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Late Open Agenda for a meeting of the Waikato District Council to be held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **MONDAY, 17 MAY 2021**.

*Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute Council's decision or policy until considered.*

**I. REPORTS**

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GJ Ion  
**CHIEF EXECUTIVE**

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### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	11 May 2021
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	CCL2020
<b>Report Title</b>	Local Government New Zealand – Remit

## **1. EXECUTIVE SUMMARY**

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As per discussions at the Policy & Regulatory Committee meeting on 28 April and as circulated via email, please find attached the final proposed Remit.

We are seeking the support from five other Councils in order to submit the Remit to LGNZ by 5pm on 14 May 2021.

## **2. RECOMMENDATION**

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**THAT the report from the Chief Executive be received;**

**AND THAT retrospective formal agreement of the Remit is given.**

## **3. ATTACHMENTS**

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A LGNZ Remit

## LOCAL GOVERNMENT NEW ZEALAND (LGNZ) REMIT PROPOSAL

**Proposed Remit:** That LGNZ works with Government to obtain legal protection/ indemnity from the Crown in favour of all Councils, and/or to implement a warranty scheme, for any civil liability claim brought against a Council with regards to building consent functions carried out by Consentium (a division of Kainga Ora), as any such costs should not be borne by ratepayers.

**Proposed by:** Waikato District Council

**Supported by:** TBC

### Background Information and Research

#### 1. Nature of the issue

Consentium (an internal division of Kainga Ora) has been registered as a Building Consent Authority (BCA) and has taken over building consent functions for public housing of up to four levels. Consentium is the only nationally accredited and registered non-Territorial Authority BCA.

If Kainga Ora is disestablished via a change in government or change in government approach or if the Kainga Ora properties are sold, then there is a risk that Councils, as 'last person standing' are exposed to civil liability claims in respect of the building consent functions carried out by Consentium, with such costs being borne by ratepayers.

#### 2. Background to its being raised

Kainga Ora, a Crown Entity subject to the Crown Entities Act 2004, has established its own Building Consent Authority (BCA) called Consentium.

Consentium is New Zealand's first accredited and registered non-Council BCA (accredited in November 2020 and registered by the Ministry of Business Innovation and Employment (MBIE) 9 on March 2021). Consentium is a separate division within Kainga Ora. It is not a separate legal entity.

Consentium provides building compliance services for *public housing of up to four levels* which includes:

- Processing of building consent applications
- Issuing of building consents
- Inspection of building work
- Issue of Notices to Fix
- Issue of Code Compliance Certificates
- Issue of Compliance Schedules

(BCA Functions)

### *Disestablishment of Kainga Ora/Sale of the Properties*

There is a risk that due to a change in government or government approach that Kainga Ora could be disestablished thereby taking Consentium with it; or could sell the properties.

If Kainga Ora were dissolved and/or sold its properties:

- it would no longer own the properties Consentium has provided BCA Functions for, meaning new owners may attempt to bring legal proceedings against Councils (as “the last man standing”) with regards to any existing consents granted by a Council and subsequently assigned to Consentium, via sections 213 or 91(2) of the Building Act 2004, or new consents issued by Consentium. Even if such proceedings are without merit and/or unsuccessful Councils incur the costs of defence of those proceedings;
- Councils would need to take over the BCA Functions for properties that are in the process of construction and have not had a Code Compliance Certificate issued. Issues of split liability may arise where Consentium may have negligently issued a building consent or negligently undertaken preliminary inspections, with the relevant Council completing the remainder of the process. Again, this exposes Councils to risk of legal proceedings brought by the new owners of these properties.

### *Consentium not being able to meet its share of any civil liability if claims arise*

As part of the BCA registration process Consentium had to evidence to MBIE that it will be in a position to meet its share of civil liability if claims arise in respect of the BCA Functions carried out by Consentium. A request was made for a copy of such evidence but was declined by Kainga Ora on the basis of commercial sensitivity. This is a key issue for Councils. The private certifier system under the Building Act 1991 failed when private certifiers lost their insurance. Councils were left “holding the bag” in respect of any and all properties experiencing issues where they had any involvement and could therefore be pulled into a claim. Councils do not want history to repeat.

