



Report

Date : 8 February 2024

To : Chairperson and Committee Members
Strategy, Growth and Planning Committee

From : James Single
Regulatory Services Manager

Subject : **Draft Bylaws Review and Consultation - Keeping of Animals Bylaw 2024, Alcohol Bylaw 2024, Public Places Bylaw 2024 and Cemeteries Bylaw 2024.**

Item No : **7.6**

1. Recommendation

- 1.1 ***That the report from the Regulatory Services Manager dated 26 January 2024 concerning the Draft Bylaws Review and Consultation - Keeping of Animals Bylaw 2024, Alcohol Bylaw 2024, Public Places Bylaw 2024 and Cemeteries Bylaw 2024. be received.***
- 1.2 ***That the Committee determines, pursuant to s155(1) of the Local Government Act 2002, that a bylaw is the most appropriate way of addressing perceived problems identified for the keeping of animals in Tararua district, alcohol compliance, issues in public places and in Tararua District Council cemeteries.***
- 1.3 ***That the Committee approves the combined Statement of Proposal and the Tararua District Council's draft Keeping of Animals Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.4 ***That the Committee approves the combined Statement of Proposal and the Tararua District Council's draft Alcohol Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.5 ***That the Committee approves the combined Statement of Proposal and the Tararua District Council's draft Public Places Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.6 ***That the Committee approves the combined Statement of Proposal and the Tararua District Council's draft Cemeteries Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.7 ***That the Committee agrees that the Chief Executive be delegated the power to approve any minor amendments to the draft bylaws or statements of proposal that he considers appropriate, prior to consultation starting.***

Executive Summary

This report seeks approval to publicly notify the draft Tararua District Council Keeping of Animals Bylaw, Alcohol Bylaw, Public Places Bylaw and Cemeteries Bylaw. These bylaws will replace the current Keeping of Animals, Cats, Poultry and Bees Bylaw 2018, Alcohol Bylaw 2018, Public Places Bylaw 2018 and Cemeteries Bylaw 2018 that expired in November and December of 2023. These drafts largely continue the current Bylaws, with some amendments and improvements.

The key changes to the Keeping of Animals Bylaw are:

- Additional terms are added into the interpretation section, noting that many of these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- Adding a requirement (clause 5.2) that animals are confined within the boundaries of the property where they are usually kept (excluding cats and bees).
- Adding hive limits based on property area for urban areas and hive set-back and location requirements.
- Amending the current limit of 3 cats per household where an officer acting on a complaint believes the number of cats is offensive to a requirement that no more than 3 cats are kept on a premises (urban or rural) except with approval from Council (with exceptions for vets, charities such as the SPCA and catteries).
- Requiring every cat aged over 6 months to be microchipped and desexed.
- Simplifying the requirements for keeping pigs in an urban area (where approval from Council continues to be required).
- Regulating (prohibiting) the keeping, in an urban area, of roosters, ganders, peacocks, stallions, bulls, rams and un-neutered male goats.
- Requiring people to refrain from taking any action towards feral animals so as to cause them to be a nuisance; and requiring abatement from the nuisance caused by feral animals.
- Ensuring persons can apply for permits/approvals from Council to keep animals and providing a mechanism for such permits to be reviewed.

The key changes to the Alcohol Bylaw are:

- Using the term 'alcohol' instead of liquor.
- Placing the exclusion (for unopened bottles or containers) into an explanatory note, as it is explicitly provided for in section 147 of the LGA.
- Using the term 'Alcohol Ban Area' instead of 'Designated Public Place', to make the meaning and purpose of such areas more easily understood.
- Creating the ability for persons to apply to Council for a consent for any activity that would otherwise be in breach of the bylaw; and the ability for Council to issue a consent with conditions for such activities.
- Simplifying the powers of arrest, search and seizure provisions in the bylaw by reference to the powers available to the Police under the LGA (and the requirements on the Police under the LGA when exercising such enforcement powers), noting that bylaw copies legislation provisions.

