

Far North District Council

Review of Revoked Bylaws

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1 EXECUTIVE SUMMARY

Far North District Council (FNDC) has several bylaws that have automatically revoked (or will soon be revoked). A prioritised work programme is required to determine which bylaws should be enacted or rolled over and in what order.

A review of the history, purpose and content of each bylaw was undertaken, based on the wording of the bylaw, historical FNDC records, and staff interviews. This was supplemented by a desktop review of the relevant legislation and the approach taken by other councils. An assessment of risk and need for each bylaw was then undertaken to develop a proposed prioritised work programme (noting that the actual order in which bylaws are developed and their scope, is a policy decision for elected members of Council).

The proposed work programme is set out below. This also incorporates current best practice trends within the sector. In particular, there is a trend towards less regulation, making bylaws easier to navigate and understand, combining policy areas within one bylaw (rather than split over two or more bylaws), and the use of controls, guidelines and explanatory notes to supplement a bylaw. The cumulative effect of these trends is to simplify bylaws with the end user in mind, while also ensuring that the perceived problems are appropriately regulated by the local authority.

Proposed Prioritised Bylaw Work Programme

Recommendation	Category/Bylaws	Rationale/Action
Priority 1: Immediate action	Land Drainage Bylaw Earthworks Bylaw	Bylaws can be enacted/rolled over in current form, with minor amendments.
Priority 2: Short term action	Control of the Use of Public Places Bylaw Control of Vehicle Crossings Bylaw Mobile Shops and Hawkers Bylaw Reserves Bylaw Keeping of Animals, Poultry and Bees Bylaw	Bylaws require updating and simplification. Possibly restructure into three bylaws covering: Public Places and Reserves Trading and Signage Animal Management
Priority 3: Longer term action	Trade Waste Bylaw	A review has been undertaken and Council has requested further policy work on this bylaw as part of the rating and revenue policy project.

Recommendation	Category/Bylaws	Rationale/Action
<i>No action</i>	Control of Amusement Devices and Entertainment Premises Bylaw	No longer required

2 INTRODUCTION

The Far North District Council (FNDC) has discovered that seven bylaws have been automatically revoked under the operation of s160A of the Local Government Act 2002 (LGA). A further two bylaws will be automatically revoked in the near future if they are not reviewed. These bylaws are detailed in the table below.

Bylaw	Date Revoked ¹
Control of Amusement Devices and Entertainment Premises ("Amusement Devices Bylaw")	16 October 2016
Land Drainage ("Drainage Bylaw")	16 October 2016
Trade Waste ("Trade Waste Bylaw")	Review was completed 5 June 2016. However no new bylaw was made within two years of this review date so reverts back to being automatically revoked on 16 October 2016.
Control of the Use of Public Places ("Public Places Bylaw")	25 March 2017
Control of Vehicle Crossings ("Vehicle Crossings Bylaw")	26 May 2017
Mobile Shops and Hawkers ("Mobile Shops Bylaw")	29 July 2017
Reserves ("Reserves Bylaw")	9 December 2017
Keeping of Animals, Poultry and Bees ("Animals Bylaw")	Will be automatically revoked in September 2019
Control of Earthworks ("Earthworks Bylaw")	Will be automatically revoked in February 2020

¹ Revocation dates provided by FNDC

The purpose of this report is to provide an expert analysis of each bylaw that identifies the need for new bylaws and an absolute ranking for the bylaws based on a needs and risk assessment. It considers the following questions:

- What was the purpose and relevant issues relating to each revoked bylaw?
- What is the FNDC's policy position on the relevant issues that related to each revoked bylaw?
- What is the consequence to FNDC of not creating new bylaws to address the issues and problems regulated via the revoked bylaws?
- What is current best practice and what action is recommended for each revoked bylaw?

This report is structured in the following way.

- Section 3 contains an overview of the analysis undertaken, setting out the approach used.
- Section 4 sets out a proposed work programme.
- Sections 5 to 13 contain a review of each revoked (and soon to be revoked) bylaw.
- Appendices 1 to 4 contain more detailed information.

3 OVERVIEW OF ANALYSIS

3.1 Data Collection and Analysis

The following data was collected and reviewed.

- A desktop review was undertaken of the FNDC bylaws and associated documents, including historical council reports and statements of proposal relating to the adoption of each revoked bylaw.
- Relevant legislation and central government processes and policies were reviewed.
- FNDC staff who have policy and operational knowledge of the bylaws were interviewed. A list of the staff interviewed is contained in **Appendix 1**.
- A desktop review was undertaken of the approach taken by other local authorities. This included reviewing relevant bylaws, council reports, and statements of proposal **Appendix 2**.

Each revoked bylaw was reviewed to determine the purpose, history, use, and policy rationale for the bylaw.

3.2 Control Options

The analysis of each revoked bylaw considered the options available to control or regulate the perceived problem. These are as follows.

- **Rely on alternative means of regulation.** Some activities are regulated by other government legislation and agencies.
- **Non-regulatory approaches.** This includes relying on education, guidelines and signage.
- **Bylaw: General nuisance provision.** Under this approach, a bylaw would have a general nuisance provision which places a general obligation to ensure that an activity does not cause a nuisance to any other person or property owner.
- **Bylaw: Specific standards.** The bylaw would include specific controls or standards. These would set out in some detail the specific actions or standards that must be complied with.
- **Bylaw: Permit/Licence.** The bylaw would require a permit, licence, or some other form of written approval for certain activities.

These options are not mutually exclusive. For example, a bylaw may include specific standards as the main control, supported by a requirement for a permit or licence in certain circumstances. Alternatively, it may be appropriate to include a general nuisance provision, supported by non-regulatory approaches such as guidelines.

A recommended approach to control options is made for each revoked (and soon to be revoked) bylaw

3.3 Prioritisation

A prioritisation exercise that considered risk and need was undertaken. This used a two-pronged approach using a risk matrix and then an assessment of need.

Risk Matrix

A risk matrix was developed to identify and prioritise the risk of the perceived problems associated with each revoked (or soon to be revoked) bylaw. This matrix uses a combination of likelihood and consequence to assess and analyse risk (which is a standard approach to risk evaluation). Details are set out in **Appendix 3**.

Each bylaw was assessed against nine criteria: nuisance, public health and safety, offensive behaviour in a public place, effect on public infrastructure, environmental protection, economic factors, operational factors, public interest and reputation, and financial impacts. These factors were assessed based on the likelihood and consequence of risk associated with that revoked bylaw. They were then given a rating and scored. These were then converted into a rank of high, medium and low risk. The outcomes of this risk assessment are contained in section 4 of this report.

Assessment of Need

Each bylaw was assessed based on the following questions.

- Is a bylaw needed?
- Does the bylaw regulate a medium or high risk issue?
- Are substantive changes required to the revoked/soon to be revoked bylaw?
- Was the bylaw being actively applied prior to revocation?

Based on these questions the revoked/soon to be revoked bylaws were given a priority. This is set out in the proposed work programme in section 4 of this report.

3.4 Current Best Practice

The review considered the approach to bylaws taken by other local authorities to determine current best practice. This review highlights the following best practice trends.

There is a general move to minimise the extent of regulation and there is a trend towards making bylaws easier to navigate and understand. Subject matter areas are being combined into one bylaw, rather than split over two or more bylaws, which is trending towards a reduction in the number of bylaws in force. As well, there is a focus on simplified and plain English writing.

An emerging practice relates to the use of controls, explanatory notes and guidelines to supplement a bylaw. Section 151(2) of the LGA provides as follows.

A bylaw may leave any matter or thing to be regulated, controlled or prohibited by the local authority by resolution either generally, for any specified class of case, or in a particular case.

As an example, Auckland Council has used controls and guidelines in its Animal Management Bylaw 2015. It has specified minimum standards in the bylaw, supplemented and supported by binding controls and non-binding guidelines. These controls and guidelines cover beekeeping in urban areas, keeping stock in urban areas, and horse riding in a public place. The guidelines assist the public to understand and comply with the bylaw and provide additional sources of best practice information.

Non-binding explanatory notes within the text of a bylaw are also used by Auckland Council and some other councils to provide additional guidance and information.

The approach of using controls and guidelines and explanatory notes produces a simplified bylaw, supported by controls on specific issues, which can be more easily amended by council as circumstances and understanding of best practice changes. The bylaw will though, need to provide clarity on which provisions are enforceable and binding (versus non-binding guidelines and information).

4 PROPOSED WORK PROGRAMME

4.1 Bylaw making powers

Sections 145 and 146 of the LGA provide councils with the following bylaw-making powers.

145 General bylaw-making power for territorial authorities

A territorial authority may make bylaws for its district for 1 or more of the following purposes:

- (a) protecting the public from nuisance:*
- (b) protecting, promoting, and maintaining public health and safety:*
- (c) minimising the potential for offensive behaviour in public places.*

146 Specific bylaw-making powers of territorial authorities

Without limiting section 145, a territorial authority may make bylaws for its district for the purposes—

- (a) of regulating 1 or more of the following:*
 - (i) on-site wastewater disposal systems:*
 - (ii) waste management:*
 - (iii) trade wastes:*
 - (iv) solid wastes:*
 - (v) keeping of animals, bees, and poultry:*
 - (vi) trading in public places:*
- (b) of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with 1 or more of the following:*
 - (i) water races:*
 - (ii) water supply:*
 - (iii) wastewater, drainage, and sanitation:*
 - (iv) land drainage:*
 - (v) cemeteries:*
 - (vi) reserves, recreation grounds, or other land under the control of the territorial authority:*

Sections 145 and 146 of the LGA do not require a council to enact specific bylaws or prescribe the form of a bylaw². It does not for example, require a separate bylaw for each of the matters specified in s146. It is open for a council to enact a bylaw that covers several related issues.