### **3. New or confirming Existing Policy**

The issue is related to LGNZ’s existing housing policy priority, as it impacts on the consenting functions of local authorities and has potential impacts in terms of Council liability.

### **4. How the issue relates to objectives in the current LGNZ Work Programme**

As per above.

### **5. What work or action on the issue has been done and the outcome**

There has been collaboration between a few Councils with regards to obtaining legal advice on an agreement proposed by Kainga Ora pursuant to section 213 Agreement of the Building Act 2004 with regards to certain existing consents together with advice on the risks Councils are exposed to as a consequence of Consentium taking over BCA functions in their districts.

Kainga Ora declined to give an indemnity for matters that it had assumed liability for under the proposed section 213 Agreement. It further declined to provide information as to how it satisfied MBIE that it will be in a position to meet its share of civil liability if claims arise.

## **6. Any existing relevant legislation, policy or practice**

As outlined above, Kainga Ora is a Crown Entity subject to the Crowns Entities Act 2004 (CEA). Section 15(b) of the CEA specifically sets out that a Crown entity is a separate legal entity to the Crown. Section 176 of the CEA and section 49(1)(a) of the Public Finance Act 1989 (PFA) specify that the Crown is not liable to contribute towards the payment of any debts or liabilities of a Crown entity.

There is no statutory guidance on the liability of the Crown entity in tort when it is dissolved. It may be that the general position is similar to the dissolution of a company. However, in the Resource Autonomous Crown Entities, Independent Crown Entities (excluding District Health Boards and Corporations Sole), it is stated at page 59 “Although Crown entities are legally separate from the Crown, in some cases a court may decide that the Crown is liable for the agency. This will depend largely on its statutory functions and the extent of control exercised over the entity by Ministers and other central government agencies”.

Section 65ZD of the CEA empowers a Minister to give a person, organisation or government an indemnity or guarantee on behalf of the Crown if it appears to the Minister to be necessary or expedient in the public interest to do so. The indemnity or guarantee may be given on any terms and conditions that the Minister thinks fit. Any guarantee can be given in respect of performance or non-performance by another person, organisation or government. Accordingly, a Minister could provide an indemnity or guarantee to Councils in the event that Kainga Ora is dissolved, or sells its properties prior to the 10 year holding period currently contemplated.

In most states in Australia, state-backed warranties are a “last resort mechanism” protecting owners from losses arising from defective buildings, for example the Competition and Consumer Act 2010 (Cth), Part VIA and Proportionate Liability Act 2005 (NT). These act as state-backed defects insurance, covering the cost of rectifying defects for new house construction if the builder is insolvent or disappears before rectifying the defects. In its report *Liability of Multiple Defendants*, the Law Commission considered recommending the introduction of state-backed warranties in New Zealand if a proportionate liability regime was implemented, replacing the current joint and several liability regime for tortious liability.

## **7. Outcome of any prior discussion at a Zone or Sector Meeting**

None.

## **8. Evidence of Support from Zone/Sector meeting or five Council's**

As outlined above there has been collaboration from some Councils with regards to seeking legal advice on the matter and during this collaboration there was the shared concerns around exposure to future liability claims with regards to Consentium's activities, this no doubt will be indicative of concerns across the sector.

Councils in support are noted above.

## **9. Suggested Course of Action Envisaged**

LGNZ seeking legal protection/indemnity from the Crown in favour of all Councils for any civil liability claim brought against a Council with regards to building consent functions carried out by Consentium, as any such costs should not be borne by ratepayers.

LGNZ seeking a state-backed warranty to be put in place in the event Kainga Ora is disestablished, in favour of subsequent owners of Kainga Ora properties, covering any and all liability Kainga Ora/Consentium would have had in relation to those properties in order to prevent owners from pursuing Councils in respect to those losses, as any such costs should not be borne by ratepayers.

## Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Sue O’Gorman General Manager Customer Support
<b>Date</b>	7 May 2021
<b>Prepared by</b>	Hannah Beaven Corporate Planning Team Leader
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1318
<b>Report Title</b>	Adoption of the Proposed Amended Waikato District Council Keeping of Animals Bylaw 2015

## I. EXECUTIVE SUMMARY

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The purpose of this report is to present the finalised version of the proposed amended Waikato District Council Keeping of Animals Bylaw 2015 for Council adoption. This follows a review as per s.158 of the Local Government Act 2002.

On 23 November 2020, the Policy and Regulatory Committee resolved to consider and approve the proposed amendments to the Waikato District Council Keeping of Animals Bylaw 2015 (Bylaw) for public consultation, in accordance with Section 83 (Special Consultative Procedure) of the Local Government Act 2002 (LGA).

The Bylaw is made under s.145 of the LGA, with reference to the Health Act 1956. and came into effect in May 2015. The purpose of the Bylaw is to enable Council to perform its regulatory and public health obligations set out in Section 10 of the LGA. The Bylaw has a focus on animal keeping in the Waikato District that has the potential to create nuisance issues (not welfare issues specifically). In addition to general animal keeping issues covered by the Bylaw, it currently references special requirements for the keeping of:

- Pigs,
- Poultry, and
- Bees.

Additional clauses proposed through this review have also referenced special requirements for the keeping of:

- Horses

A clause on not encouraging nuisance by feral or stray animals (including cats) has also been included in the attached proposed amended Bylaw.

The proposed amended Bylaw was notified for public consultation on 2 December 2020, with submissions closing on 25 January 2021. In total, 203 submissions were received from the public.

A hearing occurred in February 2021 where eight people spoke to their submissions, with deliberations in March and April 2021. The Committee made a number of further amendments to the Bylaw following submissions and hearings.

The full review of the Bylaw at the 5-year point under s.158 of the LGA is now complete. Once the revised Bylaw is adopted by Council it will now be on a 10-year review cycle unless changes are required by legislation or as a response to community issues.

The following documents are included as appendices to this report:

Appendix I - Waikato District Council Keeping of Animals Bylaw 2015.

## **2. RECOMMENDATION**

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**THAT the report of the General Manager Customer Support be received;**

**AND THAT the reviewed and amended Waikato District Council Keeping of Animals Bylaw 2015 (Appendix I) be adopted by Council.**

## **3. BACKGROUND**

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In accordance with Section 158 of the Local Government Act 2002, every bylaw must be reviewed no later than 5 years after the date of which it was made. Any bylaw which is not reviewed within the required timeframe is automatically revoked two years after the last date on which it should have been reviewed.

The Waikato District Council Keeping of Animals Bylaw was made in 2015 and consultation has been carried out on proposed amendments to the bylaw as part of the five-year review. The review must be completed by May 2022 or the bylaw will be revoked. The bylaw is made with reference to the Health Act 1956.

The purpose of the Bylaw is to mitigate nuisance caused by the keeping of animals on private property. Serious animal welfare issues are referred, where appropriate, by Council staff to other agencies. The Bylaw has a focus on the keeping of animals on private properties in the Waikato district.

### **3.1 Consultation**

The Special Consultative Procedure was followed to advise the public of the proposed changes and staff used the following communication methods:

- Media Release/Public Notice
- Online engagement tools, including maps and schedules
- Letters to stakeholders
- Information to Community Boards and Committees
- Information to Iwi and Hapuu groups
- Council's Facebook page

A total of 203 submitters made submissions during consultation. An online tool was available for those who wanted to provide feedback online. A hearing was held on 24 February 2021 to hear from those eight submitters who wished to speak to their submission, with deliberations occurring through March and April of 2021. An additional submitter from Forest and Bird spoke at the deliberations on 30 March 2021.



