Bylaw are listed in Schedule 3, attached to the Proposed Bylaw.

3.10 **Proposal 3: Add considerations for licenses for mobile trading**

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

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

3.13 **Proposal 4: Remove specific regulation of amusement devices and galleries**

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

3.15 It is recommended that this duplication be removed, and the requirements simplified so requirements for amusement devices and galleries under this Bylaw will be the same as the requirements that will apply to all other trading or events in public places (Part 11 of the draft reviewed Bylaw).

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

3.17 To make the Bylaw easier to read and navigate, it is recommended that improvements be made to its general wording and layout. This includes updating some definitions and consolidating similar provisions to help with consistent application of the Bylaw.

3.18 It is recommended that some more technical clauses be redrafted in plainer language, but with no change to the actual rules implemented. One example of this is the recommended consolidation of the offences and penalty provisions into one section of the Bylaw, and the inclusion of Explanatory Notes to provide additional information regarding the penalty, enforcement powers and infringement offences under the Bylaw.

3.19 We are also proposing to move the informative content out of the body of the Bylaw, and into Explanatory Notes, which 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.

3.20 **STATEMENT OF PROPOSAL**

3.21 The special consultative procedure in section 86 of the LGA is required to be used when Council makes Bylaws under the LGA. Section 86(2) of the LGA requires a Statement of Proposal for a Bylaw to include:

- a draft of the Bylaw as proposed to be made; and
- the reasons for the proposal.

(The Statement of Proposal in Attachment 1 to this report complies with these requirements.)

3.22 ***Determinations under section 155 of the LGA***

3.23 Before adopting a draft reviewed Public Places Bylaw for consultation, Council must make the following determinations:

- That the draft revised Bylaw is the most appropriate way to address the perceived problem.
- That the draft revised Bylaw is the most appropriate form of Bylaw.
- That the draft revised Bylaw does not give rise to implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

3.24 Council considered other mechanisms for addressing the perceived problems the Bylaw addresses at the 28 March 2023 meeting, including the option to not have a Bylaw. In the report received by Council, non-regulatory measures were assessed as not being sufficient. The fundamental difficulty with any voluntary compliance regime in this area is that individuals do not have an adequate incentive to comply. The Council has Bylaw-making powers that allow it to make Bylaws to address the perceived problems.

3.25 The form, or structure and format, of the draft reviewed Public Places Bylaw has been amended to better group like clauses in the substantive section of the Bylaw, consolidate administrative sections, and to follow the local government sector's most recent best practice for plain English drafting.

3.26 Part 2 of the NZBORA sets out the rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic

society. The draft reviewed Public Places Bylaw could possibly be inconsistent with the following rights (section numbers are references to the sections in the NZBORA):

- Section 14 – right to freedom of expression.
- Section 15 – right to manifestation of religion and belief.

3.27 Council staff have assessed the possible inconsistencies as follows:

Sections 14 and 15 – the draft reviewed Public Places Bylaw contains clauses 5.2(d) and 5.2(e) which include a prohibition on preaching or distributing any printed or written material advertising any product, service or entertainment. Exercising freedom of expression and manifestation of religion and belief in ways which have negative impacts are already limited beyond this Bylaw, including the right to be free from discrimination, as provided in section 19 of NZBORA.

3.28 Staff do not consider the draft Bylaw gives rise to any implications under the NZBORA. This assessment will be repeated before a final Bylaw is adopted by Council.

Considerations

4.1 **Risk**

4.2 There is very little risk involved in undertaking a Bylaw review. The Statement of Proposal has been prepared to fulfil the requirements of sections 83 and 87 of the Local Government Act 2002 (LGA). A consultation period of 1 month allowing public submissions has been suggested which meets the legislative requirement.

4.3 **Consistency with existing plans and policies**

4.4 Adopting a reviewed Public Places Bylaw for consultation retains consistency with the historical Council position to maintain a Bylaw on this matter.

4.5 **Significance and Community Views**

4.6 The Council's Significance and Engagement Policy requires the Council to assess the degree of significance of proposals and decisions, which informs the appropriate level of engagement.

4.7 Based on the list of criteria for significance listed in the Significance and Engagement Policy, this draft Bylaw is considered to be of medium significance for the people of the district, which corresponds to the 'consult' level of engagement.

4.8 Additionally, the Significance and Engagement Policy states that Council will use the special consultative procedure set out in section 83 of the LGA for reviewing Bylaws.

4.9 Staff therefore recommend that Council undertake public consultation in accordance with the requirements of the LGA and its Significance and Engagement Policy.

4.10 Section 83 of the LGA requires the Council to make some specific decisions which are summarised as follows:

- Prepare and adopt a Statement of Proposal.
- Ensure the Statement of Proposal is publicly available.
- Ensure a description of how the Council will provide persons interested in the Proposal with an opportunity to present their views is publicly available.
- Ensure a statement of the period (not less than 1 month) within which views on the Proposal may be provided to the Council is publicly available.

- Provide an opportunity for persons to present their views to the Council in a manner that enables spoken interaction between the person and Elected Members (or delegated representatives) and ensure that any such person is informed about how and when they may take up that opportunity.

4.11 The proposed timetable for consultation and the adoption process is:

Key Milestone	Planned timeframe
Council Meeting – adoption of the proposed Bylaw for public consultation	26 September 2023
Consultation Period	29 September to 29 October 2023
Hearing of submitters who wish to speak to their submission, and deliberations	9 November 2023
Council Meeting – adoption of a final bylaw	28 November 2023

Suggested Resolutions

- 1 The Business Paper on the Adoption of Statement of Proposal for Consultation on reviewed Public Places Bylaw 2023 be received.
- 2 Council adopts the Statement of Proposal, which includes the draft revised Public Places Bylaw 2023, for public consultation.
- 3 Council approves that the public consultation period begins on 29 September 2023 and concludes on 29 October 2023.
- 4 Council authorises the Chief Executive to make any editorial or layout changes to the Statement of Proposal that may be necessary before it is made publicly available.



CHARMAINE ELLERY
MANAGER – STRATEGY AND POLICY

18 September 2023

Attachment 1: DRAFT Statement of Proposal for Public Places Bylaw review 2023

Attachment 2: Public Places Bylaw 2009

STATEMENT OF PROPOSAL

REVIEW OF PUBLIC PLACES BYLAW 2023

Waitomo District Council

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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

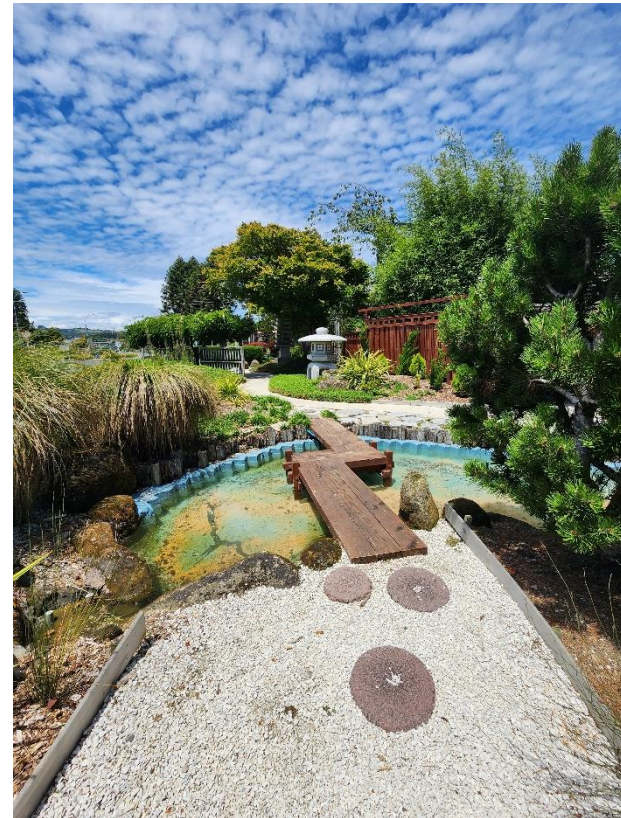
The purpose of this Bylaw is to regulate public places to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district.

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)

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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.