4.2 Proposed work programme

The review of the revoked (and soon to be revoked) bylaws assessed the risk associated with each bylaw. This is set out in **Appendix 3**. The overall risk ranking was as follows.

² An exception is the Dog Control Act 1996, which requires a council to have a policy and bylaw for dog control. It is also noted that section 148 of the LGA sets out special process requirements for bylaws relating to trade waste.

Bylaw	Risk Score	Risk Rating
Amusement Devices and Entertainment Premises Bylaw	11	Low
Keeping of Animals, Poultry and Bees Bylaw	16	Medium
Control of Earthworks Bylaw	18	Medium
Land Drainage Bylaw	15	Medium
Mobile Shops and Hawkers Bylaw	21	High
Control of the Use of Public Places Bylaw	22	High
Reserves Bylaw	24	High
Trade Waste Bylaw	16	Medium
Control of Vehicle Crossings Bylaw	19	Medium

As well, a needs assessment was undertaken to determine a proposed work programme for review (which used risk as one factor to determine priority for review). This is set out below and in more detail in

Appendix 4.

	Amusement Devices	Earthwork	Land Drainage	Animals	Mobile Shops	Public Places	Reserves	Vehicle Crossings	Trade Waste
Is a bylaw needed?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Does the bylaw regulate a medium or high risk issue?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are substantive changes required to the revoked/current the Bylaw?		No	No	Yes	Yes	Yes	Yes	Yes	Yes
Was the bylaw being actively applied prior to revocation?				Yes	Yes	Yes	Yes	Yes	No

Prioritisation	No Priority	Priority 1	Priority 1	Priority 2	Priority 2	Priority 2	Priority 2	Priority 2	Priority 3
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Priority 1	Immediate action recommended
Priority 2	Short-term action recommended
Priority 3	Longer-term action recommended
No priority	No action recommended

Based on the needs assessment, a proposed work programme is set out below (noting though, that this is will be a policy issue for elected members of Council to make).

Recommendation	Category/Bylaws	Rationale/Action
Priority 1: Immediate action	Land Drainage Bylaw Earthworks Bylaw	Bylaws can be rolled over in current form, with minor amendments.
Priority 2: Short term action	Control of the Use of Public Places Bylaw Control of Vehicle Crossings Bylaw Mobile Shops and Hawkers Bylaw Reserves Bylaw Keeping of Animals, Poultry and Bees Bylaw	Bylaws require updating and simplification. Possibly restructure into three bylaws covering: Public Places and Reserves Trading and Signage Animal Management
Priority 3: Longer term action	Trade Waste Bylaw	A review has been undertaken and Council has requested further policy work on this bylaw as part of the rating and revenue policy project.
No action	Control of Amusement Devices and Entertainment Premises Bylaw	No longer required

5 CONTROL OF AMUSEMENT DEVICES AND ENTERTAINMENT PREMISES BYLAW

5.1 Purpose of the Bylaw

The purpose of the Amusement Devices Bylaw is to ensure amusement devices and entertainment premises used by the public are managed and operated in a safe manner.

The bylaw addresses three key issues:

- a. Amusement devices
- b. Entertainment premises
- c. Shooting galleries

The Amusement Devices Bylaw is fundamentally intended to address issues of public health and safety, amenity and nuisance.

5.2 Core Provisions

5.2.1 Amusement devices

This aspect of the Amusement Devices Bylaw covers the licencing and operation of amusement devices, being power driven devices such as a Ferris wheel, merry-go-round or roller coaster.

The Amusement Devices Bylaw relates to the Amusement Devices Regulations 1978. These regulations were originally made under the Machinery Act 1950. They are now governed by the Health and Safety at Work Act 2015 (HSWA).

The regulations require as follows:

- Amusement devices must be registered with Worksafe, which requires a certificate of examination from a registered engineer.
- Once registered, a permit to operate is required from the appropriate council. The regulations set out site safety requirements for the issue of a permit, namely:
 - a. the ground on which the device is erected is capable of supporting it without risk of subsidence
 - b. there is sufficient clearance between any part of the device and any fixed or moving objects in its vicinity to prevent injury to any person when the device is in operation
 - c. such protective fences or barriers as the local authority may require are erected
 - d. in all other respects, the erection and proposed operation of the device complies with the local authority's bylaws.
- A permit can also be cancelled if the council is satisfied that the device cannot be operated safely.

Ongoing safety to workers and others (including customers and the public) is also covered by the HSWA.

The Amusement Devices Bylaw regulates the requirements for the granting of a permit by the council and provides additional conditions relating to ongoing operational safety.

5.2.2 Entertainment premises

This aspect of the Amusement Devices Bylaw requires entertainment premises to be licensed.

Entertainment premises include fairs, amusement parks, amusement galleries, video game parlours, skating rinks, billiard rooms, shooting galleries, and other places of entertainment for the public.

The core provisions of this aspect of the Bylaw are as follows.

- Regulates the granting of a licence to person of good character to operate an entertainment premises. These are required to be renewed each year.
- Restricts hours of business.
- Specifies building conditions, relating to toilets, cleanliness and maintenance.
- Places prohibitions on alcohol, gambling, and disorderly or threatening behaviour.

5.2.3 Shooting galleries

This aspect of the Amusement Devices Bylaw regulates the construction, operation and maintenance of shooting galleries³, including provisions relating to firearms and projectiles used, to ensure the safety of people using the premises and the general public.

5.3 Bylaw History and Use

This bylaw was automatically revoked in October 2016.

The bylaw was reviewed by the Far North District Council in 2009. During that review, the following issues were identified:

Problems will arise if there is no legal framework within which the Council can manage and control the use of public places, or ensure premises or facilities that provide entertainment to the general public (which have the potential to cause harm or injury) are monitored and controlled to ensure all safety measures are in place.

The cost of processing and assessing applications for those wishing to operate from a public place, or operate amusement devices or premises, will not be recoverable if Council does not have the authority to set certain fees and charges for licenses that are required to be issued for the use of public places and relevant places of entertainment.

Currently FNDC receives around eight applications a year for a permit to operate an amusement device at events held within the District. The permit is granted if the applicant has a certificate of registration from

³ Note: This Bylaw is not intended to cover gun clubs or rifle ranges.

Worksafe. No inspections are carried out by FNDC. No licences have been issued for entertainment premises or shooting galleries.

5.4 Control Options

5.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Amusement Devices	✓✓				
Entertainment Premises	✓✓				
Shooting Galleries	✓✓				

5.4.2 Discussion

Alternative methods exist to regulate these activities other than through a bylaw.

- Safety for all activities is regulated through the HWSA .
- Safety in relation to amusement devices is regulated through the Amusement Devices Regulations.
- The fee payable to council for a permit for an amusement device is contained in the Amusement Devices Regulations.
- Alcohol is regulated through Sale and Supply of Alcohol Act 2012 (with licences issued by District Licensing Committees).
- Gambling is regulated through the Gambling Act 2003 by the Department of Internal Affairs.
- The Police have powers to deal with a number of matters relating to nuisance and offensive behaviour.

FNDC is one of only a small number of councils that regulates these activities through a bylaw, suggesting that this is no longer best practice. None of the larger local authorities regulate these activities through a specific bylaw (see **Appendix 2**). FNDC staff also confirmed that there are no policy reasons to continue to regulate these activities through a bylaw.

5.5 Prioritisation

The risk assessment for this bylaw is rated as low (see **Appendix 3**). A bylaw is no longer necessary to address the perceived problem. Based on the needs assessment, it is not a priority for renewal (see **Appendix 4**).

5.6 Recommendations

Take no further action as alternative methods exist to address the perceived problem.

6 LAND DRAINAGE BYLAW

6.1 Purpose of the Bylaw

The purpose of the Land Drainage Bylaw is to enable regulation of privately-owned drainage assets within the Far North District. It covers four drainage districts, which are overseen by Land Drainage Committees: Kaitaia, Kaikino, Waiharara and Motutangi drainage areas.

Council is empowered to make this bylaw under s145 and s146(b)(iv) of the LGA. Other relevant legislation includes:

- Land Drainage Act 1908
- Local Government Act 1974

The Land Drainage Bylaw is fundamentally intended to address issues of public health and safety, property damage, nuisance, and environmental protection.

6.2 Core Provisions

The Land Drainage Bylaw addresses the following key issues:

- a. Requirement by the landowner to maintain access to drainage channels.
- b. Restrictions on connection of private drains to drainage channels.
- c. Requirement on the landowner to ensure no obstructions interfere with the flow of water in a drainage channel or any damage to occur. Council can require the removal of any obstructions and repair of any damage.
- d. Restrictions on modification to drainage channels.
- e. Prohibition on discharge of pollutants into the drainage channel which may cause a nuisance or be injurious to health or the proper care of the drainage channel.
- f. Restrictions on crossings of drainage channel and access by stock.
- g. Provisions relating to inspections and penalties for breach.