## 4. DISCUSSION AND ANALYSIS OF OPTIONS

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### 4.1 SUMMARY OF CHANGES FROM FEEDBACK AND DELIBERATIONS

#### Definitions:

Following feedback, to better align the clauses of the Bylaw, and to ensure the ability to apply consistency across all bylaws, the following definitions now read:

Beehive and hive	Any receptacle housing a honeybee colony for the purposes of honey production and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes.
Bee keeping	The keeping of beehives and includes the removal of honey and bee products from the hive, but not the further processing of such products.
Nuisance	Any reasonable interference with the peace, comfort or convenience of another person including by way of excessive noise or offensive odours and includes the nuisances defined in Section 29 of the Health Act 1956 and includes the following: <ul style="list-style-type: none"> <li>(a) Where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive; and</li> <li>(b) Where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition as to be offensive; and</li> <li>(c) Where any noise emitted by an animal unreasonably interferes with the peace, comfort, or convenience of any person.</li> </ul>
Rural area	an area zoned rural, rural residential, country living, or any of the zones included in the Rural Zones Chapter in the Waikato District Plan
Urban area	an area used mainly for residential or commercial purposes. For clarity, urban area includes residential, village, heavy industrial, business, and town centre zones in the Waikato District Plan.

### **Removed clauses**

The below clauses have been removed from the proposed amended Bylaw following deliberation:

#### *Removed proposed clause 5.8*

5.8 The keeping of livestock of no more than 4 months of age on properties in an urban area is restricted to 1 animal, for 31 consecutive days, for no more than 31 days total each year

The clause was removed following submitter feedback. Submitters opposed the clause based on animal welfare issues and that limiting the number of livestock to one animal made it difficult for families with more than one child to participate in Ag Day. The revised definition of “urban” also makes the clause unnecessary.

### **Revised clauses**

The following clauses have been revised in the proposed amended Bylaw following deliberation:

#### *Revised clause 9: Horses – special requirements*

Clause 9.1 has been revised to include a minimum property size of 1200 square meters in urban areas for the keeping of horses as well as the appropriate exceptions to the clause. The clause now reads:

9.1 A person shall not keep any horse on premises smaller than 1200 square metres in an urban area except where the horses are kept:

- (a) By a registered breeder or trainer; or
- (b) In a stable or other building premises constructed specifically for the keeping of horses.

The clause has been revised following submitter feedback opposing the previous clause 9.1, which required a minimum of 2 hectares of grazeable land per horse for the keeping of horses in urban areas, and from direction given by the committee during deliberation.

Clause 9.2 has been reworded to require horse defecations to be picked up immediately, as directed by the committee during deliberation. The previous version required horse defecations to be picked up within the same day. The clause now reads:

9.2 Where any horse defecates on any public place, footpath, road or reserve in such a way that it may cause a nuisance to other users, the person who has custody of that horse shall remove and dispose of such defecations immediately and in a way that does not cause a nuisance or offence.

The intent of the clause remains unchanged.

*Revised clause 8: Bee keeping – special requirements*

Clauses 8.2 has been revised and clause 8.3 and 8.4 have been added to the bylaw following deliberation. Explanatory notes have been included in the bylaw to clarify clause 8.2(b) will include the Village zoning, which is part of Council’s proposed District Plan, and that it is a legal requirement to register beehives.

Clause 8 now reads:

8.1 Provided that the keeping of bees complies with all other requirements (with the exception of 8.3(e)) contained in this bylaw, there is no maximum number of hives for properties which are zoned rural under the Waikato District Plan.

8.2 A person may keep bees provided they comply with the following conditions:

- (a) In properties which are zoned urban under the Waikato District Plan:
  - (i) Hives are placed no closer than 5 metres to any adjoining boundary to a residential dwelling where there is no solid fence 1.8 metres or taller on that boundary; or
  - (ii) Where there is a solid fence 1.8 metres or taller on any adjoining boundary to a residential dwelling, the hives are placed no closer than 3 metres from that boundary; and
- (b) In properties which are zoned country living or rural residential under the Waikato District Plan, hives are placed no closer than 12 metres to any adjoining boundary to a residential dwelling; and

*Note - This clause will also apply to any properties which will be zoned village in any Waikato district plan subsequent to the Operative District Plan as of May 2021.*

- (c) In properties which are zoned rural under the Waikato District Plan, hives are placed no closer than 25 metres to any adjoining boundary to a residential dwelling; and
- (d) The minimum property area is 500 square metres or greater; and
- (e) Except by prior written approval, the number of hives does not exceed that which is allowed for the area of the premises as indicated in the following table:

Property Area	Number of hives
500-2000 square metres	2
2001-4000 square metres	4
4001 square metres or greater	6

8.3 Where an authorised officer considers an existing hive or hives has become or is likely to become a nuisance or potential danger to any person, they may serve a notice requiring the owner or occupier of the premises to:

- (a) relocate the hives to another area on the premises; or
- (b) develop a flight management plan to ensure that the bees flightpath is diverted from or made to go a minimum of 1.8 metres high over an adjacent premise, footpath or road; or
- (c) reduce the maximum number of hives allowed on the premises; or
- (d) remove some or all of the existing hives from the premises; or
- (e) do any other thing that, in the opinion of the authorised officer, may reduce the nuisance or potential danger.