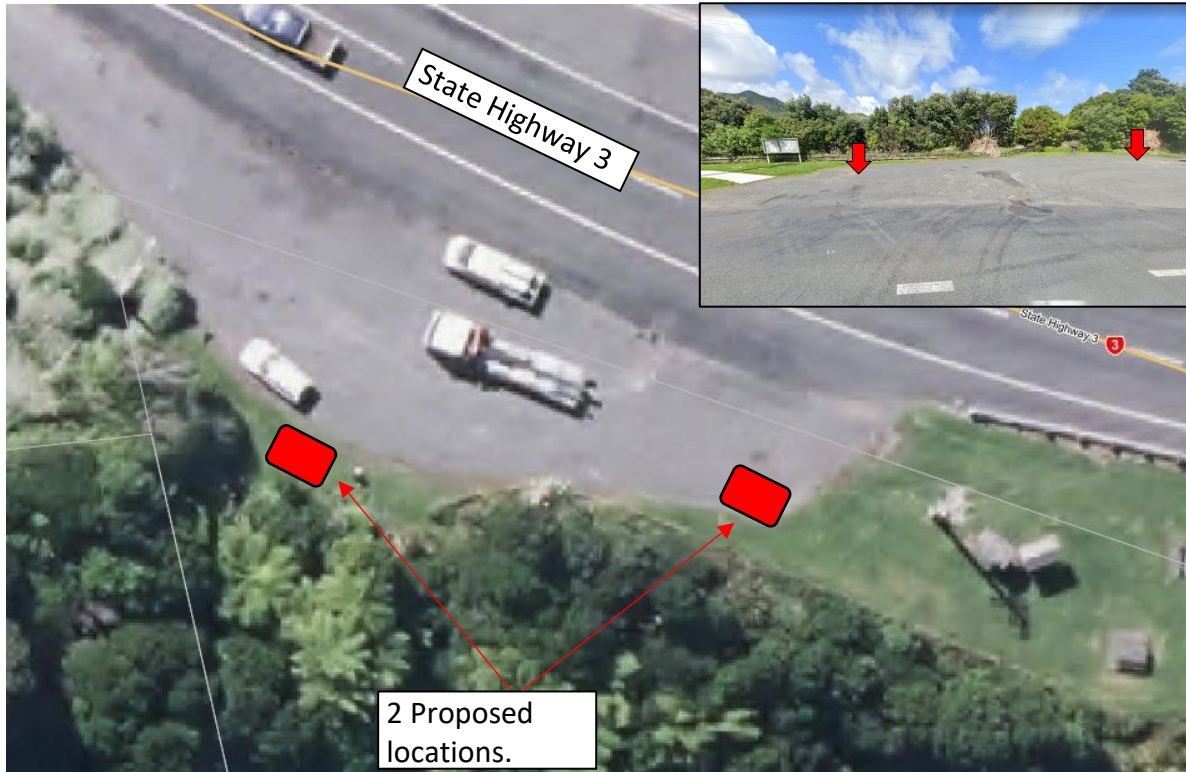
This schedule may be amended from time to time by public notice made by the Waitomo District Council. Such notices shall be made in the public notice section of newspapers as Waitomo District Council sees fit and be made no less than fourteen (14) days before the change is to apply.

SCHEDULE 3 | WAHANGA 3

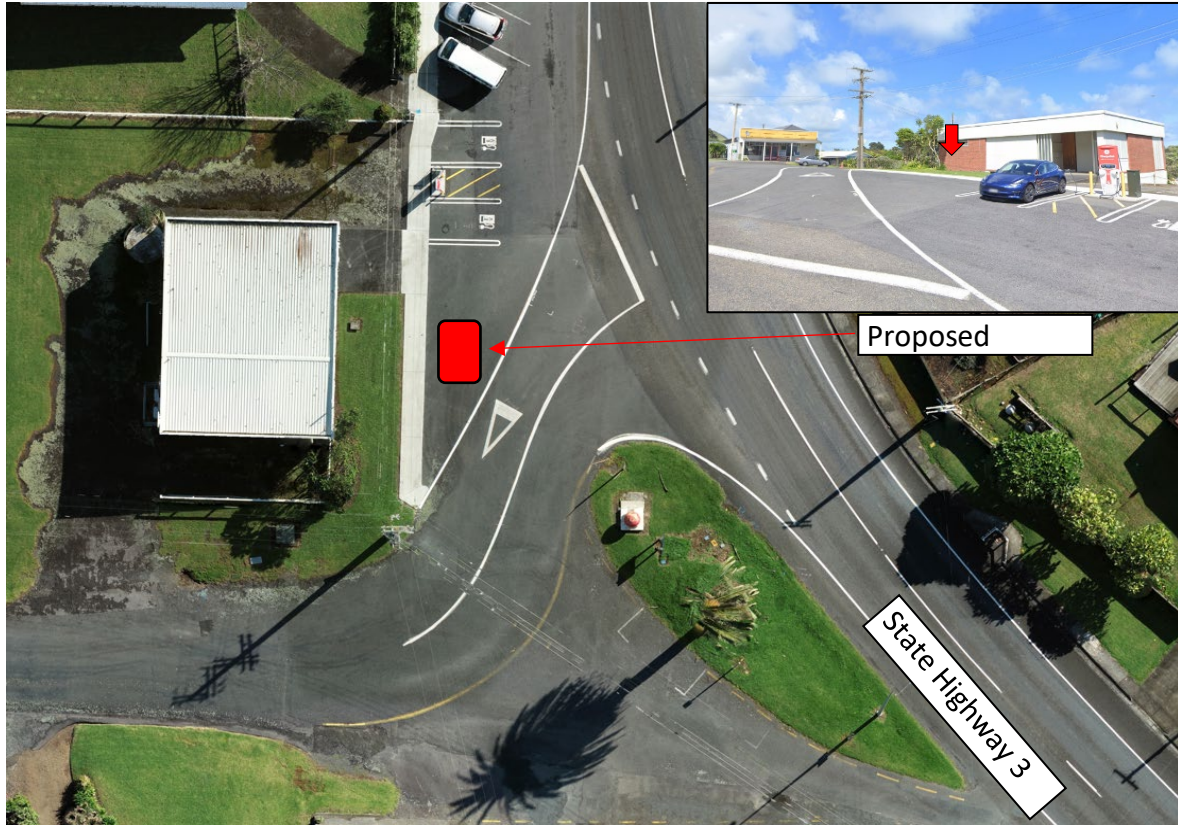
Mobile Shop Locations

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

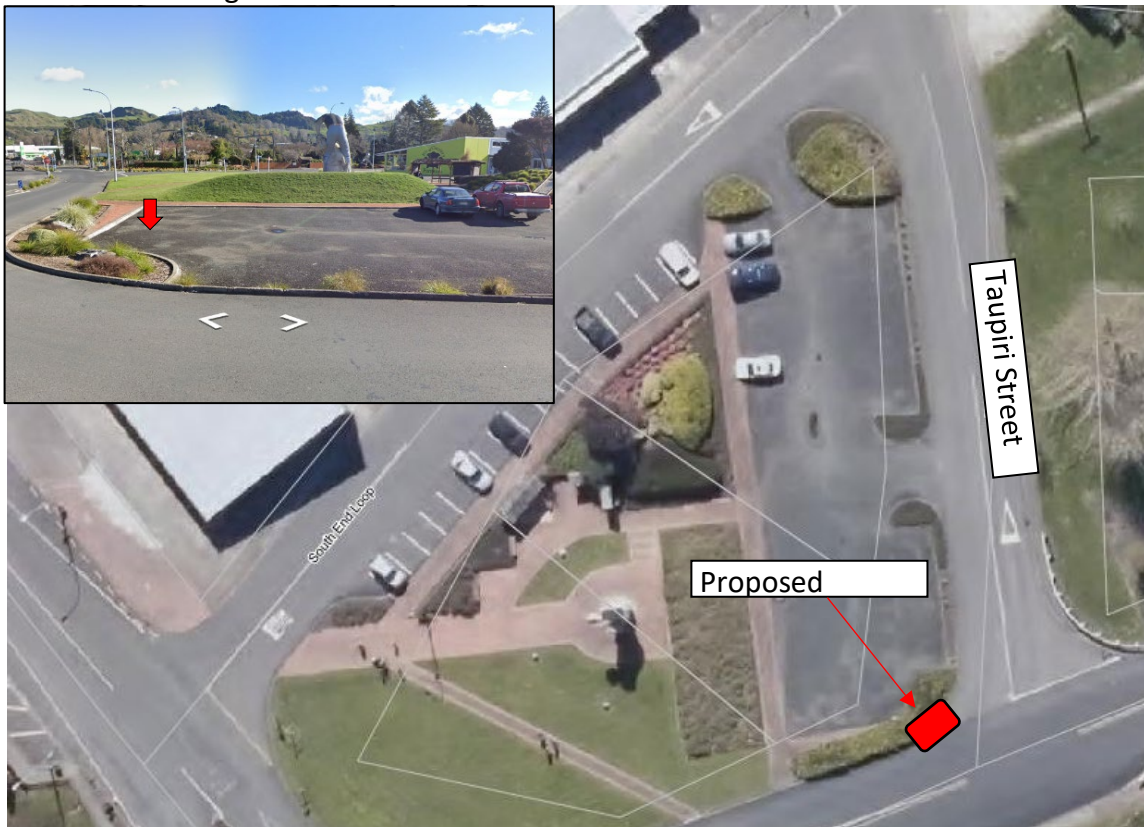
North of the northern public toilet (opp. Warehouse): Road reserve



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



Public Places Bylaw 2009

Effective 1 August 2014

Created:	March 2009
Review Date:	April 2014
Adopted:	25 June 2014
Amended:	1 January 2019 (due to implementation of Freedom Camping Bylaw 2018)
Next Review Date:	June 2024

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1.0 SCOPE

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

2.0 INTERPRETATION

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

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

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

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

BUSKER means any transient street entertainer, performing for donations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.0 OFFENCES AND PENALTIES

3.1 Offences

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

3.2 Penalties

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

4.0 PUBLIC NUISANCES

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

5.0 OBSTRUCTING PUBLIC PLACES

- 5.1 A Person shall not:
- a) Obstruct the entrances to or exits from any public place;
 - b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, without the permission of an authorised officer and then only in accordance with such conditions as may be imposed;
 - c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part thereof;
 - d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary to allow the vehicle to be removed;
- 5.2 No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.