6.3 Bylaw History and Use

The Land Drainage Bylaw was automatically revoked in October 2016.

FNDC's website advises the the Land Drainage Bylaw relates to:

The Kaitaia, Kaikino, Waiharara and Motutangi drainage areas, all of which are in the Te Hiku Ward. The origin of many of these drainage areas date back to the early 20th century, when they were developed for the purpose of converting wetlands and swamps into productive farm land. They were then expanded to provide a measure of safety for the district's urban areas. Now, the land drainage areas reduce flooding in urban Kaitaia and Awanui, while also protecting rural land, lowering groundwater levels to improve productivity.

Recently the management of these drainage areas was split between the Far North District Council (we manage farm drainage) and the Northland Regional Council (rivers and main tidal flows) to maintain the standard/quality of land and drainage. This management is overseen by relevant drainage committees.

The Land Drainage Bylaw was reviewed by the Far North District Council in 2009. During that review, the following issues were identified:

Improperly managed and maintained land drainage assets can impact negatively on contiguous properties. This bylaw is a necessary tool required to ensure the efficient management of the key assets within these designated areas.

This bylaw:

- *Ensures the safe and efficient creation, operation, maintenance and renewal of all public land drainage networks;*
- *Ensures proper hazard management to prevent or minimise flooding and erosion;*
- *Minimises adverse effects on the local environment particularly freshwater ecological systems quality, and assists in maintaining receiving water quality;*
- *Ensures that land drainage networks are properly maintained;*
- *Ensures protection of Council land drainage assets and the health and safety of employees;*
- *Sets out acceptable types of connection to land drainage networks.*

The Land Drainage Bylaw is used as a mechanism to require landowners to maintain and keep drains clear. It also ensures FNDC has access to maintain the flow of water within the drainage channel. It does this primarily through weed control.

6.4 Control Options

6.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/ Licence
Management of Land Drainage Assets				✓✓	

6.4.2 Discussion

The Land Drainage Bylaw is necessary to ensure the proper functioning of the drainage channels within the four drainage districts. Without a bylaw, there is a risk of damage and obstruction to the channels

and the flow of water. This could have a significant impact on affected rural landowners. FNDC's ability to require remediation works and recover costs would be affected.

Specific bylaw provisions are required relating to matters such as access, maintenance, remediation, and penalties. The Land Drainage Bylaw could be enacted in its current form, with some updating to ensure it is easy to understand.

6.5 Prioritisation

The risk assessment for this bylaw is rated as medium (see **Appendix 3**). Based on the needs assessment, the Land Drainage Bylaw is a high priority for renewal (**Appendix 4**).

6.6 Recommendations

Take immediate action to enact a Land Drainage Bylaw.

7 TRADE WASTE BYLAW

7.1 Purpose of the Bylaw

The purpose of the Trade Waste Bylaw is to control trade waste discharged into the sewerage system to ensure the protection of the wastewater treatment personnel and assets, to meet the requirements of the Resource Management Act, and to provide equitable spread of costs between domestic and trade waste discharges.

The Council is empowered to make this Bylaw under s145 and s146(a)(i11) of the LGA. Other relevant legislation includes:

- Resource Management Act 1991
- Health Act 1956
- Building Act 2004
- Waste Minimisation Act 2008
- Health and Safety at Work Act 2015
- Hazardous Substances and New Organisms Act 1996

The Trade Waste Bylaw is fundamentally intended to address issues of public health and safety, environmental protection, and key public infrastructure (the public sewer) from damage.

7.2 Core Provisions

The Trade Waste Bylaw addresses the following key issues:

- Control of discharge of trade waste into the sewerage system and consents requirements.
- Trade waste approval criteria.
- Sampling, testing and monitoring requirements.

7.3 Bylaw History and Use

The Trade Waste Bylaw was automatically revoked in October 2016.

The Bylaw was reviewed by the Far North District Council in 2016 and 2017. That review identified that:

If not controlled, trade waste can be harmful to our wastewater treatment process, or use a disproportionate percentage of the reticulation and/or the treatment capacity.

It also identified that:

The recommended approach is to continue to have a Trade Waste Bylaw for the District, and, to revise the existing Bylaw. The existing Bylaw has not been operationalised and charges have not been levied to date under the Trade Waste Bylaw for discharges into the Council wastewater network. The scope and extent of trade premises discharges is not currently known. This work

needs to be undertaken as part of developing a revised Bylaw. Voluntary agreements with trade waste premises can be reached to help minimise harm to the natural environment.

Council adopted the Statement of Proposal for the Trade Waste Bylaw on 11 May 2017, and consultation ran from 26 June - 28 August 2017, with 18 submitters making formal submissions. Of these submissions, 16 oppose the proposed changes and two support them. Nine submitters asked to speak at the hearing. A new bylaw has not been adopted. The Strategy Committee resolved on 11 October 2017:

- a) That the report entitled "Proposed Trade Waste Bylaw Consultation" be left to lie on the table.*
- b) And that Council staff organise workshop(s) with elected members and community representatives.*
- c) And that a subsequent report be brought back to the Strategy Committee.*

The outstanding issue relates to fees and charges payable pursuant to the Bylaw. This issue is to be addressed as part of FNDC's rating and revenue project.

7.4 Control Options

7.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Discharge of trade waste				✓✓	✓✓

7.4.2 Discussion

The Trade Waste Bylaw has been substantively revised. Council staff advise that it will be progressed once further work is undertaken on the fees and charges to be levied, as part of the rating and revenue project.

7.5 Prioritisation

The risk assessment for this bylaw is rated as medium (see **Appendix 3**). Based on the needs assessment, the Trade Waste Bylaw is a low priority for review (see **Appendix 4**). Substantive policy work is required on fees and charges to be levied pursuant to the bylaw.

7.6 Recommendations

Progress the Trade Waste Bylaw once further policy work on fees and charges is completed.

8 CONTROL OF THE USE OF PUBLIC PLACES BYLAW

8.1 Purpose of the Bylaw

The purpose of the Public Places Bylaw is to regulate the use of public places including the road reserve.

The Council is empowered to make this bylaw under s145 and s146 of the LGA. Other relevant legislation includes:

- Resource Management Act 1991

The bylaw is fundamentally intended to address issues of public health and safety, amenity and nuisance.

8.2 Core Provisions

The core provisions of the bylaw are:

- a. Control of advertising
 - (i) Restricting the number of signs that can be placed on private property but viewed from a public space.
 - (ii) Placing posters on public or private property.
 - (iii) Erecting signs which are discriminatory, objectionable, offensive or insulting.
 - (iv) Placing signs on or over roads or footpaths in public places.
 - (v) Controlling the display of real estate signs.
 - (vi) Controlling signs that either create traffic safety issues or are distractions to drivers.
 - (vii) Controls on the lighting of signs.
 - (viii) Control of signs on parked vehicles.
 - (ix) Temporary signs advertising events.
- b. Control of public places
 - (i) Obstruction of a public place, particularly the entrances to facilities.
 - (ii) Controls on the damage and repair to public places. This includes issues like damage to fields and landscape areas, pollution, damage or defacing of public buildings, use of vehicles or animals inappropriately in parks, or modifications to the public drainage systems.

- (iii) Control of activity in public places focused on littering, inappropriate use of skateboards and rollerblades, motorcycles etc in inappropriate locations, depositing materials in a public place other than in appropriate refuse facilities.
 - (iv) Construction of awnings or blinds over a public place.
 - (v) Projections on or over public places. Control of barbed wire and electric fences adjoining public places.
 - (vi) Assembly and busking in a public place. The ability for Council to name roads and number properties.
 - (vii) Control of alfresco dining.
- c. Livestock and animals
- (i) Control of animals in public places including on roads. This includes the hours at which stock may be driven on roads, and roads where stock are not allowed. It restricts the use to stock that can only come onto roads because there is no other practical alternative. T

8.3 Bylaw History and Use

The Public Places Bylaw was automatically revoked in March 2017.

The Bylaw was reviewed by the Far North District Council in 2009. That review identified that:

The Council requires a bylaw to facilitate the effective management of public places, ensuring that the use, or misuse of those places does not pose a risk to the health, wellbeing and interests of all members of the public.

8.4 Control Options

8.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Advertising			✓	✓✓	✓
Activities and behaviour in public places			✓	✓✓	✓
Livestock			✓		

8.4.2 Discussion

The Public Places Bylaw has a broad scope addressing a variety of different factors which impact public places.

- Key health and safety issues are able to be proactively managed through the bylaw controls, such as matters relating to traffic safety, pedestrian safety on footpaths, parks and other public places.
- The street naming and street numbering system is for the convenience of residents and visitors to the district, but is also essential to emergency services.
- Other aspects of the bylaw relate to nuisance amenity values such as signage, busking and fencing.