8.4 Any beekeeper, owner or occupier of a premises who receives a notice under clause 8.4 must, without delay, comply with the notice.

*Note: If you keep bees in New Zealand, it is a legal requirement that you register your hive/s.*

The clauses have been revised following feedback from submitters suggesting a graduated scale be introduced for beehives, and to enable staff to address issues that are currently being experienced in the district. The revised clauses give staff greater options for providing direction and enforcement where nuisance occurs.

### **New clauses**

The most significant revision to the Bylaw following deliberations is the inclusion of the clause that would require Council to regulate people who interact with (provide sustenance, harbourage or comfort) or encourage feral or stray animals including cats. Submitters raised concerns regarding cats, the numbers that can be kept and strays causing nuisances issues.

*Proposed additional clause 10: Encouraging nuisances by feral or stray animals (including cats)*

The proposed clause, following deliberations, reads as below. A note has been included on the bylaw to clarify that animal rescue activities are permitted within the district.

10.1 No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal so as to cause the animal to become a nuisance to other persons.

10.2 Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the property from which such animals emanate must abate the nuisance caused by the animal(s). Abatement may include but is not limited to:

- (a) Claiming the animal(s) as a domestic owned pet and keeping it in such a state as to abate any nuisance; or
- (b) Permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
- (c) Agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

*Note: Animal rescue activities in the community are not prohibited unless they are conducted in such a way as to encourage stray or feral animals to cause nuisance. Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.*

## **4.2 OPTIONS**

Council now has the following options:

### **Option 1: Adopt the Bylaw (as attached to the staff report)**

If Council are satisfied that the review of the Bylaw has been carried out appropriately and the bylaw is appropriate to its purpose, Council can choose to adopt the Bylaw as attached to the staff report.

*Option 1 is recommended.*

### **Option 2: Make further amendments to the Bylaw**

If Council would like to re-work the Bylaw further, amendments can be made and the adoption of the Bylaw delayed until such a time as Council is satisfied that the Bylaw is appropriate to its purpose.

*Option 2 is not recommended.*

## 5. CONSIDERATION

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### 5.1 FINANCIAL

It is not envisaged that the proposed amended Bylaw will require any extra funding over that which is currently provided in operational budgets.

### 5.2 LEGAL

Council has now reviewed the Bylaw at its initial 5-year point as required by s.158 of the LGA. The Bylaw is now on a 10-year review cycle unless changes are required by legislation or in response to any issues in the community that may arise where an amendment to the Bylaw would be appropriate.

The special consultative procedure under s.83 of the Local Government Act 2002 has been observed and Council staff are satisfied that the procedure as required by that section was appropriate in the circumstances as it enabled the community to respond to the proposed bylaw and to be heard at a hearing.

When making a bylaw, Section 155 of the LGA states that Local Authorities must determine that a bylaw is the most appropriate way of addressing the perceived problem and determine whether the proposed bylaw:

- a) Is the most appropriate form of the bylaw; and
- b) Gives any rise to any implications under the New Zealand Bill of Rights Act 1990

This assessment has been carried out by Corporate Planning and Legal and the amended Bylaw is determined to be acceptable.

### 5.3 Strategy, Plans, Policy and Partnership Alignment

Staff have identified that the Proposed Amended Waikato District Council Keeping of Animals Bylaw 2015 is not in conflict with other Council plans and policies, such as the Public Places Bylaw or the Dog Control Bylaw.

### 5.4 Assessment of Significance and Engagement Policy and of External Stakeholders

The review of this bylaw triggers Council's Significance and Engagement Policy; accordingly, the Special Consultative Procedure was required and undertaken.

