



**Ministry for Cities, Environment,
Regions & Transport**

PROACTIVE RELEASE COVERSHEET

Minister	Hon Simon Watts	Portfolio	Local Government
Name of package	Proactive release of bylaws materials	Date to be published	By 5 October 2026

List of documents that have been proactively released

Date	Title	Author
13 August 2026	Cabinet paper: Reform of the local government bylaw system	Office of the Minister of Local Government
15 July 2026	RAS - Reform of the Local Government Bylaw System	Ministry for Cities, Environment, Regions and Transport
19 August 2026	ECO-26-MIN-0155 Cabinet minute	Cabinet Office
4 December 2025	LG202510429 Briefing - Next steps on the local government bylaws system review	Department of Internal Affairs
7 August 2025	LG Bylaw System Issues and Options Paper August 2025	Department of Internal Affairs
29 May 2026	LG202611925 Briefing - Remaining policy decisions for local government bylaws review	Department of Internal Affairs

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from the above documents under the following sections of the Official Information Act 1982:

- Section 9(2)(a) – maintain privacy of a person;
- Section 9(2)(ba)(i) – maintain the protection of information subject to an obligation of confidence;
- Section 9(2)(f)(iv) – maintain the confidentiality of advice tendered;
- Section 9(2)(g)(i) – maintain the effective conduct of public affairs through free and frank expression of opinions; and
- Section 9(2)(h) – maintain legal professional privilege.

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In Confidence

Office of the Minister of Local Government

Cabinet Economic Policy Committee

Reform of the local government bylaw system

Proposal

- 1 This paper seeks Cabinet's decisions on policy proposals following the local government bylaw system review.

Relation to government priorities

- 2 Local government bylaw system reform is part of the broader Local Government System Improvements programme, announced by the Prime Minister in August 2024.
- 3 The intention of the reform is to ensure councils have appropriate modern tools for making and enforcing local regulations effectively. This supports the aims of the system improvements work and will deliver efficiencies and cost savings for local government and ratepayers.
- 4 The reform will shift us away from a fragmented system and ensure that in the future, bylaws are used only where they are the right tool. This supports the Government's priority for local government to get back-to-basics and will help councils manage regulatory responsibilities within tighter financial settings.

Executive Summary

- 5 The current local government bylaw system is no longer fit for purpose and is not enabling councils to deliver good quality regulation and enforcement. There is broad support for change among those who regularly use the system.
- 6 I propose a system reform package for the local government bylaw system. This combines structural improvements with new, more proportionate regulatory tools. The new system will create a tiered and proportionate approach that improves effectiveness, efficiency, and consistency across all parts of the system.

Background

- 7 Bylaws are delegated secondary legislation used by councils to regulate local issues and are used for a broad range of purposes. A stocktake in 2023 found approximately 900 local government bylaws across New Zealand.
- 8 Some delegated powers are general, such as protecting public safety or controlling nuisance. Others are more specific, such as regulating freedom camping and alcohol in public places. Some powers are delegated in the Local Government Act 2002 (LGA02) while others sit in topic-specific legislation.
- 9 There are three parts to a successful local government regulatory system:

- 9.1 appropriate delegation of power by Parliament;
 - 9.2 efficient, cost-effective and proportionate regulation making processes for local government; and
 - 9.3 proportionate and appropriate enforcement tools.
- 10 However, the current system is fragmented, inefficient, and at times disproportionate, with duplication between central and local government and inconsistent legislative frameworks. The local government sector has been lobbying for change for some time. On 27 July 2024 the then Minister of Local Government, Hon Simeon Brown, agreed to a review of the local government bylaw system.
- 11 In August 2025, I agreed to officials undertaking targeted consultation on an issues and options paper. Feedback was sought from local government officials, relevant government departments and agencies, and Ministerial colleagues with portfolios interested in bylaws. Key stakeholders who have an interest in matters commonly regulated by local government bylaws including Hospitality New Zealand, Federated Farmers, and the New Zealand Motor Caravan Association were also engaged with.
- 12 There was unanimous support for reviewing the local government bylaw system and agreement on a clear need for reform on the overarching issues:
- 12.1 the system is fragmented and not always used appropriately;
 - 12.2 statutory processes are unclear and inefficient; and
 - 12.3 enforcement options are limited.
- 13 My proposed reforms aim to establish a more coherent, proportionate, and efficient system that supports councils to regulate effectively while reducing unnecessary costs for ratepayers. Members of the public will benefit from simpler regulation and greater enforcement leading to improved compliance.
- 14 I understand that work related to the local government bylaw system is also underway in other portfolios, including maritime transport. My officials will coordinate with these other areas of work to ensure they remain aligned as appropriate.