For the vast majority of individuals and business, the bylaw has no impact where they exercise sound judgment that respects public health, safety, amenity and nuisance. Sensible movement of livestock on the roads in farming circumstances where this is essential, is a good example. However, in those small number of occasions when people or business elect not to operate in an appropriate manner, then the public safety bylaw is essential to enable the Council to enforce key public health and safety standards, and to retain community amenity and prevent nuisance.

The nature of this bylaw covering a broad range of factors impacting public places, means that some elements are critical to public health and safety, amenity and nuisance, whereas others are less sensitive. However, given the broad nature of the bylaw, it is efficient and appropriate for the Council to deal with all aspects comprehensively.

- The road naming and street numbering section is constantly used by the Council to provide robust identification of properties based on new subdivision and development.
- The alfresco dining bylaw is used to control outdoor dining in our retail centres. Alfresco dining is to be encouraged. The bylaw enables the Council to control the extent of dining to ensure safe public use of the footpaths is retained and enables a licencing regime with annual inspections.
- The signage controls are used extensively to reinforce public safety around pedestrian areas, avoid driver distraction, and obscuring of driver visibility. The main body of complaint received by Council relates to real estate signs.

Some matters the subject of this bylaw can only be controlled by the Council through either its bylaw or Resource Management Act powers. Signage is the main example. The detailed review of the bylaw (if approved by Council) could examine the best method available to manage signage. However, if neither of these techniques are used, then the Council will not have the ability to control signage in or adjacent to public places. Many territorial authorities manage signs via a bylaw for ease of administration and enforcement. Generally, where this is the case, only signs associated with a development requiring resource consent are assessed under the RMA. In the larger towns and cities, particularly those with large urban populations, signs are contained in a separate bylaw. There is no requirement to have a

separate bylaw for signs, rather the manner in which they are addressed is left to the territorial authority to determine. There are no issues that have been raised during this review that would indicate the need to have a separate signs bylaw.

The Police have powers to deal with a number of nuisance and offensive matters. Major offence and nuisance is not subject to the bylaw and is controlled through other mechanisms including the Crimes Act. The type of nuisance issues controlled in this bylaw are most practically administered by the Council given the deployment of Council resources through the district and the benefit of Council officers having the ability to respond to complaints or issues raised by ratepayers and residents. It is far more practical for the officer to have the powers and delegations to deal comprehensively with the matter in the location, rather than having to get the Police involved on what for them would be low priority matters.

There are parts of this bylaw which are of key health and safety matters which are only able to be controlled through bylaw making powers. This would include some of the issues around signage screening or competing with normal traffic safety signage, and obstructions on footpaths.

There is also no alternative to street naming and numbering which has helpful information for the public but is also essential information for emergency services.

8.5 Prioritisation

The risk assessment for this bylaw is rated as high (see **Appendix 3**). Based on the needs assessment, the Public Places Bylaw is a short-term priority for renewal (see **Appendix 4**). It would benefit from updating and simplification and could be restructured and combined with the Reserves Bylaw.

8.6 Recommendations

It is recommended that a bylaw be enacted within the short term to regulate activity in public places.

9 CONTROL OF VEHICLE CROSSINGS BYLAW

9.1 Purpose of the Bylaw

The purpose of the Control of Vehicle Crossings Bylaw is to regulate the use, construction and maintenance of vehicle crossings giving access from public roads to private properties. It requires compliance with the FNDC's construction and maintenance standards for vehicle crossings.

The Council is empowered to make this bylaw under s145 of the LGA. Other relevant legislation includes:

- Resource Management Act 1991

The Vehicle Crossings Bylaw is intended to ensure vehicle crossings are constructed in a safe and durable manner and that they are appropriately maintained.

The Bylaw applies to all types of vehicle crossings, including those in residential (urban), commercial, industrial and rural areas, where such crossings give access from public roads.

9.2 Core Provisions

The Vehicle Crossings Bylaw addresses the following key issues:

- a. Requires a permit to construct, reconstruct or relocate a vehicle crossing.
- b. Construct and maintain vehicle crossings according to standards
- c. Provisions for temporary vehicle crossings
- d. Removal of redundant crossings.

9.3 Bylaw History and Use

The Vehicle Crossings Bylaw was automatically revoked in May 2017.

The bylaw was reviewed by the Far North District Council in 2010. That review identified that:

This bylaw only applies to the creation of new vehicle crossings on existing land parcels and the maintenance of existing crossings. It was introduced in December 2002 after problems were identified with poorly constructed vehicle crossings that caused damage or increased maintenance to Council roads and storm water assets, e.g. loose metal filling drains, which had potential for causing injury if a crossing were to collapse.

The key elements of the current bylaw are:

- *Property owners must apply for a permit to construct a vehicle crossing from a Council controlled road to their property, and*
- *Construction of crossings must conform to Council's Engineering Standards and Guidelines (June 2000).*
- *Provision is made for the repair of dangerous or poorly maintained existing crossings*

- *Rural properties have a RAPID number.*

9.4 Control Options

9.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Vehicle crossings are built to required standards and appropriately maintained				✓✓	✓✓

9.4.2 Discussion

The Vehicle Crossings Bylaw regulates the construction, reconstruction and relocation of vehicle crossings works in the road reserve. The bylaw captures all vehicle crossing works that do not fall within a subdivision or land-use consent.

While vehicle crossing standards are included in the District Plan, the bylaw provides the necessary controls to ensure vehicle crossings are built to specific standards and appropriately maintained in a safe manner. The bylaw allows the Council to require a property owner to upgrade or maintain a vehicle crossing and undertake remedial work and charge the property owner. The bylaw provides an easier mechanism to achieve this than relying on s17 of the RMA (duty to avoid, remedy and mitigate adverse effects). The bylaw also enables a permit process for the construction and inspection of vehicle crossings.

The existing bylaw includes vehicle crossing permit application forms. The inclusion of the permit forms within the bylaw makes the process for amendments difficult. The forms are not required to be included in the bylaw and could form part of the guidelines.

9.5 Prioritisation

The risk assessment for this bylaw is rated as medium (see **Appendix 3**). Based on the needs assessment, renewal of this bylaw is a short term priority (see **Appendix 4**). While a bylaw is required, minor changes are required to the form and content of the bylaw. It could also be incorporated into a public places bylaw.

9.6 Recommendations

It is recommended that a bylaw be enacted within the short term to regulate vehicle crossings (either as a stand-alone bylaw or incorporated within a public places bylaw).

10 CONTROL OF MOBILE SHOPS AND HAWKERS

10.1 Purpose of the Bylaw

The purpose of the Mobile Shops Bylaw is to regulate the use of public places for the purposes of roadside or street trading. It relates to the use of public places for trading of all kinds, the display of advertising signs, and the general use and prohibiting of nuisance to the public.

Council is empowered to make this bylaw under s145, s145(a)(vi) and s145(b)(vi) of the LGA. Other relevant legislation includes:

- Food Act 2014

The bylaw is fundamentally intended to address issues of nuisance, public health and safety, and protection of public infrastructure.

10.2 Core Provisions

The bylaw addresses the following key issues:

- a. Licence requirements to sell goods in a public places as a mobile shop or hawker. The FNDC may impose conditions such as restricting the time and place trading is permitted, the types of goods that can be sold, safety and hygiene requirements, and the use of signage.
- b. Restrictions on where a mobile shop or hawker can operate. Specifically, a mobile shop is not permitted to operate within 400 metres of an established retail outlet or within areas specifically defined in the schedule to the Bylaw. FNDC has issued a schedule of restricted trading areas in Kerikeri, Russell, and Pahia.
- c. Requirement for a licence to operate a street stall. A permit is not required where the stall operates on not more that two occasions per year and for charitable purposes only.
- d. Restrictions on the size and placement of advertising signs related to a mobile shop or street stall.

10.3 Bylaw History and Use

The Mobile Shops Bylaw was automatically revoked in July 2017.

The bylaw was reviewed by the Far North District Council in 2010. During that review, the following issues were identified:

The current bylaw has been enforced to good effect, however, there is anecdotal evidence that increasing numbers of mobile shops and hawkers has begun to affect retail operators, bringing about more interest and concern about where mobiles shops should be allowed to operate from, and possibly how many. This is particularly prevalent in Paihia...

In more recent times there has been an increased interest in the number of licences issued to mobile shop and hawker operators, and in particular, where they are allowed to set up and trade from, and the number of operators permitted in any one location, particularly in Paihia.

The key issues are in relation to the distance a mobile shop must operate from an established retail outlet, and the term 'principal business' and how that is determined when assessing and issuing a licence to operate.

It is also envisaged that the bylaw will specify areas of the District in which Mobile Shops will not be permitted to operate (the proposed First Schedule)

Because the location of these sites may be a matter of interest to the existing traders and the Community generally it is proposed that these be identified through a separate process and be subject to a separate consultation before being incorporated into the bylaw.

FNDC issues in the region of 100 licences a year. It also receives a number of inquiries each year relating to whether a trader has a licence to operate. The most significant area of concern is reported to relate to the trader's proximity to a retail operator.