Highest levels of engagement	Inform <input type="checkbox"/>	Consult <input checked="" type="checkbox"/>	Involve <input checked="" type="checkbox"/>	Collaborate <input checked="" type="checkbox"/>	Empower <input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	Section 83 consultation has been completed				

Planned	In Progress	Complete	
		✓	Internal
		✓	Community Boards/Community Committees
		✓	Waikato-Tainui/Local Iwi and Hapuu
		✓	Households
		✓	Business

## 6. CONCLUSION

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The proposed amended Waikato District Council Keeping of Animals Bylaw 2015 was notified for public consultation under the SCP. Having considered all submissions made and heard those who spoke to their submissions at the hearing, the Policy and Regulatory Committee made further amendments to the proposed amended Bylaw.

The Bylaw, with amendments following consultation, is attached to this staff report for adoption by Council.

Following adoption of the amended Bylaw, public notices will be placed in local newspapers and on the Council website, and all those who made submissions during consultation will be contacted directly about Councils decisions.

The Bylaw is also required to be signed by the Mayor and Chief Executive. This will be arranged for a time outside the Council meeting to allow the Bylaw to be populated with the appropriate Council resolution.

## 7. ATTACHMENTS

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Appendix I - Waikato District Council Keeping of Animals Bylaw 2015

# Waikato District Council

## Keeping of Animals Bylaw 2015

Waikato District Council, in exercise of its powers under the Local Government Act 2002 and its respective amendments, and all other relevant powers, hereby makes the following bylaw.

### Part one: Introduction

#### 1.0 Short title, commencement and application

- 1.1 This bylaw shall be known as the “Waikato District Council Keeping of Animals Bylaw 2015”
- 1.2 The bylaw shall apply to the Waikato District.
- 1.3 The bylaw shall come into force on 1 May 2015

#### 2.0 Revocation

The “Waikato District Council Keeping of Animals Bylaw 2007” and the Franklin District Council Keeping of Animals, Poultry and Bees Bylaw 2007” are hereby revoked from the date this bylaw comes into force.

#### 3.0 Definitions

For the purposes of this Bylaw, the following definitions shall apply:

Animal	any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes the carcass or constituent parts thereof, but does not include human beings or dogs.
Annoyance	to harass repeatedly causing anger or mental distress
Authorised Officer	any person for the time being appointed or authorised by the Council to carry out general or specific duties arising from any of the provisions of this bylaw, unless stated otherwise.
Beehive and hive	Any receptacle housing a honeybee colony for the purposes of honey production and includes 1 receptacle per colony used solely for the purposes of queen breeding, hive maintenance and swarm prevention purposes.



Bee keeping	The keeping of beehives and includes the removal of honey and bee products from the hive, but not the further processing of such products.
Council	the Waikato District Council
Livestock	means cattle, deer, llamas, alpacas, donkeys, mules, horses (and ponies of 148cm or less in height), sheep, goats, pigs, and any other animal kept in captivity or farmed, and dependent on humans for their care and sustenance. "Stock" shall have the same meaning as "Livestock".
Nuisance	<p>Any reasonable interference with the peace, comfort or convenience of another person including by way of excessive noise or offensive odours and includes the nuisances defined in Section 29 of the Health Act 1956 and includes the following:</p> <ul style="list-style-type: none"> <li>(a) Where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive; and</li> <li>(b) Where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition as to be offensive; and</li> <li>(c) Where any noise emitted by an animal unreasonably interferes with the peace, comfort, or convenience of any person.</li> </ul>
Pets	a domestic animal kept primarily as a companion.
Pigsty	means a covered enclosure used for the housing of pigs.
Poultry	any live bird that is kept or raised for the purpose of producing eggs or meat for human consumption and includes ducks, chickens, geese, pigeons, turkeys, pheasants, game birds including quail and peacocks, and domestic fowls of all descriptions.
Premises	any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, building, and places adjoining each other and occupied together shall be deemed to be the same premises.
Public place	any place that, at any material time, is under the control of the Council and is open to or being used by the public, 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, but excludes the Hamilton Zoo.