6.0 DAMAGE TO PUBLIC PLACES

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

7.0 PLACING OF ARTICLES ON PUBLIC PLACES

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

8.0 ADVERTISING SIGNS

8.1 General Requirement for Siting of Signs

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

8.2 General Requirements for Construction and Maintenance of Signs

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

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

8.3 Removal of Offending Signs

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

9.0 CONTROL OF SKATEBOARDS

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

10.0 AMUSEMENT DEVICES

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

10.1 Fees

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

10.2 Safety Precautions

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

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

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

10.3 Reasonable and Proper Care

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

10.4 Speed

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

10.5 Overloading

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

11.0 AMUSEMENT GALLERIES

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

11.1 Licence Required

11.1.1 Every amusement gallery premises shall have either an individual licence or be specified on a "multiple site licence" held by a franchise operator, such licence to be in the form approved by Council from time to time.

11.1.2 A multiple site licence shall include the name and address of the premises managers and the premises covered by the licence.

11.2 Application for Licence

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

11.3 Fee

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

11.4 Character References

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

11.5 Duration of Licence

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

11.6 Cancellation or Suspension of Licence

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

11.7 Display of Licence

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

11.8 Shooting Gallery

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

11.9 No Council Liability

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

11.10 Manager's Duty

11.10.1 The manager shall at all times:

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

11.11 Temporary Premises

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

11.12 Contrary to True Intent

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

11.13 Behaviour Controls

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

11.14 Intoxicated Persons

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

11.15 Sale of Food

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

11.16 Right of Appeal

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

12.0 LIQUOR CONTROL

12.1 Acts Prohibited in Specified Public Places within the Waitomo District

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

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

12.1.2 Specified Public Places are listed in Schedule B.

12.2 Exceptions to Prohibition for Residents and their Visitors

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

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

12.3 Exceptions to Prohibition for Licensed Premises

12.3.1 Clause 12.1 does not apply:

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

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

12.4 Exceptions for Special Licences

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

12.5 Offence

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

12.6 Police Powers

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

13.0 EXPOSING ARTICLES FOR SALE

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

14.0 HAWKERS AND KEEPERS OF MOBILE OR TRAVELLING SHOPS

14.1 Licence Required

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

14.2 Application

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

14.3 Sale of Food for Human Consumption

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

14.4 Fees and Expiry of Licence

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

14.5 Form of Licence

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

14.6 Production of Licence

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

14.7 Name to Appear on Vehicle

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

14.8 Moving On

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

14.9 Council May Prescribe Conditions

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

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

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

14.10 Licence not Transferable

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

14.11 Cleanliness of Vehicle

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

14.12 Exemptions

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

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

14.13 State Highways

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

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

15.0 ITINERANT TRADERS

15.1 Licence Required

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

15.2 Licence Fee

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

15.3 Refund of Licence Fee

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

16.0 STANDS AND STALLS

16.1 Permit Required

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

16.2 Application

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

16.3 Conditions of Permit

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

16.4 Permit Fee

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

16.5 Transfer

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

16.6 State Highways

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

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

17.0 AWNINGS AND BLINDS

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

18.0 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED

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

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

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

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

19.0 ROAD AND BUILDING IDENTIFICATION

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

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

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

20.0 VEHICULAR CROSSINGS

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

21.0 RESTRICTIONS ON USE OF BARBED WIRE AND ELECTRIFIED FENCES

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

22.0 ANIMALS AND STOCK IN PUBLIC PLACES

22.1 Public Places

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

22.1.4 No person shall:

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

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

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

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

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

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 A: SKATEBOARDS

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

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

SCHEDULE B: LIQUOR CONTROL

Specified Public Places:

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

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

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

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

Document No: A687127

Report To: Council



Meeting Date: 26 September 2023

Subject: Civic Financial Services Ltd – Half Yearly Accounts to 30 June 2023

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to present the Half Yearly Accounts to 30 June 2023 for Civic Financial Services Ltd (CFSL).

Background

- 2.1 CFSL provides superannuation services for the local government sector through the SuperEasy KiwiSaver Superannuation Scheme and the Local Government Superannuation Scheme. CFSL also provide administration services to their client boards (namely Local Authority Protection Programme Disaster Fund (LAPP), Riskpool, Civic Liability Pool and Civic Property Pool).
- 2.2 WDC holds 16,940 shares (0.15%) in CFSL.
- 2.3 Enclosed separately, and forming part of this business paper, is a copy of the CFSL Half Yearly Accounts to 30 June 2023.

Commentary

- 3.1 **Half Yearly Accounts to 30 June 2023**
- 3.2 The company reports an (unaudited) after tax surplus of \$231,000 (2022: \$72,000) for the first half of the year.
- 3.3 The company's income is derived from administration services and investment income. Revenue has increased by \$133,000 for income from investments from the same period last year. Expenditure has decreased by \$87,000 resulting in an unaudited net increase in Net Surplus after Tax of \$159,000.
- 3.4 Total equity has increased to \$10.4 million at 30 June 2023.

Suggested Resolutions

- 1 The business paper on the Civic Financial Services Ltd - Half Yearly Accounts to 30 June 2023 be received.
- 2 The Civic Financial Services Ltd Half Yearly Accounts to 30 June 2023 be received.

A handwritten signature in dark ink, appearing to be "TH" or similar initials.

TINA HITCHEN
CHIEF FINANCIAL OFFICER

17 September 2023

Attachment: Civic Financial Services Ltd – Half Yearly Accounts to 30 June 2023 (A687129)

6 September 2023

Ben Smit
Chief Executive
Waitomo District Council
PO Box 404
TE KUITI 3941
bens@waitomo.govt.nz

Kia ora Ben

Civic Financial Services Ltd Half-Yearly Accounts to 30 June 2023

Please find enclosed your copy of the half-yearly accounts for Civic Financial Services Limited ("Civic") to 30 June 2023. You will be pleased to know that the company is tracking above budget and has returned an (unaudited) pre-tax profit of \$320k for the first half of 2023 with the company maintaining a strong financial position as at 30 June 2023.

As reflected in the accounts Civics' income is derived from administration services and investment income. In addition to administering Riskpool, Civic Liability Pool and the LAPP Fund, Civic administers the Local Government Superannuation Scheme (Employer Scheme) and SuperEasy KiwiSaver Superannuation Scheme which are offered to local government on an exclusive basis. Civic (through its Local Government Superannuation Scheme and/or SuperEasy KiwiSaver Scheme) provides superannuation services to 76 councils, has over 11,468 members and funds under management of over \$537 million as at the end June 2023. Of the councils that have a preferred provider for KiwiSaver, 69 out of 73 (94%) have appointed SuperEasy KiwiSaver Superannuation Scheme.

Our journey continues to improve on how we communicate to our members through our refreshed SuperEasy website, Electronic Direct Mail, Fund Manager webinars and our new Facebook site.

We are committed to our mission statement that Civic will be trusted and preferred financial services provider to the local government sector:

- 1) Dedicated to our shareholders.
- 2) Committed to our members.
- 3) A sound and successful business.

We appreciate your support.

Ngā mihi



Charlie Howe
Chief Executive, Civic Financial Services Ltd

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CIVIC FINANCIAL SERVICES LTD

STATEMENT OF COMPREHENSIVE INCOME (Unaudited) FOR THE SIX MONTHS ENDED 30 JUNE 2023

	Six Months		Full Year	
	Note	2023 \$000	2022 \$000	2022 \$000
REVENUE				
Administration Fees		1,451	1,497	2,905
Income from Investments		278	99	266
TOTAL REVENUE		<u>1,729</u>	<u>1,596</u>	<u>3,171</u>
EXPENDITURE				
Depreciation & Amortisation		45	44	89
Employee Remuneration		451	482	983
Other Expenses		914	970	1,957
TOTAL EXPENDITURE		<u>1,409</u>	<u>1,496</u>	<u>3,029</u>
NET SURPLUS BEFORE TAXATION		<u>320</u>	<u>100</u>	<u>142</u>
Less Taxation Expense	6	89	28	1,165
NET SURPLUS AFTER TAXATION		<u><u>231</u></u>	<u><u>72</u></u>	<u><u>(1,023)</u></u>

STATEMENT OF MOVEMENTS IN EQUITY (Unaudited) FOR THE SIX MONTHS ENDED 30 JUNE 2023

	Six Months		Full Year	
		2023 \$000	2022 \$000	2022 \$000
Equity as at 1 January		10,159	11,182	11,182
Net Surplus After Taxation		231	72	(1,023)
EQUITY AS AT 30 JUNE		<u><u>10,390</u></u>	<u><u>11,254</u></u>	<u><u>10,159</u></u>

STATEMENT OF FINANCIAL POSITION (Unaudited) AS AT 30 JUNE 2023

	2023 \$000	2022 \$000	2022 \$000
EQUITY			
Capital	10,764	10,764	10,764
Retained Earnings	(375)	490	(605)
TOTAL EQUITY	<u><u>10,390</u></u>	<u><u>11,254</u></u>	<u><u>10,159</u></u>
Represented By:			
Current Assets			
Bank & Cash Equivalents	145	68	522
Term Deposits	3,366	5,335	4,557
Sundry Debtors, Prepayments and Accrued Interest	533	511	555
Loans	5,649	3,360	3,800
TOTAL CURRENT ASSETS	<u>9,693</u>	<u>9,274</u>	<u>9,434</u>
Non-Current Assets			
Property, Plant & Equipment & Intangible Assets	92	167	135
Deferred Tax Asset	954	2,181	1,043
TOTAL NON CURRENT ASSETS	<u>1,046</u>	<u>2,348</u>	<u>1,178</u>
TOTAL ASSETS	<u>10,739</u>	<u>11,622</u>	<u>10,612</u>
Current Liabilities			
Sundry Creditors & Accrued Charges	349	368	453
TOTAL CURRENT LIABILITIES	<u>349</u>	<u>368</u>	<u>453</u>
TOTAL LIABILITIES	<u>349</u>	<u>368</u>	<u>453</u>
EXCESS OF ASSETS OVER LIABILITIES	<u><u>10,390</u></u>	<u><u>11,254</u></u>	<u><u>10,159</u></u>

The notes to the accounts on page 3 form part of and are to be read in conjunction with these Statements.