10.4 Control Options

10.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Mobile shops and hawkers	✓		✓		✓✓
Street stalls	✓		✓		✓✓

10.4.2 Discussion

Without regulation, FNDC would have little or no power to control operators of mobile shops, or hawkers trading in public places. Left unregulated, these activities can give rise to negative effects and problems in public places. They can impact on the enjoyment, character and amenity of the area, cause health and safety issues, and have financial impacts on established retailers. The District Plan makes provision for retail businesses setting up on private property, according to the appropriate 'zoning'. However, this does not capture 'mobile' operations and hawkers operating in public places.

The Mobile Shops Bylaw specifically prevents a mobile shop from operating within certain specified areas (set out in a schedule to the bylaw). This could be reviewed to determine if it remains appropriate from a public policy perspective. Staff advise that the schedule is arguably redundant as most, if not all, mobile

shops that would operate within those areas would be within 400 metres of an established retail outlet selling similar goods. This would prevent the mobile shop from operating within that area.

Changes to the Food Act now enable a street stall to be operated up to 20 times a year for charitable purposes. The Mobile Shops Bylaw needs updating to reflect this. It is still considered necessary though, for all other street stalls to obtain a permit. This enables FNDC to monitor street stalls to ensure that those who are making a profit or operating in excess of 20 times a year are properly licensed.

This bylaw covers activities within a public place. It could be incorporated into the Public Places Bylaw. Alternatively, activities that are similar between the two bylaws could be combined into a bylaw which covers trading and events in public places. This could cover outdoor dining and street performances (busking) for example.

10.5 Prioritisation

The risk assessment for this bylaw is rated as high (see **Appendix 3**). Based on the needs assessment, renewal of this bylaw is a short term priority (see **Appendix 4**). While a bylaw is required, changes are required to the form and content of the bylaw.

10.6 Recommendations

It is recommended that a bylaw be enacted within the short term to regulate trading in public places.

11 RESERVES BYLAW

11.1 Purpose of the Bylaw

The purpose of the bylaw is to regulate the use of reserves including beaches, coastal areas, foreshore and lakes.

Council is empowered to make this bylaw under s145 (a)-(c) and s146 (b) of the LGA.

Other relevant legislation includes:

- Resource Management Act
- Local Government Act
- Reserves Act
- Land Transport Act

The bylaw is fundamentally in place to protect the public from nuisance, to support public health and safety and to minimise the potential for offensive behaviour on Council reserves (including beaches, foreshore and lakes).

11.2 Core Provisions

The bylaw addresses the following key issues:

- a. Restricting access to a reserve when closed and used for a specified use (i.e. a fee paying event).
- b. Controlling obstructions of any of the approaches, entrances, exits, thoroughfares, walkways, or roads to or within any reserve
- c. Controlling the use of water to avoid wastage of water for the filling of utensils for drinking, cooking, or washing purposes and protect against pollution of any water supply in any reserve.
- d. Restricting riding or driving of vehicles to formed areas and limiting speed to 15km/h.
- e. Restricting repairs to or maintenance work on any vehicle, or boat without permission and restricting storage of boats or vehicles on reserves without permission.
- f. Restricting camping to reserves allocated for the purpose or for temporary use where authorised.
- g. Controlling nuisance including wilful obstruction, disturbance, annoyance, or in any way interfere with any other person in their use or enjoyment of any reserve.
- h. Restricting public gatherings and assembly in reserves without authorisation.

- i. Restricting sports and games unless authorised to do so.
- j. Requiring dogs to be on leash unless in an area specified by the Council's Dog Control Bylaw.
- k. Restricting the landing of aircraft or flying machine without permission except in an emergency.
- l. Restricting commercial activities unless licenced by Council.
- m. Provide for the ability to set aside reserves for specified activities or limit activities.
- n. Providing the ability to remove people or vehicles from reserves.

11.3 Bylaw History and Use

The Reserves Bylaw was automatically revoked in July 2017.

The bylaw was reviewed by the Far North District Council in 2010. During that review, the following issues were identified:

Councils have the power to make bylaws for the purpose of regulating, managing and controlling use and access to reserves. The Council's Parks and Reserves bylaw and the Beaches: Bathing and Control bylaw provide for regulation of behaviour and misuse of reserves. The bylaws are generally not actively enforced unless complaints are lodged.

The two bylaws have been in place since 1989 and will lapse from 1 July 2010. Given Council's significant workload with bylaws over the past year, these bylaws have not been accorded priority and are only now being reviewed. The anticipated adoption date is 9 December 2010, in time for the height of the tourist season.

It is proposed to amalgamate the two bylaws (which are out of date and out of step with current legislation) into one.

It is proposed that the two bylaws will be combined and reduced into a much shorter, simplified bylaw which focuses on key requirements:

- *Access to reserves*
- *Behaviour on reserves*
- *Special events and commercial activities on reserves*

One of the key issues is the proposed clause which will tighten controls on "freedom" camping. It is also proposed that the by-law will include new schedules to identify reserves where activities are not permitted e.g. vehicles or horses. This is considered a better approach than a blanket ban across the district.

11.4 Control Options

11.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/ Licence
Nuisance, public safety and health			✓	✓	
Activity on reserves	✓			✓	✓

11.4.2 Discussion

The Reserves Bylaw controls behaviour and activity within Council owned reserves. Reserve is broadly defined to include any open space, plantation, park, garden or ground set apart for public recreation or enjoyment, and any esplanade, foreshore or beach associated with any water way, lake or coastal area where such is included within the District, which is vested in or under the control of the Council.

While the District Plan regulates land use activities on reserves, the bylaw includes activities more suited to a permit or licence process such as temporary and commercial activities. Left unregulated, these activities can give rise to negative effects and problems in public places. They can impact on the enjoyment, character and amenity of the reserve, cause nuisance or health and safety issues.

The bylaw also regulates nuisance and controls the behaviour of people on reserves to ensure that people do not interfere with any other person in their enjoyment or use of the reserve. The Police have powers to deal with nuisance and offensive behaviour through the Crimes Act. The type of nuisance issues controlled in this bylaw are those most practically administered by the Council given the deployment of Council resources through the district and the benefit of Council officers having the ability to respond to complaints or issues raised by ratepayers and residents. It is far more practical for the officer to have the powers and delegations to deal comprehensively with the matter in the location, rather than having to get the Police involved on what for them would be low priority matters.

There are gaps in the existing bylaw that should be addressed including the removal, cutting and poisoning of trees on reserves, encroachment on esplanade reserves and dumping of rubbish (fly tipping). Currently Council officers have limited powers to respond to these matters. Additional controls to address these matters could be included in revised bylaw.

The control of dogs on reserves is currently included in the Reserves bylaw with a cross reference to the Dog Control bylaw. This could be incorporated into the Dog Control bylaw.

While the use of aircraft (including flying machines) on reserves is covered in the bylaw, there are no specific provisions that deal with the use of drones on public reserve land. Many territorial authorities have specific controls relating to drones. This could be addressed in the updated bylaw

Currently, freedom camping is not explicitly addressed in the bylaw. Rather, FNDC has prepared a comprehensive Camping in Public Places policy to identify where people may camp in public places, ensure visitors are safe, prevent nuisance and prevent damage to the environment and facilities. The policy links to the Reserves bylaw, which restricts camping to allocated reserves.

The Reserves bylaw could be updated to include freedom camping or a separate bylaw could be created. While many territorial authorities have a specific freedom camping bylaw and have adopted the template prepared by Local Government New Zealand, there is no prescribed approach, and rather it is left to each territorial authority to determine the best approach for their district. The Camping in Public Places policy already addresses matters that would be included in a bylaw and links to the Reserves bylaw to enable enforcement of illegal camping nuisance and antisocial behaviour and environmental impacts. If this approach is retained, more explicit cross referencing to the policy could be included in the bylaw.

11.5 Prioritisation

The risk assessment for this bylaw is rated as high (see **Appendix 3**). Based on the needs assessment, the Reserves bylaw is a short-term priority for renewal (see **Appendix 4**). It would benefit from updating and simplification, and could be restructured and combined with the Public Places Bylaw.

11.6 Recommendations

It is recommended that a bylaw be enacted within the short term to regulate activity in reserves. This could be combined with a bylaw covering public places.

12 KEEPING OF ANIMALS, POULTRY AND BEES BYLAW

12.1 Purpose of the Bylaw

The purpose of the Animals Bylaw is to regulate the keeping of animals, poultry or bees so they do not cause a danger, nuisance or health risk.

A council is empowered to make this bylaw under the general provisions of s145 of the LGA and the specific provisions of s146, which provides the power to make a bylaw to regulate the keeping of animals, bees and poultry. A council is also has the power under section 23(a) of the Public Health Act to make bylaws to improve, promote and protect public health within its district.

Other relevant legislation includes:

- Animal Welfare Act 1999
- Bio security Act 1993
- Resource Management Act 1991
- Reserves Act 1977
- Wildlife Act 1953

The Animals Bylaw is fundamentally intended to address issues of nuisance, public health and safety, and environmental protection.