The key changes to the Public Places Bylaw are:

- Additional terms are added into the interpretation section, noting that many of these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- Adding the term ‘micromobility device’ to be a catch-all phrase for bicycles, skateboards, scooters and any other small, lightweight vehicles (and removing single definitions for bicycles and skateboards).
- Amalgamating all prohibited activities into one clause (clause 6) for ease of reference.
- Amalgamating all activities which require approval into one clause (clause 7) for ease of reference.
- Adding the following prohibitions in public places: (clause 6)
 - Do anything to cause or allow a nuisance to occur.
 - Obstruct, disturb or interfere with any other person in their access, use or enjoyment of that public place.
 - Litter or cause a nuisance by depositing leaflets, fliers, samples or other promotional material.
- Placing the restrictions on freedom camping and stock control into separate schedules (for the reasons outlined in the introduction section above).
- Changing the term ‘exposing articles for sale’ to ‘retail display on footpaths’ (clause 14) for clarity and ease of use.
- Adding a requirement for retail displays that the operator keeps the display clean and tidy at all time (clause 14.2(f)).
- Adding a requirement for awnings, blinds, umbrellas, sandwich boards and tables that they must be maintained to a good standard at all times (clause 15.1(g)).
- Adding requirements for alfresco dining on footpaths (clause 16).
- Simplifying the requirements on mobile traders and hawkers (currently in the Trading in Public Places Bylaw) into one clause which covers all selling and trading of goods and services in public places (clause 17).
- Adding a requirement that event organisers of events in public places should obtain permission (with exceptions for small scale events etc) (clause 20).
- Placing the process for obtaining approvals; reviews of approvals; what happens when there is non-compliance; and enforcement matters into the bylaw (most of which is currently found in the Administrative Bylaw).

The key changes to the Cemeteries Bylaw are:

- Additional terms are added into the interpretation section, noting that these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- Adding (at clause 5) the ability for Council to set aside specific areas within cemeteries for specific uses (including for example, services sections, lawn cemeteries etc).
- Adding (at clause 14) the ability to set aside areas within cemeteries for specific burial types, such as natural burials (noting that the response from consultation may determine if this provision is desired or warranted).
- Adding the ability for Council to set aside specific areas within cemeteries for Grave Decorations (clause 12), as is becoming more common in other parts of New Zealand.
- Using the terms “inter” or “interment” instead of “burial,” as “inter” is the more commonly used industry practice. For the purpose of the draft bylaw, a “burial” is a type of interment, so interment is a broader, more inclusive term.
- Further detail and explanation around the sale of plots.
- Further detail around the installation and maintenance of monuments and grave structures (including who is responsible for the ongoing maintenance of such structures and the costs of that).
- Further details around burial warrants, including when they must be applied for; that a request to fill in the grave by the family can be made; and that requests for a plot for two body interments can be made.
- Clarifying where (in cemeteries) scattering of ashes is permitted.
- Further detail on disinterment, including the requirement for a disinterment warrant.
- Adding exclusive rights of burial, which mirror the provisions of the Burial and Cremations Act 1964, with the aim being for burial regulations to be more easily accessible and understood.

Section 155(1) of the Local Government Act 2002 (LGA 2002) requires that before making a bylaw, Council determine whether a bylaw is the most appropriate way of addressing perceived problems. The section 155(1) assessments for the Keeping of Animals, Alcohol, Public Places and Cemeteries Bylaws are attached to this report. Determinations in relation to section 155(2) of LGA 2002 matters are included in this report and the statements of proposal.

Providing Council passes a resolution in relation to s155(1) of LGA 2002, approval is sought to publicly notify the draft statements of proposal and bylaws attached as annexes A,B,C,D,E,F,G and H.

The proposed public consultation period is from 1 May to 3 June 2024. A Hearing for those who wish to present their submission to Council in person will be scheduled for mid-June

2024. Deliberations on submissions will be scheduled for early July 2024 and adoption of the new bylaws is scheduled for late July 2024.

2. Reason for the Report

- 2.1 This report relates to the review and replacement of the following Tararua District Council 2018 Bylaws, Keeping of Animals, Cats, Poultry and Bees, Alcohol, Public Places and Cemeteries.
- 2.2 This report includes determinations under section 155(1) of LGA 2002 that a bylaw is the most appropriate way of addressing the perceived problems identified for the keeping of animals, alcohol compliance, public places and cemeteries in Tararua district.
- 2.3 This report also includes the statements of proposal and draft Keeping of Animals, Alcohol, Public Places and Cemeteries bylaws for public feedback.