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CIVIC FINANCIAL SERVICES LTD

STATEMENT OF CASH FLOWS (Unaudited)
FOR THE SIX MONTHS ENDED 30 JUNE 2023

	Notes	Six Months		FULL YEAR
		2023 \$000	2022 \$000	2022 \$000
Cash Flows from Operating Activities				
Cash from operating activities:		1,431	1,612	3,007
Cash applied to operating activities:		1,439	1,583	2,919
Net Cashflow from Operating Activities	5	(8)	29	88
Cash Flows from Investing Activities				
Cash provided from investing activities:		1,225	610	2,440
Cash applied to investing activities:		1,852	958	2,342
Net Cashflow from Investing Activities		(627)	(348)	98
Cash Flows from Financing Activities				
Cash was provided from financing activities:		258	52	-
Cash applied to financing activities:		-	-	-
Net Cashflow from Financing Activities		258	52	-
Net Decrease in Cash Held		(377)	(267)	187
Opening Cash Balance as at 1 January		522	335	335
Closing Cash Balance as at 30 June		<u>145</u>	<u>68</u>	<u>522</u>
Being:				
Bank & Cash Equivalents		<u>145</u>	<u>68</u>	<u>522</u>

The notes to the accounts on page 3 form part of and are to be read in conjunction with this statement.

CIVIC FINANCIAL SERVICES LTD
FOR THE SIX MONTHS ENDED 30 JUNE 2023

Notes to the Financial Statements

1 Statement of Compliance

The Group is a Tier 2 Public Sector Public Benefit Entity and the financial statements have been prepared in accordance with and comply with Tier 2 Public Sector Public Benefit Entity (PBE) Standards.

2 Accounting policies

The accounting policies applied in the preparation of the half year financial statements are consistent with those disclosed in the 2022 annual report.

3 Basis of Preparation

These interim financial statements have been prepared in accordance with PBE IAS 34 - Interim Financial Reporting, and should be read in conjunction with the Company's annual financial report for the year ended 31 December 2022. Disclosures in these interim financial statements are less extensive than those in the annual financial report.

4 Comparative figures.

The comparative figures are for the six months ended 30 June 2022 and the year ended 31 December 2022.

5 Reconciliation of net surplus after tax with cash flow from operating activity.

	Six Months		Full Year
	2023 \$000	2022 \$000	2022 \$000
Reported Surplus After Taxation	231	72	(1,023)
Add/(less) non cash items			
Loan Interest	(258)	(52)	(152)
Depreciation	45	44	89
Deferred Tax Liability	89	28	1,166
Movement in CLP/ Riskpool Admin Fee Reserve	(10)	(10)	(19)
	(134)	10	1,083
Add/(less) movements in other working capital items			
Sundry Debtors, Prepayments and Accrued Interest	22	159	115
Sundry Creditors and Accrued Charges	(93)	(182)	(88)
	(71)	(23)	28
Less Items Classified as investing activity	(34)	(30)	(74)
Less Items Classified as financing activity	-	-	75
	(8)	29	88
Net Cash Outflow from Operating Activities	(8)	29	88

6 Income Tax

The income tax liability for June 2023 is nil as the Company has unused tax credits with which it will use to offset any income tax expense.

7 Loans

Secured loan agreements between the Company and Local Government Mutual Funds Trustee Limited on behalf of New Zealand Mutual Liability Riskpool ("Riskpool") were entered into in February 2017 and August 2017 for \$2,250,000 each, and an additional secured loan agreement of \$2,500,000 entered in March 2023. All three loans are arm's length and on commercial terms to assist with Riskpool's cashflow. Any loan may be repaid by Riskpool at any time without penalty and the agreement terminated by either party with six months' notice.

8 Contingent liabilities.

The contingent liabilities are:

- i) 100,000 uncalled shares in the wholly owned subsidiary, Local Government Superannuation Trustee Limited.
- ii) 1,000 uncalled shares in the wholly owned subsidiary, Local Government Mutual Funds Trustee Limited.
- iii) 100 uncalled shares in the wholly owned subsidiary, SuperEasy Limited.
- iv) 100 uncalled shares in the wholly owned subsidiary, Local Government Finance Corporation Limited.

9 Events occurring after reporting date

There have been no significant events since the reporting date that affect the results disclosed in the half year financial statements.

Document No: A687166

Report To: Council



Meeting Date: 26 September 2023

Subject: Co-Lab Annual Report 2022/23

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to present the Annual Report 2022/23 for Co-Lab, the Council's Controlled Organisation (CCO).

Background

- 2.1 Section 67 of the Local Government Act 2002 (LGA) determines that the Board of a CCO must complete and deliver an annual report on the organisation's operations to the shareholder within three months of the end of the financial year.
- 2.2 Enclosed separately, and forming part of this business paper, is a copy of the Co-Lab Annual Report 2022/23.

Commentary

- 3.1 The financial performance for the twelve months to 30 June 2023 resulted in a surplus of \$505,000, \$503,000 more than the budgeted surplus of \$2,000, and \$38,000 less than the same period last year.

\$000's	2023 Actual	2023 Budget	2022 Actual
Total revenue	9,101	11,410	8,572
Total operating expenditure	8,595	11,408	8,029
Net surplus/(deficit) before tax	505	2	543

- 3.2 Revenue and expenditure are both lower than expected as expenditure on some services and projects was less than anticipated. The Hamilton Transport Model was not procured as forecast during the 2022/23 year which reduced both revenue and expenditure. Delays also continued with the LiDAR project which also reduced both revenue and expenditure.
- 3.3 Explanations of major variances against budget are provided on page 55 of the financial statements.
- 3.4 Total equity of the company increased from \$2.0 million at 30 June 2022 to \$2.5 million at 30 June 2023. Total assets at 30 June 2023 were \$5.6 million compared to \$4.3 million the prior year.
- 3.5 The report gives an update on a number of joint initiatives and projects that have progressed during the last financial year. Whilst a number of these initiatives are still underway, two new offerings were established during the year, Co-lab learning and Co-lab procurement support. Workstream and project updates are provided on pages 6 through to 20 of the report.
- 3.6 The Annual Shareholder Survey Results 2022/23 are contained on page 10. Overall, the results show that the shareholders continue to be satisfied with the efforts being made by Co-Lab to advance shared services within the region.

- 3.7 The performance against the measures incorporated into the Statement of Intent for 2022/23 is documented in the tables on pages 23 through to 30.
- 3.8 Of the nine performance measures, three were achieved, one was unable to be measured and were not achieved. Some measures that were not achieved related to project delays against agreed timelines, due in part to the uncertainties around setting timelines and impacted by available staff capacity of the various councils involved in each project; cost overruns on one project impacted one measure; and the customer satisfaction survey result of 79.8% was only marginally under the target of 80%.
- 3.9 The Independent Auditor's Report is included within the Annual Report on pages 31-33 of the attachment. The audit was completed on 1 September 2023.
- 3.10 The auditor has included, within their report, an emphasis of matter on the uncertainty over the water services reform programme. The emphasis of matter notes that the financial impact of the water services reform on the company remains uncertain until the relevant water services entity's establishment date is known, and the allocation schedule of assets, liabilities and other matters to be transferred is approved.

Suggested Resolutions

- 1 The business paper on the Co-Lab Annual Report 2022/23 be received.
- 2 The Co-Lab Annual Report 2022/23 be received.
- 3 The Co-Lab Annual Report 2022/23 be published on Council's website.



TINA HITCHEN
CHIEF FINANCIAL OFFICER

17 September 2023

Separate Enclosure: Co-Lab Annual Report 2022/23 (A687169)

Document No: A688503

Report To: Council



Meeting Date: 26 September 2023

Subject: Proposed Council Lease Policy

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to present the draft of a new Council Lease Policy which has been developed following the identification of policy gaps related to properties which WDC lease to the community. A decision is required from the Council as to whether the proposed policy should be adopted.