Rural area	an area zoned rural, rural residential, country living, or any of the zones included in the Rural Zones Chapter in the Waikato District Plan
Threat	an action that is likely to occur that will cause damage or danger.
Urban area	an area used mainly for residential or commercial purposes. For clarity, urban area includes residential, village, heavy industrial, business, and town centre zones in the Waikato District Plan.

## 4.0 Exceptions

- 4.1 This bylaw does not apply to the Hamilton Zoo.
- 4.2 This bylaw does not apply to the Tuakau Saleyards.

## 5.0 Keeping of animals

- 5.1 No person shall keep permit or suffer to be kept any bees or other animal (including livestock and poultry) which is or is likely to be a nuisance or a threat to public health or safety.
- 5.2 No person shall keep any noisy animal, bird, or poultry which causes or is likely to cause a nuisance to any other person.
- 5.3 No person shall allow any animal (including livestock and poultry) in a public place in a manner which is or is likely to be a nuisance or a threat to public health or safety.
- 5.4 In addition to this bylaw, any person keeping animals (including livestock and poultry) shall comply with any other relevant statutory requirements.
- 5.5 No person shall slaughter an animal or dismember, handle, process or dispose of the carcass or remains of an animal on any premises which causes or is likely to cause a nuisance or threat to public health or safety.
- 5.6 Any person keeping an animal shall ensure the animal is confined to the boundaries of the premises where the animal is kept.

## 6.0 Keeping of pigs – special requirements

- 6.1 No person shall keep any pigs in an urban area.
- 6.2 No person shall keep any pigs in a manner which creates or is likely to create a nuisance, or which is, or is likely to be injurious to the health of any person.
- 6.3 No pigsty or pig run shall be erected closer than 20m from any dwelling, factory, or other building whether wholly or partially occupied, or within 30m of the boundary of any adjoining premises.

## **7.0 Keeping of poultry – special requirements**

- 7.1 No person shall keep more than 6 head of poultry, pet or otherwise on premises less than 550m<sup>2</sup>.
- 7.2 No person may keep more than 12 head of poultry, pet or otherwise, in an urban area on premises greater than 550m<sup>2</sup>.
- 7.3 No person shall keep a rooster on any property which is within an urban area or which is zoned country living under the Waikato District Plan.
- 7.4 No poultry shall be kept in an urban area unless they are provided with enclosed housing (whether mobile or immobile) that is:
- (a) Properly constructed in accordance with the Building Act 2004 as the case may require; and
  - (b) Rainproof; and
  - (c) In the case of a permanent structure, provided with a floor of concrete or other approved material raised 150 millimetres above ground level to which a poultry run may be attached; and
  - (d) Adequately graded and drained.
- 7.5 No poultry house (whether mobile or immobile) or poultry run shall be located:
- (a) within 10m from any dwelling, factory, or other building; or
  - (b) within 3 m of the boundary of any adjoining premises.
- 7.5 Every poultry house and poultry run shall be maintained in good repair and in a clean condition free from any offensive smell or overflow and free from vermin.
- 7.6 Where an authorised officer considers the keeping of chickens has become or is likely to become a nuisance or potential danger to any person, they may serve a notice requiring the owner or occupier of the premises to:
- (a) relocate the chickens to another area on the premises; and/or
  - (b) reduce the maximum number of chickens allowed on the premises; and/or
  - (c) remove some or all of the existing chickens from the premises; and/or
  - (d) do any other thing that, in the opinion of the officer, may reduce the nuisance or potential danger.
- 7.7 Any person, owner or occupier of a premises who receives a notice under clause 7.7 must, without delay, comply with the notice.

## 8.0 Bee keeping – special requirements

- 8.1 No person shall keep bees if in the opinion of an authorised officer, the keeping of bees is, or is likely to become, a nuisance or potential danger to any person.
- 8.2 Provided that the keeping of bees complies with all other requirements (with the exception of 8.3(e)) contained in this bylaw, there is no maximum number of hives for properties which are zoned rural under the Waikato District Plan.