12.2 Core Provisions

The Animals Bylaw addresses the following key issues:

- a. Keeping of pigs: restrictions on where they can be kept, environmental and public health protections, and bio security considerations.
- b. Keeping of horses, goats, sheep cattle: restrictions on where they can be kept.
- c. Keeping of poultry: restrictions on number and where they can be kept, as well as environmental and public health protections.
- d. Keeping of bees: requirement to obtain a licence where bees are to be kept on properties with certain zoning, provides council with authority to prescribe the location and number of hives, and enables council to prevent the keeping of bees where they could become a nuisance, annoyance, or be potentially dangerous or injurious to health.
- e. Keeping of cats: restrictions on the number of cats that can be kept in certain areas and enables council to prohibit the keeping of cats where they are likely to become a nuisance, are dangerous or injurious to health, or are a danger to wildlife.
- f. Killing of animals, poultry or birds: prohibition in certain areas without written council approval
- g. Removal of unauthorised work where it is likely to become a nuisance or annoyance or potentially dangerous or injurious to human health.

12.3 Bylaw History and Use

The Animals Bylaw will be automatically revoked in September 2019 if no action is taken.

It was last reviewed by the Far North District Council in 2007. During that review, the following issues were identified:

The keeping of animals is still a matter that attracts concerns for the public in relation to health nuisance and effects on lifestyle, particularly with property sizes reducing in size due to subdivision, which brings human and animal habitation closer together.

The manner in which some animals are kept, their conditions and general habitat has been the cause of an increasing number of complaints during the last year, particularly in relation to the keeping of pigs. This has involved a great deal of time being spent by both Monitoring and Environmental Health Officers in seeking compliance and enforcement action when dealing with the keepers of those animals.

Public concern was shown for the keeping of cats in the district, particularly in residential and protected wildlife zones, and this was especially evident in the submissions received by the Council when carrying out the recent consultation on the review of its Dog Control Act Policies and Bylaws, where the keeping of cats was not a matter for that bylaw. However, those submissions were considered in the review of Chapter Thirteen.

In particular it was identified that that with respect to the keeping of pigs further clarity is required to identify where pigs maybe kept and under what criteria.

FNDC receives a number of complaints each year relating to animals covered by this bylaw (such as noise from roosters). The requirement to contain animals within a property is also an issue.

Permits are issued under the Animals Bylaw on occasion. However, the provisions of the bylaw (including permitting and approval requirements) are enforced on a reactive rather than proactive basis.

12.4 Control Options

12.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Keeping of Stock (including poultry and pigs)			✓	✓✓	✓
Keeping of Bees				✓✓	✓
Keeping of Cats			✓		
Killing of Animals				✓	
Removal of unauthorised work or nuisance	✓				

12.4.2 Discussion

Animal welfare generally

Owners of animals are required to meet animal welfare standards under the Animal Welfare Act and regulations made under that Act (such as the Animal Welfare (Care and Procedures) Regulations 2018). Therefore, it is not necessary to include general animal welfare provisions within a council bylaw.

Provisions relating to stock generally

It is appropriate for Council regulate the keeping of stock (including pigs and poultry) through a bylaw. This would:

- place a general obligation on the owner to ensure the animal does not create a nuisance or a risk to public health and safety.
- restrict the types of areas where stock may be kept
- specify certain standards relating to the manner in which they are held (including for example, stock numbers)
- contain specific provisions relating to the slaughter or killing of animals
- include a licence provision in specific circumstances (where someone wishes to keep more than a specified number of animals or on land within a specific zoning)

This is necessary to prevent nuisance, risk to public health and safety, ensure amenity values of adjoining properties are maintained, and provide environmental protection.

It would be possible to consolidate the provisions within the current bylaw to make these provisions simpler, easier to understand, and flexible enough to accommodate changing circumstances, such as the changing nature of land use (including reduction in property sizes).

Special requirements

Generally

Certain types of animals raise specific nuisance, health and safety, and environmental issues. The keeping of bees and cats are discussed below.

Keeping of Bees

- Bee Welfare: Bee colony health and biosecurity risks are managed by the Ministry for Primary Industries. There is no need therefore, for council to address bee welfare in a bylaw.
- Nuisance and public safety: Potential public health, safety and nuisance impacts resulting from the keeping of bees are issues for the council to address. These include areas where bees can be kept and restrictions on the number of hives. This can be achieved through specific standards within a bylaw.

- Licensing: All beekeepers in New Zealand have a legal obligation under the Biosecurity Act 1993 to register as a beekeeper. Part of the registration process involves registering apiaries Biosecurity (National American Foulbrood Pest Management Plan) Order 1998. Potentially, the requirement to licence hives with the council would generally be an unnecessary duplication, given the registration requirements under the Biosecurity Act.

Keeping of cats

Cats can present a nuisance to neighbouring property owners, pose a public health risk, and raise environmental concerns due to predation of native birds. A bylaw provides a mechanism to restrict the number of cats that can be kept at a property as a response to these perceived problems.

Removal of unauthorised work or nuisance

This provision does not appear to specifically relate to animal management. Unauthorised works would be better controlled under the Building Act or if this does not adequately address the underlying perceived problem, through a general nuisance bylaw.

Gaps and amendments

Areas that either require clarification or could be covered within the bylaw include:

- A requirement to contain an animal within the property boundary
- Clarification of relevant zoning restrictions that apply to the keeping of different types of animals

Other bylaw provisions

The Public Places Bylaw contains provisions relating to the wandering, tethering and droving of livestock and animals. These provisions could be incorporated into the Animals Bylaw.

12.5 Prioritisation

The risk assessment for this bylaw is rated as medium (see **Appendix 3**). Based on the needs assessment, renewal of this bylaw is a short term priority (see **Appendix 4**). While a bylaw is required, changes are recommended to the form and content of the bylaw.

12.6 Recommendations

A bylaw is required to cover animal management issues. It is recommended that all animal management issues (excluding those related to dogs) be consolidated into one bylaw. There is also scope to simplify and streamline the bylaw in line with current best practice, through the use of supplementary controls and guidelines to support the bylaw provisions.

13 CONTROL OF EARTHWORKS BYLAW

13.1 Purpose of the Bylaw

The purpose of the Earthworks Bylaw is to control excavation, filling, or cellar work on private property where a resource consent under the District Plan is not required, and to control erosion and sedimentation created by that work.

Council is empowered to make this bylaw under s145 of the LGA.

Other relevant legislation includes:

- Resource Management Act
- Building Act

The Earthworks Bylaw is fundamentally intended to address issues of public health and safety, nuisance, and environmental protection.

13.2 Core Provisions

The Earthworks Bylaw addresses 3 key issues:

- a. Requirement for a permit for specified excavation, cellar construction or filling (which Council may issue with conditions to control risks to public safety, subsidence or sediment controls, or any matter considered appropriate). The permit application is to include evidence of satisfactory erosion and sediment controls.
- b. Requirements relating to the undertaking and completion of the work, including liability for damage to a road or public property.
- c. Penalties for breach of the Bylaw

13.3 Bylaw History and Use

The Earthworks Bylaw will automatically revoke in February 2020.

The bylaw was reviewed by the Far North District Council in 2007. During that review, the following issues were identified.

Whilst the District Plan does have some controls for earthworks, they do not cover the full extent of the type of earthworks that are carried out throughout the district, but tend to cover the more major earthworks.

Until further District Plan changes are possible, it is considered necessary for a Control of Earthworks bylaw to remain. However, the current criteria of the existing bylaw is considered inappropriate and in need of review and change. Matters of erosion control and sedimentation

control indicate the need to continue with a bylaw. Complaints about earthworks are common and an increasing concern for the public.

13.4 Control Options

13.4.1 Options analysis

Issue/Problem	Rely on alternative regulation	Non-regulatory approaches	Bylaw: General provision (nuisance and health and safety)	Bylaw: specific standards	Bylaw: Permit/Licence
Earthworks and/or filling	✓			✓✓	✓

13.4.2 Discussion

Best practice

Best practice indicates that regulation of earthworks is now more appropriately addressed through a council's district plan, with few councils using a bylaw for this purpose. This approach provides a wider toolkit for regulation, monitoring and enforcement of earthworks activities.

FNDC is reviewing its district plan. As part of this review, it is intending to incorporate all earthworks controls into the district plan. This will make the Earthworks Bylaw redundant. However, the new district plan will not be operative before the bylaw is revoked.

A bylaw is therefore, required in the interim period until the new district plan becomes operative (and any relevant appeals have been resolved) for the following reasons.

- The district plan provisions do not cover the full extent of the type of earthworks that are carried out throughout the district. They tend to only cover the more major earthworks.
- There are no earthworks controls in the district plan for certain zones (commercial/industrial). Earthworks in these areas are solely controlled by the bylaw.

13.5 Prioritisation

The risk assessment for this bylaw is rated as medium (see **Appendix 3**). Based on the needs assessment, the Earthworks Bylaw is a high priority for renewal (see **Appendix 4**).

13.6 Recommendations

The Earthworks Bylaw should be rolled over prior the date of revocation, as an interim measure, until the new district plan becomes operative (and any relevant appeals are resolved). The Earthworks Bylaw can then be revoked. However, it must be noted that s156 of the LGA applies to a proposal to revoke a bylaw (using the special consultative procedure).