Background

- 2.1 Waitomo District Council (WDC) manages a number of properties through ground leases, licenses to occupy, and residential and commercial leases.
- 2.2 Some of these are leased for community use, such as the buildings for Te Kūiti Community House and the Menz Shed, and the ground leases beneath the King Country Play Centre and Waitomo Indoor Sports Centre.
- 2.3 Other leases are for commercial benefit, many of which have lessees paying a peppercorn rental (e.g., where the land is grazed as opposed to Council having to mow the property) with no formal arrangement in place, or agreements which simply roll on from month to month. Some properties, like the Te Kūiti Aerodrome, cost the Council, as the rent charged does not cover the operating costs. It would be beneficial to provide more transparency and consistency by having all leases treated equally.
- 2.4 This issue has recently come to light after assessing the market rate for a WDC building leased to a local community organisation. The market rate is considerably greater than the current rent charged and would likely be unaffordable for the organisation, and other charitable groups in similar circumstances, to absorb.
- 2.5 The proposed Lease Policy (the Policy) would enable WDC to set a standard method for applying rent to every property. But will also enable differentiation between commercial leases — where lessees are expected to pay a market rate - and community leases where, due to benefits to the community, lessees could be financially supported, recognising the benefit that community organisations provide.

Commentary

- 3.1 Because of the social benefit of community organisations there is a case for not increasing their rent to a market rate which would likely be unaffordable. At the same time, now that a market rate has been determined, WDC has no fair mechanism to not charge the market rental.
- 3.2 Many of our other leases are for grazing, where the rent charged is inconsistent and informal, the introduction of this Policy would enable the Property and Facilities team to standardise lease agreements, so each piece of land can be treated fairly.

3.3 The intention is not for WDC to increase net revenue with this Policy, it is to make things administratively simpler, more transparent, and fairer for everyone. There are currently some lessees who effectively have their activities subsidised by ratepayers, with no formal decision ever having been made to do this.

3.4 It is proposed that we introduce a Council Lease Policy (draft policy attached) which will govern the leasing of all Council property. The Policy sets the standard charge for various property types.

3.5 **ELIGIBILITY TO OCCUPY**

3.6 The Policy does not specify who is eligible to occupy or lease WDC property. Currently a wide variety of activities (both commercial and community focused) take place on WDC property and there appears to be no reason to change this.

3.7 **STANDARDISED CHARGING**

3.8 Council officers propose introducing a standard way of charging for property based on the market value. This should apply to all buildings, ground leases and land leases, and be re-evaluated at least every three years.

3.9 Market rates determine a rate based on land use and type. Advice has been sought from PGG Wrightson and Property Brokers who have provided the numbers below as examples of the classifications and proposed charges. These will be built into the guidelines:

Land type	Market rate
Breeding and Finishing (steep, less fertile)	\$150 - \$200 per ha annually
Breeding and Finishing (flat, more fertile)	\$350 - \$500 per ha annually
Maize/Top class	\$800 - \$1000 per ha annually
Finishing/Milking	\$800 - \$1000 per ha annually
Building space	\$ x per m ² annually
Ground lease	\$ x per m ² annually

3.10 Variance is needed in the ranges to account for size, location, accessibility, and condition of land, as well as benefit to WDC (e.g., grazing difficult terrain or hard to access land). This detail will be available in the Lease and Occupancy Guidelines (A686809).

3.11 **COMMUNITY LEASE GRANT**

3.12 As highlighted earlier, some of our properties are leased to community groups who provide social benefit to our communities. There is a case to be made for WDC to support these groups with reduced charges. The simplest and most transparent way to do this would be to introduce a Community Lease Grant (the Grant).

3.13 This Grant would only be available for groups who meet the following criteria (consistent with the criteria for rates remission):

- a) The land must be used exclusively or principally for sporting, recreation, or community purposes; and
- b) Organisations must be 'not for profit' and/or for charitable purposes; and
- c) Organisations who exist for private pecuniary profit or engage in recreational, sporting or community services as a secondary purpose are not eligible; and
- d) Council retains discretion as to whether to provide a lease grant in any particular case.

- 3.14 The Grant should only be available for WDC owned property, not for groups to use for private rentals.
- 3.15 It is proposed that the standard value of the Grant would be equal to 50% of the amount charged for the lease of the land or property, however, Council may use its discretion to allocate a larger grant. Further funding, if required, can be sought via the multi-year partnership fund or other funders.
- 3.16 Decisions on allocation of the Grant up to the value of 50% of a lease charged, can be made at the discretion of WDC officers.
- 3.17 It is intended that this Policy is cost-neutral, money raised by increasing leases for these eligible properties is then returned to the organisation via the grant.
- 3.18 **INTERACTION WITH OTHER WDC POLICIES**
- 3.19 The Council also administers a Community and Partnerships Fund Policy. Within this, community organisations are able to apply for assistance with operational expenses such as rent. It is not the intention of this Policy that organisations receiving a Community Lease Grant would be made ineligible to receive funding from other Council grants. They could apply for, and receive, both.

Analysis of Options

4.1 STATUS QUO – DON'T ADOPT THE POLICY

- 4.2 The Council can choose to do nothing and not adopt a policy to manage the leasing of buildings and land. The status quo will remain in place, which doesn't offer a standardised way of charging rent or give WDC the ability to offer a grant to community organisations if a market rate is determined and used to set the rental fee.

4.3 ADOPT THE LEASE POLICY

- 4.4 The Council can choose to adopt the Lease Policy which will enable officers to better manage the leasing of buildings and land.

Considerations

5.1 RISK

- 5.2 The risks associated with adopting this Policy mostly relate to the difference this will make to existing holders of leases or licenses to occupy. Occupants who have previously paid minimal leases or had informal arrangements will likely dislike the increase in costs imposed. If WDC loses existing lessees and is required to maintain properties itself, costs will be incurred by the organisation.

- 5.3 In an effort to mitigate the risk of excessively increasing the rent charged to community organisations, the Policy has included the Community Lease Grant for eligible organisations.

5.4 CONSISTENCY WITH EXISTING PLANS AND POLICIES

- 5.5 This Policy is consistent with other plans and policies.

5.6 SIGNIFICANCE AND COMMUNITY VIEWS

- 5.7 The Council should consider whether this Policy is of high enough significance under the Significance and Engagement Policy to necessitate community consultation.

Recommendation

6.1 It is recommended that the Council adopt the Lease Policy as presented.

Suggested Resolutions

- 1 The business paper on Proposed Council Lease Policy (including the draft Lease Policy) be received.
- 2 The Council agree to adopt the Council Lease Policy with/without further amendments.



BEN SMIT
CHIEF EXECUTIVE

19 September 2023

Attachment(s):

- 1 Council Business Paper – 26 September 2023 – Council Lease Policy – draft policy

Waitomo District Council

Lease Policy

DRAFT

DRAFT

First Adopted:	26 September 2023
Review History:	September 2023
Date of Next Review:	September 2026
Responsibility:	General Manager – Infrastructure Services
Adopted by:	Council (26 September 2023)

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INTRODUCTION | KUPU ARATAKI

Waitomo District Council (WDC) leases land and buildings through ground leases, residential, and commercial leases. The Lease Policy (the Policy) outlines how leases are to be managed, determines standard rental rates, and who pays the outgoings, and establishes a Community Lease Grant (the Grant) for eligible organisations leasing WDC land or buildings.

The Grant recognises that community organisations provide a social benefit to the wider community and that there is value in providing some support to these groups.

The intention of the Policy is not for WDC to increase net revenue, but to make leasing land and buildings administratively simpler, more transparent, and fairer for everyone.

PURPOSE AND SCOPE | TE ARONGA ME TE KORAHĪ

1. The purpose of this Policy is to:
 - a) Enable the use of WDC owned land and buildings;
 - b) Determine and standardise the rental methodology used to charge for leases; and
 - c) Support the work of community organisations by establishing consistent guidelines by which community organisations may be provided with a Grant.
2. The Policy applies to all land and buildings which are owned or administered by WDC and leased to the public, but excludes pensioner flats and residential tenancies, quarries, easements, and community halls.
3. The Policy also does not apply to short term hireage of WDC facilities (these are covered by the Fees and Charges).
4. The provisions in the Policy will be applied to all new leases and will be applied to existing agreements where they allow at rent review or lease renewal, or where aspects of an existing agreement is silent or ambiguous.
5. Where a lease provides for rent reviews, the new rental charge and conditions will be set according to this Policy, commencing from the next review date and following approval of the change.

DEFINITIONS | NGĀ WHAKAMĀRAMATANGA

Casual Hireage	WDC offers some buildings to the public for casual hire by the day or hour. These are subject to a Hireage Agreement and not covered by this Policy.
Community Organisation	A not-for-profit organisation that has the primary objective to provide programmes, services or activities that benefit any or all of the social, cultural, economic, and environmental wellbeing of communities in the Waitomo District. A community organisation must also be a legal entity as defined below.
Council	Shall mean the elected members that form the governing body (Council) of the District Council.
Lease Agreement	A contract between WDC and a third party for the third party to have exclusive use of a property. The agreement guarantees length of tenure, rent, and other relevant conditions.
Lessee	A person or organisation who holds the lease of a property.
Lessor	A person or organisation who leases or lets a property they own or administer to another.

Legal entity	A legal entity is an organisation that has its own legal identity separate from its members. Legal entity status includes incorporated societies, trusts registered under the Charitable Trusts Act 1957, companies with charitable purposes, school boards of trustees, and Māori trust boards.
Licence to occupy	A licence to occupy is most often shorter in term than a lease agreement and can give a right to use a property (e.g. access through) but does not guarantee exclusive access or use.
Sublease	A lease of land and/or buildings by a tenant to another tenant.
Waitomo District Council (WDC)	Shall mean the organisation established to administer Council affairs, conduct operations, and bring effect to Council policy and strategies.