3. Background

- 3.1 Most of Tararua District Council's (TDC) bylaws expired at the end of 2023. Consequentially, the bylaws are being reviewed over the year in a series of tranches to enable consultation between long term plan requirements.
- 3.2 All TDC bylaws continue to have legal effect until they are automatically revoked under section 160A of LGA 2002, in November and December 2025 (unless reviewed prior).
- 3.3 Council proposes to review and renew the expired bylaws. The statement of proposal and draft bylaws for public consultation are attached as annexes A,B,C,D,E,F,G and H, to this report.
- 3.4 Council is also required by the Act to determine whether, in accordance with s155(1), a bylaw is the most appropriate way of addressing the perceived problems, The s155 assessments for each of the draft bylaws are included within the statement of proposals, attached as annex A,B,C,D.
- 3.5 The draft bylaws largely continue the current bylaws, with some amendments and improvements. The key changes to the bylaws are described in clause 7 of this report.

4. Determining the need for a Bylaw

- 4.1 According to s155(1) of LGA 2002, Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problems. If Council determines that a bylaw is the most appropriate way of addressing the perceived problems, it must, before making the bylaw, determine whether the proposed bylaw is the most appropriate form of bylaw; and whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

4.2 **S155(1) assessment for Council’s Keeping of Animals Bylaw 2024**

4.3 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Keeping of Animals Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to animal keeping.

1 S155(1) assessment for Council’s Alcohol Bylaw 2024

4.4 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Alcohol Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to alcohol compliance.

2 S155(1) assessment for Council’s Public Places Bylaw 2024

4.5 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Public Places Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to public places.

3 S155(1) assessment for Council’s Cemeteries Bylaw 2024

4.6 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Cemeteries Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to cemeteries.

5. Determining the Appropriate Form of the Bylaw

5.1 Section 155(2)(a) of LGA 2002 requires that before adopting a bylaw, Council determine whether the proposed bylaw is *the most appropriate form of the bylaw*.

5.2 The draft bylaws are both considered to be the most appropriate form of the bylaw. External legal advisors have reviewed the draft bylaws to help ensure this is the case.

5.3 Bylaws are consistent with all relevant legislation and are sufficiently clear and certain so that those who are subject to the bylaws understand their effect.

6. Preliminary assessment of whether the draft bylaws give rise to any implications under the New Zealand Bill of Rights 1990

6.1 Section 155(2)(b) of LGA 2002 requires that before adopting a bylaw, Council determine whether the proposed bylaw will give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

6.2 The NZBORA sets out specific rights and freedoms which are protected by legislation. The NZBORA states that the rights and freedoms covered by the Act, *may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society*.

6.3 It is not expected that the draft Keeping of Animals, Alcohol, Public Places or Cemeteries Bylaws to address perceived problems identified, would give rise to any implications under the NZBORA.

7. Key Changes to Draft Bylaws

7.1 Keeping of Animals Bylaw 2024

7.2 Additional terms are added into the interpretation section, noting that many of these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.

7.3 Adding a requirement (clause 5.2) that animals are confined within the boundaries of the property where they are usually kept (excluding cats and bees).

7.4 Adding hive limits based on property area for urban areas and hive set-back and location requirements.

7.5 Amending the current limit of 3 cats per household where an officer acting on a complaint believes the number of cats is offensive to a requirement that no more than 3 cats are kept on a premises (urban or rural) except with approval from Council (with exceptions for vets, charities such as the SPCA and catteries).

7.6 Requiring every cat aged over 6 months to be microchipped and desexed.

7.7 Simplifying the requirements for keeping pigs in an urban area (where approval from Council continues to be required).

7.8 Regulating (prohibiting) the keeping, in an urban area, of roosters, ganders, peacocks, stallions, bulls, rams and un-neutered male goats.