Providing options for how powers are delegated

- 15 When deciding to delegate regulatory powers to local government there are several key factors that need to be considered by Parliament. These include what is the right mechanism for local government to regulate an activity; and what support, resources and funding local government needs to successfully implement the devolved or delegated functions.
- 16 Bylaws are one of several types of secondary legislation instrument currently used in New Zealand. When Parliament delegates a regulatory power to local government, that delegation specifies the instrument to be used. The LGA02 currently has a framework for councils to regulate through bylaws, but not through any other form of secondary legislation.

- 17 Where the delegated power is very broad, for example “protecting the public from nuisance”, bylaws are an appropriate instrument. In these cases, local government has been given wide discretion, and the detail is established through the drafting of the bylaw. Where the delegated power is highly prescriptive, Parliament has been through a process to decide what can be regulated and how. The focus for councils and their communities should be on applying that locally, not redrafting what Parliament has already decided.
- 18 Enabling local government to use a different secondary legislation instrument in appropriate circumstances would be a more proportionate and cost-effective approach. It would reduce duplication of effort between central and local government and lead to greater consistency in how regulation is presented across New Zealand.
- 19 I propose a legislative framework enabling local government to use an alternative secondary legislation instrument, where the powers delegated to them are highly prescriptive. Similar instruments already exist in New Zealand’s regulatory landscape, such as the notices used for freedom camping regulation by the Department of Conservation and Land Information New Zealand.
- 20 The policy rationale is similar to recent changes to speed limit setting. Previously, each council was required to draft its own bylaw to set speed limits, even though the regulatory framework was largely prescribed nationally and local decision-making was focused on where the limits should apply. Councils can now set speed limits through a simpler, streamlined decision-making process while still needing to meet statutory criteria and consultation requirements.
- 21 A general enabling power and process requirements for the alternative instrument would be added to the LGA02, in a similar way to the one that exists for bylaws. This would support Parliament to delegate powers to local government in the most appropriate way for the circumstances. Like bylaws, this instrument could only be used by local government where Parliament delegates the power to do so.
- 22 I propose converting the existing local government bylaw-making powers in the Freedom Camping Act 2011 and in sections 147-147C of the LGA02 (alcohol control bylaws) to the alternative instrument. This would not change the policy intent of the legislation, or the implementation of local regulation. As with bylaws, appropriate process safeguards such as mandatory considerations, consultation, publication and review requirements would apply to the alternative instrument.
- 23 There may be other examples where this new instrument would be more appropriate than bylaws. I propose enabling these powers to be converted to the new instrument where appropriate, consistent with the policy intent in this paper and agreed to by the administering department.

Supporting the system to be more responsive

- 24 In the current system, any changes to bylaw processes require changes to primary legislation. This makes it difficult for the system to respond to emerging issues, and to the changing needs of councils, ratepayers, and communities.
- 25 To address this, I propose enabling the Minister of Local Government to prescribe detail and make other operational changes to the bylaw and proposed alternative

instrument systems in a more timely and responsive manner than changing primary legislation.

- 26 The intention of this power is to provide clarity and structure to bylaw and alternative secondary legislation instrument powers set in primary legislation. The types of matters covered would include:
 - 26.1 setting national direction, standards or thresholds that local secondary legislation must be consistent with;
 - 26.2 setting model bylaws and bylaw clauses, and the procedural requirements for their adoption;
 - 26.3 prescribing procedural requirements for making, amending and reviewing local secondary legislation; and
 - 26.4 providing for technical matters such as definitions, scope and application.

Improving the way bylaws are made and reviewed

- 27 Current legislation requires bylaws to be formally reviewed within five years of adoption and then at ten-year intervals. The five-year review requirement is generally considered too soon after adoption, particularly given the time and cost involved in developing a bylaw (at least six months). In practice, councils address significant issues with bylaws as they arise, reducing the need for early or frequent mandatory reviews. I propose providing for a standard 10-yearly review for all bylaws.
- 28 The requirement to consult on a bylaw left unamended after a statutory review is disproportionate. I propose removing the requirement for consultation when the outcome of a statutory review is that a bylaw continues unamended.
- 29 The legislative process for making bylaws lacks clarity and can require significant resource. I propose amending section 155 of the LGA02 to ensure that its requirements are fit for purpose and that it requires local government to consider the wider regulatory system.
- 30 Section 156 of the LGA02 gives councils flexibility when consulting on bylaws to choose between the special consultative procedure (SCP) or a process in line with the principles of consultation (section 82 of the LGA02), depending on significance. In practice, councils often still default to the SCP, meaning the original intent is not being fully realised. To give councils confidence in using the existing flexible approach, I propose amendments to section 156 of the LGA02 to support efficient and proportionate consultation processes.