POLICY | KAUPAPA HERE

1. Eligibility to Occupy

- 1.1. There are no criteria under this Policy regarding eligibility to occupy WDC owned or administered land or buildings.
- 1.2. Land will be leased in alignment with Council's Community Outcomes.

2. Lease Agreement and Licence to Occupy

- 2.1. A lease agreement or a licence to occupy shall be in place prior to occupancy of the land and/or building.
- 2.2. Where a lessee is granted exclusive use of land and/or any part of a building, a lease agreement shall be put in place. All other agreements for lessees to occupy WDC land shall be in the form of a license to occupy.
- 2.3. Agreements in relation to land that is subject to, or administered under, the Reserves Act 1977 (the Act), will reflect the requirements of the Act and any applicable regulations (e.g., the Waitomo District Comprehensive Reserve Management Plan).
- 2.4. Standard occupancy responsibilities (e.g., utilities, building repairs and maintenance, and insurance) will be set out in the lease agreement.
- 2.5. The lessee is not permitted to sublease the land and/or building unless prior consent has been given by the lessor (WDC) in writing.

3. Lease Charged

- 3.1. Occupants of any WDC land and/or building with a lease agreement in place, regardless of type or use, shall be charged rent at the market rate in accordance with the Lease and Occupancy Guidelines (the Guidelines).
- 3.2. Market rates will be reviewed at least every three years.
- 3.3. WDC retains discretion to charge any alternative rate (e.g., land locked sections).
- 3.4. Occupants of land with a licence to occupy agreement shall be charged agreed rates according to the Guidelines.
- 3.5. Where a piece of land is owned by WDC and occupied by an external party in such a way that greater benefit is received by WDC than the occupant, a licence to occupy will be used and a negotiated reduced licence fee (if any) will be charged to the occupant in accordance with the Guidelines.

4. Community Lease Grant

4.1 WDC administers a Community Lease Grant (the Grant) to support community organisations who lease WDC buildings or land.

4.2 ELIGIBILITY

4.3 To be eligible for the Grant, groups must meet the following criteria:

- a) The land and/or building must be used exclusively or principally for sporting, recreation, or community purposes; and
- b) The applicant, who must also be the tenant, must be a community organisation (or representative of) as defined in this Policy.

4.4 Organisations who exist for private pecuniary profit or engage in recreational, sporting, or community services as a secondary purpose are not eligible.

4.5 GRANT

4.6 The usual value of the Grant is equal to 50% of the amount charged for the lease of the land and/or building. The Council may, at its discretion, approve a further Grant where exceptional circumstances apply.

4.7 The Council retains discretion as to whether to provide a Grant in any particular case.

4.8 APPLICATION

4.9 Applications can be made at any time and must be made on the prescribed form and at the discretion of WDC, may be required to include the organisation's latest financial accounts, the equivalent of a profit-and-loss statement, and balance sheet. Payments, if granted, will be back dated to the date of application or date of renewal.

4.10 Applications for the Community Lease Grant are assessed by the Property and Facilities Manager and the Manager Community Development in accordance with this Policy.

4.11 Being granted a Grant under the Policy does not make a group ineligible for any other WDC grants. Groups are able to make applications for other forms of assistance.

4.12 Approved applicants will receive the Grant for three years, or for the period of the existing lease agreement, whichever is shorter. A reapplication will be accepted triennially.

4.13 It is the responsibility of the applicant to inform WDC of any changes in circumstances where they may no longer be eligible for the Grant. In these circumstances the duration of the Grant may be reduced. Where an applicant has failed to inform WDC of changed circumstances and continued to receive the Grant, WDC may seek reimbursement.

4.14 ACCOUNTABILITY

4.15 Recipients of the Grant are required, each year, to submit an annual report within 30 days of the anniversary of the lease.

5. Related Documents

5.1 This Policy should be read in conjunction with the following documents:

- a) Reserves Act 1977
- b) Waitomo District Comprehensive Reserve Management Plan
- c) Waitomo District Council Fees and Charges
- d) Community and Partnerships Fund Policy

- e) Waitomo District Council Lease and Occupancy Guidelines (A686809)
- f) Community Lease Grant Application Form

Document No: A688158

Report To: Council



Meeting Date: 26 September 2023

Subject: **Waste Management and Minimisation Plan review 2024**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is for Council to consider a review of the Waste Management and Minimisation Plan (WMMP).

Background

- 2.1 Council's existing Waste Management and Minimisation Plan (WMMP) was developed in 2018 and delivered in a combined document with the Solid Waste Asset Management Plan (SWAMP). The current WMMP does not address all the regulatory requirements, and specifically does not contain targets, or an action plan, which makes it difficult to measure progress since 2018.

- 2.2 The SWAMP has since been reviewed and updated into a separate document during the development of the 2021-2031 10 Year Plan. This document is currently under review for the 2024-2034 LTP.

- 2.3 The Waste Minimisation Act 2008 (WMA) requires the WMMP to be reviewed at least every six years, and the new WMMP is due in 2024. This will provide opportunity to include in the plan clear objectives and action points towards achieving these objectives, as required by the WMA.

- 2.4 There are three stages to the WMMP review process.

1. Solid Waste Analysis Protocol (SWAP) survey and audit 2023 – completed in May 2023

A SWAP survey provides the comprehensive data (volume, source, composition) that Council needs to make informed choices about future waste issues. The survey was undertaken by specialists at Waste Not Consulting and occurred over the space of a week during May 2023, waste was measured at kerbside and Te Kuiti transfer station.

2. Waste Assessment 2023

This is a technical document which covers the current waste situation, including waste flows, waste infrastructure and services and forecast of future demand. It develops goals, objectives, and targets, and identifies options to meet the forecast demands of the District. The data provided by the SWAP report is essential to the detailed development of the Waste Assessment.

3. Waste Management and Minimisation Plan

The WMMP is the strategy document which guides all Council's Solid Waste activities and services and is structured on the Waste Assessment. The key components of a WMMP are:

- a) The overarching strategy, containing a summary of the waste situation, along with your goals, objectives, and targets.
- b) The Action Plan, with detailed information about activities to achieve the objectives and targets, and how they will be carried out and resourced. Actions should be SMART (specific, measurable, achievable, relevant, and timely), and drawn for the options review in the Waste Assessment.

Commentary

- 3.1 The process to develop the WMMP has a number of significant steps that need to be followed, these are outlined below.
- 3.2 Section 50(3) of the WMA specifies that once a waste assessment has been completed Council should consider whether a new WMMP needs to be developed or whether the current WMMP should continue without amendment.
- 3.3 This decision needs to be documented and presented to the Ministry for the Environment. Council needs to have decided on what it intends to do with its existing WMMP following consideration of the WMA.
- 3.4 The WMA makes recommendations for the strategic goals and objectives for the next WMMP. Council needs to consider if these align with the vision and community outcomes.
- 3.5 The Waste Minimisation Act does not require consultation on a Waste Assessment, although the Council must consult with the Medical Officer of Health.
- 3.6 When preparing, amending or revoking a WMMP Council must also:
- Consider the scope of waste to be included;
 - Consider the waste hierarchy;
 - Have regard to The New Zealand Waste Strategy: Reducing harm, improving efficiency (2010) and their most recent waste assessment; and
 - Publicly consult on the WMMP and engage with key stakeholders.
- 3.7 Consultation on the content of the WMMP must be carried out through the special consultative procedure set out in section 83 of the LGA. If the WMMP is not reviewed within the six-year statutory timeframe, section 33 of the WMA requires the Ministry for the Environment to retain levy money payable to the Territorial Authority.
- 3.8 In recent years the Council has been receiving \$35,000 (2021) to \$75,000 (2023) per annum from the Waste Levy Fund. The levy has increased from the initial \$10 per tonne, to the current \$50 per tonne levy, and will rise to \$60 tonne in July 2024.
- 3.9 Although the intent of the levy is to raise the cost of disposal to make diversion more attractive, it has not yet had a noticeable impact on landfilling on a national scale. Council's share of the levy revenue could potentially exceed \$140,000 by 2024/25. This provides Council with the potential to add services and/or infrastructure that may have previously been unaffordable.
- 3.10 Council's WMMP is key to how to spend this revenue as the Waste Minimisation Act 2008 stipulates that:
- (1) *A territorial authority may spend the levy money it receives under section 31 only –*
 - a) *On matters to promote or achieve waste minimisation; and*
 - b) *In accordance with its waste management and minimisation plan.*
 - (2) *When making a decision in relation to funding any matter to which subsection (1) applies, the territorial authority must consider the effects that the decision may have on any existing waste minimisation services, facilities, and activities (whether provided by the territorial authority or otherwise).*
- 3.11 Council needs to consider while there may be cost savings from consulting as part of another special consultative procedure, such as during the LTP consultation, this may not give the required level of public attention to the issues in the draft WMMP.
- 3.12 The LGA 2002 and WMA provide councils with the ability to develop bylaws as tools to support delivery of effective and efficient waste management and minimisation for their district. Section 56(2) of the WMA stipulates that a bylaw must not be inconsistent with a council's WMMP.