7.9 Requiring people to refrain from taking any action towards feral animals so as to cause them to be a nuisance; and requiring abatement from the nuisance caused by feral animals.

7.10 Ensuring persons can apply for permits/approvals from Council to keep animals and providing a mechanism for such permits to be reviewed.

7.11 Alcohol Bylaw 2024

7.12 Using the term 'alcohol' instead of liquor.

7.13 Placing the exclusion (for unopened bottles or containers) into an explanatory note, as it is explicitly provided for in section 147 of the LGA.

7.14 Using the term 'Alcohol Ban Area' instead of 'Designated Public Place', to make the meaning and purpose of such areas more easily understood.

- 7.15 Creating the ability for persons to apply to Council for a consent for any activity that would otherwise be in breach of the bylaw; and the ability for Council to issue a consent with conditions for such activities.
- 7.16 Simplifying the powers of arrest, search and seizure provisions in the bylaw by reference to the powers available to the Police under the LGA (and the requirements on the Police under the LGA when exercising such enforcement powers), noting that bylaw copies legislation provisions.
- 7.17 **Public Places Bylaw 2024**
- 7.18 Additional terms are added into the interpretation section, noting that many of these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- 7.19 Adding the term 'micromobility device' to be a catch-all phrase for bicycles, skateboards, scooters and any other small, lightweight vehicles (and removing single definitions for bicycles and skateboards).
- 7.20 Amalgamating all prohibited activities into one clause (clause 6) for ease of reference.
- 7.21 Amalgamating all activities which require approval into one clause (clause 7) for ease of reference.
- 7.22 Adding the following prohibitions in public places: (clause 6)
- 7.23 Do anything to cause or allow a nuisance to occur.
- 7.24 Obstruct, disturb or interfere with any other person in their access, use or enjoyment of that public place.
- 7.25 Litter or cause a nuisance by depositing leaflets, fliers, samples or other promotional material.
- 7.26 Placing the restrictions on freedom camping and stock control into separate schedules (for the reasons outlined in the introduction section above).
- 7.27 Changing the term 'exposing articles for sale' to 'retail display on footpaths' (clause 14) for clarity and ease of use.
- 7.28 Adding a requirement for retail displays that the operator keeps the display clean and tidy at all time (clause 14.2(f)).
- 7.29 Adding a requirement for awnings, blinds, umbrellas, sandwich boards and tables that they must be maintained to a good standard at all times (clause 15.1(g)).
- 7.30 Adding requirements for alfresco dining on footpaths (clause 16).

- 7.31 Simplifying the requirements on mobile traders and hawkers (currently in the Trading in Public Places Bylaw) into one clause which covers all selling and trading of goods and services in public places (clause 17).
- 7.32 Adding a requirement that event organisers of events in public places should obtain permission (with exceptions for small scale events etc) (clause 20).
- 7.33 Placing the process for obtaining approvals; reviews of approvals; what happens when there is non-compliance; and enforcement matters into the bylaw (most of which is currently found in the Administrative Bylaw).
- 7.34 **Cemeteries Bylaw 2024**
- 7.35 Additional terms are added into the interpretation section, noting that these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- 7.36 Adding (at clause 5) the ability for Council to set aside specific areas within cemeteries for specific uses (including for example, services sections, lawn cemeteries etc).
- 7.37 Adding (at clause 14) the ability to set aside areas within cemeteries for specific burial types, such as natural burials (noting that the response from consultation may determine if this provision is desired or warranted).
- 7.38 Adding the ability for Council to set aside specific areas within cemeteries for Grave Decorations (clause 12), as is becoming more common in other parts of New Zealand.
- 7.39 Using the terms “inter” or “interment” instead of “burial,” as “inter” is the more commonly used industry practice. For the purpose of the draft bylaw, a “burial” is a type of interment, so interment is a broader, more inclusive term.
- 7.40 Further detail and explanation around the sale of plots.
- 7.41 Further detail around the installation and maintenance of monuments and grave structures (including who is responsible for the ongoing maintenance of such structures and the costs of that).
- 7.42 Further details around burial warrants, including when they must be applied for; that a request to fill in the grave by the family can be made; and that requests for a plot for two body interments can be made.
- 7.43 Clarifying where (in cemeteries) scattering of ashes is permitted.
- 7.44 Further detail on disinterment, including the requirement for a disinterment warrant.