APPENDIX 1

List of FNDC Staff Interviewed

Bylaw	FNDC Staff
General questions and matters of FNDC policy and process	Roger Ackers, Chris Sargent,
Control of Amusement Devices and Entertainment Premises	Darren Edwards, Ian Wilson, Manuel Loffley, Kellee Morunga
Land Drainage	Steve Little, Sophie Jones
Trade Waste	Melissa Parlane
Control of the Use of Public Places	Darren Edwards, Ian Wilson, Nina Gobie, Rachael Pull
Control of Vehicle Crossings	Darren Edwards, Ian Wilson, Manuel Loffley, Katie Waiti-Dennis, Brad Hedger
Mobile Shops and Hawkers	Darren Edwards, Ian Wilson, Manuel Loffley, Katie Waiti-Dennis, Kellee Morunga
Reserves	Nina Gobie, Rachael Pull
Keeping of Animals, Poultry and Bees	Darren Edwards, Ian Wilson, Sam Van Ameringen
Earthworks	Tammy Wooster, Louise Wilson, Brad Hedger

APPENDIX 2

List of Relevant Bylaws Enacted by Other New Zealand Councils

Council	Relevant Bylaws
Whangarei	Animals Public Places Stormwater Management Trade Waste
Kaipara	General Bylaws <ul style="list-style-type: none"> • Public Places • Trading in Public Places • Amusement Galleries • Keeping of Animals, Poultry and Bees • Land Drainage
Auckland	Animal Management Public Safety and Nuisance Stormwater Trading and Events in Public Places Trade Waste
Waikato	Keeping of Animals Public Places Reserves and Beaches Trade Waste and Wastewater
Hamilton City	Animal Nuisance Parks, Domains and Reserves Public Places Safety in Public Places Stormwater Trade Waste and Wastewater Trade Waste
Matamata Piako	Public Amenities Stormwater Management Trade Waste
Thames-Coromandel	Activities in Public Places Nuisances
Tauranga City	Beaches Keeping of Animals Stormwater (Pollution Prevention) Bylaw Street Use and Public Places Trade Waste
Hauraki	Public Safety Trade Waste and Wastewater Land Drainage
Rotorua	General Bylaw <ul style="list-style-type: none"> • Public Places • Trading in Public Places • Keeping of Animals, Poultry and Bees Water Services and Trade Waste
Taupo	Animals, Birds and Bees Reserves and Public Places

Council	Relevant Bylaws
	Trade Waste Trading in Public Places
Hastings	Public Places Nuisances: Stock, Poultry and Bees
Gisbourne	Keeping of Animals, Poultry and Bees Mobile Shops and Other Traders Public Places Reserves
Masterton	Public Places Trading in Public Places The Keeping of Animals, Poultry and Bees Wastewater Drainage Trade Waste
Wellington City	Consolidated Bylaw <ul style="list-style-type: none"> • Animals • Public Places • Water Services Wellington Trade Waste
Porirua City	Keeping of Animals Public Places Reserves Trade Waste
Upper Hutt City	Hutt Valley Trade Wastes Keeping of Stock, Poultry and Bees Public Places
Nelson	City Amenity Urban Environments Wastewater
Christchurch City	Parks and Reserves Public Places Stock on Roads Trade Waste Water Supply, Wastewater and Stormwater
Ashburton	Keeping of Animals, Bees and Poultry Mobile Shops, Stalls and Hawkers Open Spaces Public Places Trade Wastes Wastewater Drainage
Selwyn	Parks and Reserves Public Places Trade Waste Stormwater and Drainage
Central Otago	Public Places Keeping Animals, Poultry and Bees Trade Waste
Dunedin City	Keeping of Animals (Excluding Dogs) and Birds Bylaw Mobile Trading and Temporary Stall Bylaw Reserves and Beaches Bylaw Roeading Trade Waste

Council	Relevant Bylaws
	Water
Queenstown	Activities in Public Places Trade Waste
Southland	Keeping of Animals, Poultry and Bees Subdivision, Land Use and Development Trading in Public Places Wastewater Drainage Trade Waste

APPENDIX 3

Risk Matrix

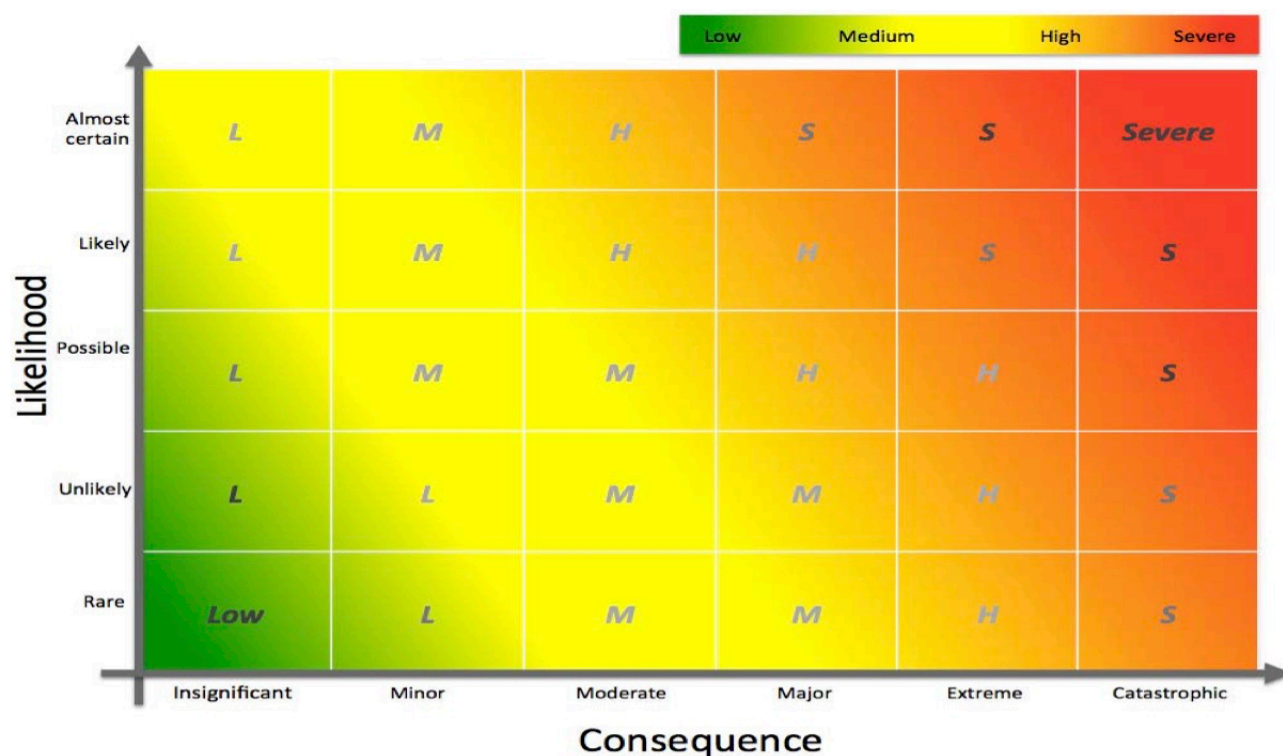
Overview of approach

Risk was assessed for each bylaw using Likelihood and Consequence scales.

Likelihood Scale	Description
Almost certain	Actual, expected to happen several times a year or constant
Likely	Expected to happen each year
Possible	Theoretical, intermittent, may happen every couple of years
Unlikely	Infrequent, temporary, not expected to happen within a five year period
Rare	No known event, never expected to happen

Consequence Scale	Description
Catastrophic	Life-threatening or disastrous, complete breakdown of service
Extreme	Significant, permanent and/or prolonged, irreversible impact
Major	Serious event, some irreversible impact, long term damage
Moderate	Short-term disruptions, impact is reversible
Minor	Minor disruption or adverse effects, low impact
Insignificant	No known or measurable impact

These were rated into Low, Medium, High, and Severe using the following risk evaluation chart.



A score was allocated as follows:

Overall Rating Score	
Low	1
Medium	2
High	3
Severe	4

Risk was assessed for each bylaw using the above approach against nine criteria. This enabled a risk score to be calculated for each bylaw.