- 3.13 An assessment of the draft WMMP will be conducted against the current Solid Waste Bylaw that was last reviewed in 2014. This assessment will determine if a review of the Bylaw is recommended.
- 3.14 Following public consultation any changes or revisions will be incorporated into the WMMP, the document will then need to be incorporated into the LTP 2024-2034.
- 3.15 Progress on the goals and objectives will need to be monitored and spending of the waste levy reported.

Analysis of Options

4.1 **OPTIONS**

- 4.2 The reasonably practicable options related to the WMMP are:

Option 1:

Council resolve to review the WMMP in accordance with the special consultative process (recommended).

Option 2:

Council could retain the current WMMP which would not comply with the requirements under the Waste Minimisation Act 2008.

Considerations

4.3 **RISK**

- 4.4 If Council decides not to review the WMMP and continues with the current WMMP it will not meet the legislative requirements under the Waste Minimisation Act 2008.

4.5 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**

- 4.6 The WMMP will be aligned with the Solid Waste Bylaw and be incorporated into the LTP 2024-2034.

4.7 **SIGNIFICANCE AND COMMUNITY VIEWS**

- 4.8 Community consultation via a special consultative procedure is required when a WMMP is made, reviewed, or revoked if the Council resolves to initiate a review of the WMMP.

Suggested Resolutions

- 1 The business paper on Waste Management and Minimisation Plan review 2024 be received.
- 2 Council resolves to review the WMMP in accordance with the special consultative process.



CHARMAINE ELLERY
MANAGER – STRATEGY AND POLICY

15 September 2023

Document No: A685762

Report To: Council



Meeting Date: 26 September 2023

Subject: Infrastructure Services Group Activity Update Report

Type: Information Only

Purpose of Report

- 1.1 The purpose of this business paper is to update Council on activities that form part of the Infrastructure Services Group.

Background

- 2.1 At its meeting on 28 February 2023, Council adopted a new reporting framework detailing bi-monthly financial reporting and Council group activity reporting.
- 2.2 A reporting schedule was agreed, with Infrastructure and Community reporting on the same bi-monthly Agenda, and Business Support and Leadership / Governance and Regulatory reporting on the other month.
- 2.3 The Infrastructure Services report provides commentary on activities and operational projects covering three waters, roading, waste management, housing, and other property.
- 2.4 The report provides relatively high-level detail and will provide commentary on significant, not 'business as usual' matters.
- 2.5 Each sub-group will cover the following:
 1. **Current Activity** - This narrative will cover operational projects, any further narrative on Capex projects not covered in the bi-monthly financial report, issues, and operational topics in these activities.
 2. **Risks and Opportunities** that are important to note.
 3. **Looking Forward** - What is happening in the next 1-3 months to give a picture of what is coming up.

Roads and Footpaths

- 3.1 The Roads and Footpaths group of activities incorporates maintenance and renewal of the road surface, pavement, footpaths and other roading assets such as bridges and structures.
- 3.2 **CURRENT ACTIVITY**
- 3.3 The Mokau Toilet Associated Works contract has been awarded to Cambridge Excavators Limited. Physical works will start in October so that sealing of the parking areas can happen as the weather warms.
- 3.4 The 2022/23/24 Footpaths and Associated Works contract previously awarded to Cambridge Excavators is currently in the middle of construction and moving on to separable portion two. Works are to be completed before Christmas. Currently approximately 1.25 kilometres of 2.5 kilometres has been completed.

- 3.5 The Structural Component Renewals contract that was awarded to MaxBuild is part way through construction. This includes replacement and repair of structural components, including bridge deck joints, retaining walls and larger culvert linings.
- 3.6 Public consultation for the draft Speed Management Plan closed on the 11 September with hearings to happen in November. 15 formal submissions and 12 comments on Social Pinpoint were received.
- 3.7 **CYCLONE RECOVERY**
- 3.8 In February 2022, July-August 2022, and January 2023 the region was struck by severe adverse weather. The initial response works have been completed, and works are now well underway with some significant contracts.
- 3.9 View Terrace in Piopio has been completed. Kopaki Road retreat is almost completed with sealing to happen during October. The work at Mangatoa Road was started in August 2023 with the 4 sites to be completed this calendar year.
- 3.10 Taumatotara West Road has been awarded to Nicholls & Uttinger Civil Ltd. This is a new contractor to Waitomo so additional observations will be undertaken. Works are to commence during September / October.
- 3.11 Design and investigation work was completed for the July-August Storm Event and a funding application of approximately \$5.5 million (of which \$1.426 million has already been approved for 2022/23) was recently submitted to Waka Kotahi.
- 3.12 Design and contract documentation works for Cyclone Dovi Year 2, and the Winter Storm Event are underway and are to be released to market later this year for construction in 2024.
- 3.13 Further damage to the roading network was incurred during the Auckland Anniversary Storm Event 2023. The initial clean up works were funded at 100% through Waka Kotahi. Design and investigations for these sites will be undertaken during the 23/24 Financial Year (FY). This is likely to attract additional funding from Central Government as part of the Cyclone Gabrielle recovery package.
- 3.14 **CONTRACT RENEWAL/EXTENSION**
- 3.15 A procurement plan for the new Road Maintenance and Reseals contract will be finalised following the outcomes of the legally required Section 17A review which is almost complete. The delivery model proposed will have a collaborative approach between Waitomo District Council (WDC), the Contractor and the Consultant. The current contract expired in July 2024.
- 3.16 Work is progressing to develop a new Maintenance Contract document and Market Analysis of potential tenderers. Current work includes the new schedule of quantities, and a procurement plan is also in the development stages.
- 3.17 An Industry Briefing for potential contractors is being held in September, with the contract documents being released to the market in November.
- 3.18 **ACTIVITY MANAGEMENT PLAN**
- 3.19 A draft Activity Management Plan (AMP) was developed to provide a high-level plan for the next 10 years. The AMP incorporates details from the next National Land Transport Program (NLTP). This gives an indication to Waka Kotahi of what funding will be required in the near and distant future.
- 3.20 A key focus of the draft AMP is on roading infrastructure resilience and structures. A paper was submitted to a Council workshop on 9 May 2023 discussing possible funding limitations and a further update was given during the Council meeting on 11 July 2023.

3.21 The AMP was submitted to Waka Kotahi for approval in August.

3.22 **RISKS AND OPPORTUNITIES**

3.23 Indications are, there is an increasing likelihood of more regular and more intense weather events which will affect the region going forward. These types of events interrupt scheduled work programs and potentially push jobs into the next financial year.

3.24 Expected increases in inflation and material prices will be reflected in contractors' rates. This is of particular relevance with the new Maintenance Contract coming up for tender next year. There is a strong interest in the rebid of this contract.

3.25 Indications suggest that this summer there will be above average temperatures and finer conditions. This will allow for completion of proposed works for 23/24 alongside the works that were carried over from 22/23.

3.26 Due to the limited funding for year 3, the resurfacing KPI will not be met. The current KPI was to reseal 34.5km of the network but the forecast based on the available budget will be 27.1KM which is 5.9%.

3.27 **LOOKING FORWARD – THE NEXT 3 MONTHS**

3.28 Cyclone recovery emergency works are ongoing.

3.29 Maintenance Contract Renewal is well underway and ready to be finalised for release towards the end of 2023.

3.30 The Piopio carpark and Benneydale sealing projects funded from the Better-off Funding budget will be completed towards the end of 2023.

3.31 The Speed Management Plan hearings are to happen during November.

3.32 Pavement Rehabilitation sites including Taharoa Road and Waimiha Road are programmed for 1 October 2023 start date.

Three Waters

4.1 The Three Waters group of activities includes drinking water, wastewater and stormwater, management of treatment plants and the reticulation network. This section will also cover a summary of transition activities relating to the three waters reform.

4.2 **THREE WATERS REFORM**

4.3 WDC staff attended a meeting on 25 August 2023 with Department of Internal Affairs (DIA) and Entity B staff to discuss planning and engagement principles, legislative updates, the national engineering design standard, relationship agreements and property transfer.

4.4 WDC is to discuss with DIA the 2-year AMP and opting with the Addendum option.

4.5 WDC met with an Entity B stormwater representative to discuss stormwater related activities, especially confirming ownership of the asset before migrating to the Stormwater Asset for the new Entity. WDC would like to see the GIS Map created by Entity B to help determine ownership.

4.6 The next set of data migration will focus on customer data. The DIA has also started discussions on the billing data and processes.