7.45 Adding exclusive rights of burial, which mirror the provisions of the Burial and Cremations Act 1964, with the aim being for burial regulations to be more easily accessible and understood.

8. Significance Assessment

8.1 The immediate decision before the Council, about whether to commence consultation on the draft bylaws, is not itself a significant decision. However, the decisions that will follow such consultation (such as whether to adopt the new bylaws) will be significant under the Council's Significance and Engagement Policy. Consistent with this, the LGA 2002 generally requires the Council to consult before making, amending or revoking a bylaw.

8.2 Section 156(1)(a) of LGA 2002 requires Council to use the special consultative procedure when making, amending or revoking a bylaw made under this Act, if:

- The bylaw concerns a matter identified in the local authority's Significance and Engagement Policy as being of significant interest to the public; or
- The local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of, the bylaw.

8.3 The new Keeping of Animals, Alcohol, Public Places and Cemeteries Bylaws discussed in this report are considered to be of significant interest to the public on the basis of criteria outlined in TDC's Significance and Engagement Policy.

8.4 The reviewed bylaws in this report will affect anyone who keeps animals, (*other than dogs, as requirements for dogs are contained under the TDC Dog Control Bylaw*), where alcohol may be consumed, rules pertaining to public places and rules for TDC cemeteries.

9. Consultation

9.1 Consultation is required by s156(1)(a) of the LGA 2002, the Significance and Engagement Policy is automatically triggered.

9.2 The level of engagement recommended for this issue is: Consult (using the special consultative procedure as required by s156(1)(a) of the LGA 2002).

9.3 Council will fulfil the requirements of s82 and 83 of the Act by doing the following:

- Publishing a public notice relating to consultation on the draft bylaws, including information on where to access the statements of proposals and how to provide feedback;
- Make copies of the draft bylaws, the statements of proposals and submission forms available on Council's website for the duration of the consultation period;

- Provide those interested with an opportunity to present their views to the Council in person at a Hearing.

10. Conclusion

- 10.1 This report relates to the review and replacement of Council’s Keeping of Animals, Cats, Poultry and Bees Bylaw, Alcohol Bylaw, Public Places Bylaw and Cemeteries Bylaw. These bylaws were due to be reviewed in November and December of 2023. Council must replace these bylaws with new bylaws by November and December 2025 in order to continue regulating activities pertaining to each bylaw’s respective issues.
- 10.2 The draft bylaws are largely a continuation of the current bylaws, with some amendments and improvements.
- 10.3 The recommendations at clause 1.2 of this report relates to determinations required by s155(1) of LGA 2002 at the commencement of a bylaw review. Council must first determine whether a bylaw is the most appropriate way to address the perceived problems identified for the keeping of animals, alcohol, public places and cemeteries.
- 10.4 In recommendations at clauses 1.3, 1.4, 1.5 and 1.6, Council approval is sought to publicly notify the draft Keeping of Animals Bylaw 2024, the draft Alcohol Bylaw 2024, the draft Public Places Bylaw 2024 and the draft Cemeteries Bylaw 2024. Approval is also sought to publicly notify the 4 statements of proposals that are required by section 83(1)(a)(i) of the LGA 2002 and form the basis for the consultation on the draft bylaws.
- 10.5 The recommendation at clause 1.7 of this report gives the Chief Executive the authority to approve any minor amendments to the draft bylaws or statements of proposal prior to consultation commencing.
- 10.6 The proposed consultation period is from Wednesday 1 May until Monday 3 June 2024.

Attachments

1. [Statement of Proposal - Keeping of Animals Bylaw](#)
2. [Statement of Proposal - Public Places Bylaw](#)
3. [Statement of Proposal - Alcohol Bylaw](#)
4. [Statement of Proposal Cemeteries Bylaw](#)
5. [Keeping of Animals Bylaw](#)
6. [Public Places Bylaw](#)
7. [Alcohol Bylaw](#)

8. Cemeteries Bylaw