8.3 A person may keep bees provided they comply with the following conditions:

- (a) In properties which are zoned urban under the Waikato District Plan:
- (i) Hives are placed no closer than 5 metres to any adjoining boundary to a residential dwelling where there is no solid fence 1.8 metres or taller on that boundary; or
  - (ii) Where there is a solid fence 1.8 metres or taller on any adjoining boundary to a residential dwelling, the hives are placed no closer than 3 metres from that boundary; and
- (b) In properties which are zoned country living or rural residential under the Waikato District Plan, hives are placed no closer than 12 metres to any adjoining boundary to a residential dwelling; and

*Note - This clause will also apply to any properties which will be zoned village in any Waikato District Plan subsequent to the Operative District Plan as of May 2021.*

- (c) In properties which are zoned rural under the Waikato District Plan, hives are placed no closer than 25 metres to any adjoining boundary to a residential dwelling; and
- (d) The minimum property area is 500 square metres or greater; and
- (e) Except by prior written approval, the number of hives does not exceed that which is allowed for the area of the premises as indicated in the following table:

Property Area	Number of hives
500-2000 square metres	2
2001-4000 square metres	4
4001 square metres or greater	6

- 8.4 Where an authorised officer considers an existing hive or hives has become or is likely to become a nuisance or potential danger to any person, they may serve a notice requiring the owner or occupier of the premises to:
- (a) relocate the hives to another area on the premises; or
  - (b) develop a flight management plan to ensure that the bees flightpath is diverted from or made to go a minimum of 1.8 metres high over an adjacent premise, footpath or road; or
  - (c) reduce the maximum number of hives allowed on the premises; or
  - (d) remove some or all of the existing hives from the premises; or

- (e) do any other thing that, in the opinion of the authorised officer, may reduce the nuisance or potential danger.

8.5 Any beekeeper, owner or occupier of a premises who receives a notice under clause 8.4 must, without delay, comply with the notice.

*Note: If you keep bees in New Zealand, it is a legal requirement that you register your hive/s.*

## 9.0 Horses – special requirements

9.1 A person shall not keep any horse on premises smaller than 1200 square metres in an urban area except where the horses are kept:

- (a) By a registered breeder or trainer; or
- (b) In a stable or other building premises constructed specifically for the keeping of horses.

9.2 Where any horse defecates on any public place, footpath, road or reserve in such a way that it may cause a nuisance to other users, the person who has custody of that horse shall remove and dispose of such defecations immediately and in a way that does not cause a nuisance or offence.

## 10.0 Encouraging nuisances by feral or stray animals (including cats)

10.1 No person shall provide sustenance, harbourage or comfort to an animal that reasonably appears to be a feral or stray animal so as to cause the animal to become a nuisance to other persons.

10.2 Where an animal that is causing a nuisance reasonably appears to be a feral or stray animal, the owner or occupier of the property from which such animals emanate must take all reasonable steps to abate the nuisance caused by the animal(s). Abatement may include but is not limited to:

- (a) Claiming the animal(s) as a domestic owned pet and keeping it in such a state as to abate any nuisance; or
- (b) Permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
- (c) Agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

*Note: animal rescue activities in the community are not prohibited unless they are conducted in such a way as to encourage stray or feral animals to cause nuisance. Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.*

## 11.0 Service of notices

- 11.1 Any notice, order or other document which this bylaw requires to be served or given to any person shall be deemed to have been duly served or given if it is left at their residence or work place or posted to their last known residential address.

## 12.0 Offences and penalties

- 12.1 Any person who fails to comply with the requirements of this bylaw commits an offence and may be liable to a penalty under the Local Government Act 2002 or the Health Act 1956, as the case may be.

This bylaw was made pursuant to a resolution passed by the Waikato District Council on 13 April 2015.

THE COMMON SEAL of WAIKATO  
DISTRICT COUNCIL was hereto affixed in the presence of:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Executive

This bylaw was reviewed and amended on **XXX**. A further review will occur on or before **XXX**.

<b>Activity</b>	<b>Key Date</b>	<b>Council Resolution</b>
Bylaw made	1 May 2015	WDC1504/06/1/5
Bylaw reviewed	On Day Month 2021	TBC
Next review due date	By Day Month 2031	TBC