Bylaw	Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
<i>Name of Bylaw</i>	Nuisance					
	Public Health and Safety					
	Offensive Behaviour in a Public Place					
	Effect on Public Infrastructure					
	Environmental Protection					
	Economic Factors					
	Operational Factors					
	Public Interest/Reputation					
	Financial Impact					
	Total Score					

Risk assessments and scores

Amusement Devices and Entertainment Premises Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Rare	Insignificant	L	1	No nuisance events reported
Public Health and Safety	Unlikely	Minor	M	2	Can be managed through Worksafe registration and HSWA
Offensive Behaviour in a Public Place	Unlikely	Insignificant	L	1	Any impact can be managed by other means (Police)
Effect on Public Infrastructure	Rare	Insignificant	L	1	No known impact
Environmental Protection	Rare	Insignificant	L	1	No known impact
Economic Factors	Rare	Insignificant	L	1	No known impact
Operational Factors	Rare	Insignificant	L	1	No known impact
Public Interest/Reputation	Unlikely	Insignificant	L	1	Possibility of reputational risk if someone is hurt
Financial Impact	Unlikely	Moderate	M	2	Low risk of financial impact for Council if someone is hurt
Total Score				11	

Keeping of Animals, Poultry and Bees Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Likely	Moderate	H	3	Some animals can pose a nuisance to neighbours. Impact is higher in urban areas
Public Health and Safety	Possible	Moderate	M	2	Health and safety impacts associated with some animals (pigs, bees)
Offensive Behaviour in a Public Place	Rare	Insignificant	L	1	No known impact
Effect on Public Infrastructure	Rare	Insignificant	L	1	No known impact
Environmental Protection	Possible	Minor	M	2	Environmental issues with effluent and with predation by cats
Economic Factors	Unlikely	Minor	L	1	Possible economic impacts where animals held for commercial gain
Operational Factors	Possible	Minor	M	2	Need for clear specifications and controls from an operational perspective
Public Interest/Reputation	Likely	Major	H	3	Demonstrated public interest (history of complaints).
Financial Impact	Unlikely	Insignificant	M	1	Low risk of financial impact for Council
Total Score				16	

Control of Earthworks Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Likely	Moderate	H	3	Unregulated earthworks can cause a nuisance to neighbouring property
Public Health and Safety	Possible	Moderate	M	2	Subsidence impacts to health and safety
Offensive Behaviour in a Public Place	Rare	Insignificant	L	1	No known impact
Effect on Public Infrastructure	Possible	Moderate	M	2	Impact on unregulated earthworks on neighbouring public property, including damage to public infrastructure (such as roads and drains)
Environmental Protection	Possible	Major	H	3	Possibility of environmental impacts, particularly from subsidence and runoff
Economic Factors	Unlikely	Minor	L	1	No significant economic impact
Operational Factors	Rare	Insignificant	L	1	No known operational impacts
Public Interest/Reputation	Likely	Moderate	H	3	Reputation risk is likely, depending on the nature of the works
Financial Impact	Possible	Moderate	M	2	Financial risk to Council if public infrastructure affected. Also potential financial impact for affected neighbouring properties.
Total Score				18	

Land Drainage Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Possible	Moderate	M	2	Poor maintenance or obstructions could cause a significant impact to properties, but limited in extent of impact
Public Health and Safety	Possible	Minor	M	2	Health and safety impacts associated with inability to drain adjacent rural land
Offensive Behaviour in a Public Place	Rare	Insignificant	L	1	No known impact
Effect on Public Infrastructure	Rare	Insignificant	L	1	No known impact
Environmental Protection	Possible	Minor	M	2	Pollutants entering the drainage channels and potentially flooding adjacent rural land could have a significant environmental impact.
Economic Factors	Possible	Moderate	M	2	Could have a significant impact on rural production for the affected landowners if land is not properly drained.

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Operational Factors	Possible	Minor	M	2	Inability to access land adjacent to drainage channels to carry out work to ensure the flow of water.
Public Interest/Reputation	Unlikely	Minor	L	1	Potentially limited to directly affected landowners.
Financial Impact	Possible	Minor	M	2	Financial risk to Council if it cannot enforce maintenance and remediation obligations.
Total Score				15	

Mobile Shops and Hawkers Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Likely	Moderate	H	3	Mobile traders likely to be a nuisance if unregulated
Public Health and Safety	Possible	Moderate	M	2	Unregulated traders can create a public safety hazard depending on where they are situated. Possible health implications where food is involved.
Offensive Behaviour in a Public Place	Possible	Minor	M	2	Depends on the nature of the trader
Effect on Public Infrastructure	Possible	Moderate	M	2	Situated on public property so will have an impact on public infrastructure
Environmental Protection	Unlikely	Minor	L	1	No significant impacts
Economic Factors	Likely	Moderate	H	3	Unregulated traders can have an impact on established retail shops and traders
Operational Factors	Likely	Moderate	H	3	Impact on other Council services (street cleaning etc)
Public Interest/Reputation	Likely	Major	H	3	Likely to be a significant public interest, which will affect Council's reputation
Financial Impact	Possible	Moderate	M	2	Financial risk to Council if it cannot enforce maintenance and remediation obligations.
Total Score				21	

Control of the Use of Public Places Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Almost certain	Moderate	H	3	Unregulated activities likely to cause nuisance and require increased compliance and monitoring

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Public Health and Safety	Likely	Moderate	M	2	Health and safety impacts associated with lack of control of activity on public places
Offensive Behaviour in a Public Place	Almost certain	Moderate	H	3	Offensive and anti-social behaviour impacts on peoples use an enjoyment of public space
Effect on Public Infrastructure	Possible	Moderate	M	2	Situated on public property so could impact on public infrastructure
Environmental Protection	Possible	Moderate	M	2	Pollutants entering public infrastructure may have environmental impact
Economic Factors	Possible	Moderate	M	2	Unconstrained advertising in public places may have impact on businesses
Operational Factors	Likely	Moderate	H	3	Impact on other Council services
Public Interest/Reputation	Likely	Major	H	3	Likely to be significant public interest, which will affect Council's reputation
Financial Impact	Possible	Moderate	M	2	Financial risk to Council if public places damaged or other Council services impacted, eg street cleaning, rubbish collection
Total Score				22	

Trade Waste Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Possible	Minor	M	2	Possibility of some nuisance
Public Health and Safety	Possible	Moderate	M	2	May have a health impact if not properly managed
Offensive Behaviour in a Public Place	Rare	Insignificant	L	1	No known impact
Effect on Public Infrastructure	Possible	Moderate	M	2	Possibility of negative impact on Council wastewater infrastructure
Environmental Protection	Possible	Moderate	M	2	Trade Waste has environmental impacts if not appropriately controlled
Economic Factors	Possible	Moderate	M	2	Management of trade waste and associated costs have economic impacts
Operational Factors	Possible	Moderate	M	2	Operational consequences if trade waste risk is not well managed
Public Interest/Reputation	Rare	Insignificant	L	1	Not a high risk issue
Financial Impact	Possible	Moderate	M	2	Financial implications to Council if trade waste

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
					damages Council infrastructure
Total Score				16	

Reserves Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Almost Certain	Moderate	H	3	Unregulated activities likely to cause nuisance and require enforcement
Public Health and Safety	Almost Certain	Moderate	H	3	Health and safety impacts associated with lack of control in reserves
Offensive Behaviour in a Public Place	Almost Certain	Moderate	H	3	Offensive and anti-social behaviour impacts on peoples use and enjoyment of reserves
Effect on Public Infrastructure	Likely	Major	H	3	Situated on public property so could impact public infrastructure
Environmental Protection	Likely	Major	H	3	Potential impact on beaches, coastal areas and waterways
Economic Factors	Unlikely	Minor	L	1	No significant impacts
Operational Factors	Likely	Moderate	H	3	Potential impact on other Council services
Public Interest/Reputation	Likely	Major	H	3	Likely to be significant public interest, which will affect Council's reputation
Financial Impact	Possible	Moderate	M	2	Financial risk to Council is reserves damaged or other Council services impacted
Total Score				24	

Control of Vehicle Crossings Bylaw

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Nuisance	Likely	Moderate	M	2	Unsafe vehicle crossing could impact neighbouring properties and road users
Public Health and Safety	Likely	Major	H	3	Unsafe vehicle crossings have potential to result in accidents (pedestrian and vehicle)
Offensive Behaviour in a Public Place	Possible	Moderate	M	2	Sustained nuisance or accident may lead to offensive behaviour
Effect on Public Infrastructure	Possible	Moderate	M	2	May impact adjoining footpath/road surfaces

Criteria	Likelihood	Consequence	Risk Rating	Overall Rating Score	Notes
Environmental Protection	Possible	Moderate	M	2	Unformed or sub-standard crossings could lead to increased run-off to stormwater system
Economic Factors	Possible	Moderate	M	2	Could impact traffic flow
Operational Factors	Possible	Moderate	M	2	Could impact access to properties and traffic flow, may also impede pedestrian connections
Public Interest/Reputation	Possible	Moderate	M	2	Could impact pedestrians and road users and therefore affect Council's reputation as road controlling authority
Financial Impact	Possible	Minor	M	2	Financial risks to Council if cannot enforce maintenance of vehicle crossing
Total Score				19	

APPENDIX 4

Needs Assessment

	Amusement Devices	Earthworks	Land Drainage	Animals	Mobile Shops	Public Places	Reserves	Vehicle Crossings	Trade Waste	Prioritisation Impact
Is a bylaw needed?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No further action required on the revoked Amusement Devices and Entertainment Premises Bylaw
Does the bylaw regulate a medium or high risk issue?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	All bylaws (with the exception of the Amusement Devices Bylaw) warrant action from a risk perspective.
Are substantive changes required to the revoked/current the bylaw?		No	No	Yes	Yes	Yes	Yes	Yes	Yes	The Earthworks and Land Drainage Bylaws can be rolled over without the need for substantive amendment.
Was the bylaw being actively applied prior to revocation?				Yes	Yes	Yes	Yes	Yes	No	Trade Waste Bylaw was not being actively applied. Significant further policy work is required.
Prioritisation	No Priority	Priority 1	Priority 1	Priority 2	Priority 2	Priority 2	Priority 2	Priority 2	Priority 3	
										Priority 1 Immediate action recommended
										Priority 2 Short-term action recommended
										Priority 3 Longer-term action recommended
										No priority No action recommended