4.7 **CURRENT ACTIVITY**

4.8 **DRINKING WATER**

- 4.9 The Te Kuiti Water Resilience Project is progressing well with road and land access to and near the Hetet Reservoir currently being arranged with the nearby landowners. Opus WSP Consultants have been appointed and have been on-site carrying out investigative work such as Geotech site investigation, site topographical survey, cadastral survey, and reservoir structural assessment physical work. The tender documents are also being drafted.
- 4.10 The 2022/24 Three Waters Renewals contract for Moa and Tui Streets in Piopio has been awarded to Cambridge Excavators Civil. The renewal project started in August and is expected to be completed by the end of October 2023
- 4.11 The resource consent renewal application to take water and discharge waste from the Piopio Water Treatment Plant was submitted on 10 July 2023. This is being processed by Waikato Regional Council.
- 4.12 We are currently reviewing the Water Quality Report from the Independent External Water Specialist. This is a legislative requirement by Audit NZ.
- 4.13 **WASTEWATER**
- 4.14 Work in progress to achieve the target of 1000 tonnes at Te Kuiti Wastewater Sludge Processing Plant this financial year, 2023/24.
- 4.15 Renewal of Te Waitere Wastewater Soakage Field Project has started.
- 4.16 Inspection work has commenced on the Inflow and Infiltration programme. A number of illegal downpipes and faulty gully traps have been identified.
- 4.17 The 2023/24 Three Water Renewals contract was awarded to Camex Civil with Seddon Street to be completed by the end of November 2023.
- 4.18 An abatement notice was received on 7 September 2023 from Waikato Regional Council due to an overflow from the Oxidation Pond at the Te Kuiti Wastewater Treatment Plant on 23 May 2023. This was the result of a heavy rainfall event.
- 4.19 The Abatement notice was acknowledged on the same day as part of the condition.
- 4.20 On 14 September 2023, an investigator from Waikato Regional Council visited the Te Kuiti Wastewater Treatment Plant to gain firsthand information and observe evidence of improvements completed after the event.
- 4.21 We will be providing a detailed report about the background of causes, action taken on the day of event, estimated volume of discharge to land, follow-up actions and proposed improvements to avoid similar incidents in the future. The response will also include a request to lift the notice but if unsuccessful, the notice could be active for up to 12 months.
- 4.22 **STORMWATER**
- 4.23 The Stormwater Project on Carrol Street, Te Kuiti has previously been awarded to McIndoe Group. We are currently waiting for the State Highway Traffic Management Plan to be approved before commencing.
- 4.24 WDC are continuing to monitor and mitigate Te Kuiti's Stormwater Reticulation network after medium and heavy rainfall events. We will continue working with our maintenance contractor to identify problem areas and rectify the causes as part of the improvement project.
- 4.25 We have approached three Environmental Consultants to provide costs to deliver the required investigation, assessment of environmental effects, modelling, reports and to apply for the renewal of the District Wide Comprehensive Stormwater Consent as the current one expires in July 2024. The costs associated with the consent renewal are expected to be higher than budgeted.

4.26 **RISK AND OPPORTUNITIES**

- 4.27 It is predicted that there will be an increased likelihood of stormwater flooding in Te Kuiti and other towns due to the predicted increase in frequency and severity of storm events in the future.
- 4.28 The likelihood of overflows from sewer distribution manholes and Te Kuiti Wastewater Treatment Oxidation Pond could increase due to regular higher and heavier rainfall, resulting from high Inflow and Infiltration.
- 4.29 Te Kuiti Wastewater Treatment Plant was designed for inflow volume based on 1:20 year rainfall events. Recent rainfalls are much higher than past rainfall events.
- 4.30 The potential risk of more sewer pump stations being flooded is very high due to the frequent Mangaokewa stream flooding.
- 4.31 Renewal of Stormwater Consent may not be completed on time due to the increased work involved in monitoring, investigation, modelling, and cost.

4.32 **LOOKING FORWARD – THE NEXT 3 MONTHS**

- 4.33 Inflow investigations have started and will continue over the next 6-9 months. This will involve visiting every property in Te Kuiti and identifying illegal downpipes connected to the wastewater system. The low gully traps that get flooded will also be identified, and stormwater manholes will be inspected for blockages.
- 4.34 Work will start shortly on all critical stormwater inlets that have been identified as requiring grills or domes. The physical work will be carried out this financial year 2023/24.
- 4.35 Work will commence in October to inspect and service domestic sewer pumps for each property in Piopio township.
- 4.36 Work will commence in Te Kuiti towards the end of September 2023 for the inspections and servicing of all our water network fire hydrants.
- 4.37 Flushing of water mains for Mokau township will commence in November 2023 before the summer peak demand and return of holiday homes or batch owners.

Waste Management

- 5.1 The waste management activity incorporates Landfill, kerbside collections, and transfer station operations.
- 5.2 **CURRENT ACTIVITY**
- 5.3 The Landfill's financial viability and risk is still under review. The financial outcome of this review will be discussed with Council. The new cell development, high wall stabilisation and gas flaring projects are still on hold while the review is underway.
- 5.4 A kerbside rubbish, Transfer Station and Landfill Audit has recently been undertaken. The Audit determined the composition of Council's kerbside rubbish bag collection, as well as Transfer Station and Landfill collections. The audit was significantly influenced by the quantity of organic material (50%) in both the kerbside refuse bags and Transfer Station waste.
- 5.5 A Waste Assessment (WA) has been finalised and submitted to Council for review. Approval has now been received and the Waste Assessment document will be updated.

- 5.6 The Waste Management and Minimisation Plan (WMMP) includes a summary of the waste situation, along with goals, objectives and targets. It has an action plan with detailed information about activities to achieve the objectives and targets and how they will be carried out and resourced. This document will be finalised once the WA has been approved.
- 5.7 The above documents will require public, as well as Council consultation.
- 5.8 Standardised signs for all Transfer Stations and Landfills are currently being designed and should be installed within the next two months.
- 5.9 **RISKS AND OPPORTUNITIES**
- 5.10 The kerbside collection contract ends on 1 May 2024. There is a risk that any new contract will cost significantly more for a like-for-like service due to the escalation of operational costs. The end of the contract does provide Council with an opportunity to review the level of service and consider changes.
- 5.11 There is consideration of extending the contract to 30 June 2025 to align with neighbouring councils to collaborate and work under one contract. If extended this will allow WDC to review all collections and recycling.
- 5.12 Ministry for the Environment (Mfe) has stated, if councils work together there is a potential of receiving 75% funding for waste minimisation, which includes food waste, green waste, recycling and collections.
- 5.13 **LOOKING FORWARD – THE NEXT 3 MONTHS**
- 5.14 Funding has been approved by MFe for a feasibility study (\$93,000) and quotes are being sourced from various consultants for better diversion of waste, in particular food waste.

Property and Other Facilities

- 6.1 The property and other facilities activity covers parks and reserves, public amenities, residential and elder housing, Library, i-Site, Railway and Admin buildings, Aerodrome and camping grounds.
- 6.2 **CURRENT ACTIVITY**
- 6.3 The i-Site refurbishment and fit-out contract is almost complete. The outside canopy work is outstanding.
- 6.4 The repainting of the Te Kuiti Aquatic Centre pool has begun. Given that this project is highly weather-dependent, it might result in a potential delay in the seasonal reopening of the pool, which is currently scheduled for October 1, 2023.
- 6.5 Mokau old toilet block remains unavailable at present. OCS plans to experiment with a novel product that could potentially eliminate the potent odour present in the tile grout. If this product proves effective, the toilets can be reopened for the holiday period.
- 6.6 Three new air conditioning units have been placed within the Administration Building due to the failure and obsolescence of the previous units. The outdoor units have been repositioned to the front courtyard to facilitate easier maintenance.
- 6.7 Work on four (4) Property Asset Management plans is well underway.
- 6.8 A review of all quarries has been undertaken, two are producing material, two are stock piling and four are redundant. An inspection of all quarries is to be completed.
- 6.9 The Te Kuiti Aerodrome Development Plan review is progressing and a financial sustainability report is being undertaken.

6.10 The Te Maika settlement was visited on 31 August to discuss several issues. One of them was the jetty condition and remediation required. At the conclusion of the meeting with the locals, it was agreed that some of the immediate issues would be addressed in the short term. The major structural issues will not be addressed in the next LTP. Alternative options that could be considered in the future, after engagement with stakeholders, is to vest the jetty to the locals/trust or to demolish it as the boats could still berth directly on the beach during high tides.

6.11 **RISK AND OPPORTUNITIES**

6.12 There is a risk the crack repair and painting of the Aquatic Centre will not be completed before 1 October 2023 as this work is weather dependent.

6.13 **LOOKING FORWARD – THE NEXT 3 MONTHS**

6.14 Signboard/signage development will continue through Motakiora and the new and upgraded trails out to the Mangaokewa Reserve as part of the 'Better-off' Funding Project.


Suggested Resolution

The business paper on Infrastructure Services Group Activity update report be received.



SHYAMAL RAM
GENERAL MANAGER – INFRASTRUCTURE SERVICES

11 September 2023

Document No: A688973	
Report To: Council	
	Meeting Date: 26 September 2023 Subject: Motion to Exclude the Public for the Consideration of Council Business 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:

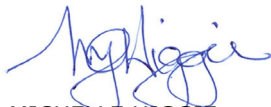
General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Section 48(1) grounds for the passing of this resolution
1. Road Maintenance Services and Reseals Contract Procurement	Section 7(2)(c)(h) – To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	Section 48(1)(a)(i)
2. WDC Rooding Activity Section 17A Review	Section 7(2)(c)(h) – To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	Section 48(1)(a)(i)
3. WDC Administration Building Seismic Strengthening	Section 7(2)(c)(h) – To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	Section 48(1)(a)(i)
4. Sale of 59 Esplanade Property	Section 7(2)(c)(h) – To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	Section 48(1)(a)(i)
5. Potential Gifting of the Te Kuiti Indoor Bowling Club Building	Section 7(2)(c)(h) – To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.	Section 48(1)(a)(i)

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
6. Valuation of Investment in Inframax Construction Ltd at 30 June 2023	Section 7(2)(c)(1) (c) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information – (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied;	Section 48(1)(d)

- 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 – Infrastructure Services	Portfolio Holder
Chief Financial Officer	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