Addressing fragmentation of the bylaw system

- 31 I propose amending the bylaw-making provisions in the Bylaws Act 1910 (BA1910) relevant to local government using plain, modern language and in current drafting style and format, and moving them to the LGA02. There was strong support during engagement to have as much of the local government bylaw-making process as possible in one place. Transferring relevant provisions from the BA1910 into the LGA02 would achieve this for a key piece of the system. Updating these provisions at

the time of transfer will ensure they are fit-for-purpose, accessible and meet current legislation drafting standards.

- 32 I propose removing bylaws as a fee setting tool from section 150 of the LGA02. There was also strong support during engagement for the principle that bylaws should not be required simply for setting fees. Councils will be able to set specified fees through their annual plans and will still need to meet the LGA02's consultation requirements.
- 33 There are several unnecessary and duplicate bylaw-making powers in the LGA02 and the Local Government Act 1974 (LGA74). The LGA74, which now largely operates as a residual and topic-specific statute superseded by the LGA02, still contains several bylaw provisions.
- 34 I propose removing unnecessary and duplicative bylaw-making powers in the LGA02 (including fee setting in section 150) and LGA74, and modernising remaining bylaw provisions in the LGA74 and moving to the LGA02. This will further support the tidying up of legislation and reduce fragmentation of the system.
- 35 Minor and technical amendments to legislation will also be required to ensure consistency and workability across the bylaw and alternative secondary legislation instrument system. These will be identified through the drafting process.

Publication of bylaws

- 36 Unlike other types of secondary legislation, local government bylaws do not have to be presented to the House of Representatives, are not disallowable by the House, and do not need to be published under the Legislation Act 2019 (LA19).
- 37 Cabinet made the decision to exclude local authority legislation from the publication requirements of the LA19 in 2016 [SEC-16-MIN-0055 refers]. The following year, Cabinet directed the Department of Internal Affairs to explore options for the future publication of local authority legislation [SEC-17-MIN-0038].
- 38 Recent changes to the LA19 will establish the New Zealand Legislation website (www.legislation.govt.nz) as a single point of access to New Zealand legislation. The changes mean that local government bylaws and related secondary legislation could now be published under the LA19 with very little time or resource required of councils. Publication would have the advantage of creating a central repository of local government bylaws and related secondary legislation, improving accessibility and transparency.
- 39 I propose that council bylaws and related secondary legislation be made subject to publication requirements under the LA19. The timing of this coming into effect would be delayed to provide time for systems and processes to be established, and to ensure additional work for councils is minimised, along with costs for ratepayers.

Broadening enforcement options within the system

- 40 The current regulation making power in the LGA02 to create infringement offences for bylaw breaches requires each local government bylaw to be named in a regulation, along with each individual offence. As such, barely any infringement offences have

been created for councils under the LGA02, leaving expensive and time-consuming court proceedings as the only enforcement option for many bylaws.

- 41 I propose enabling a regulation-making power to create infringement offences for categories of bylaws and related secondary legislation breaches, and the circumstances in which they can be made. This would ease the administrative burden for both central and local government, and promote fairness and consistency across the country. The change would be made in the LGA02, and other Acts where appropriate, consistent with the policy intent in this paper and agreed to by the administering department.
- 42 I also propose enabling councils to set lower infringement fees than the maximum prescribed in these regulations. This has the advantage of providing national consistency for the maximum fee, while allowing flexibility for councils to address local circumstances by prescribing a lesser fee.
- 43 An abatement notice is a formal legal directive issued by a council requiring a person or business to stop, fix or prevent an activity. They provide a formal enforcement option well-suited to situations where changing or stopping behaviour rather than punishment is the primary goal.
- 44 Abatement notices enable a graduated and proportionate approach to enforcement, reduce reliance on court-based processes and improve compliance outcomes. They are already used elsewhere in the local government system. I propose introducing an abatement notice for breaches of bylaws and related secondary legislation. Failure to comply with an abatement notice is an offence, and I propose it also be made an infringement offence.

Financial Implications

- 45 These proposals have no direct financial implications.

Legislative Implications

- 46 I intend to progress these proposals through a Local Government Bylaws Bill, which has a priority 6 in the 2026 Legislation Programme (drafting instructions to be issued in 2026). This omnibus Bill will amend the Local Government Act 2002, the Local Government Act 1974, Bylaws Act 1910, and Freedom Camping Act 2011. Amendments to other legislation may be required and will be identified through the drafting process and confirmed to the Cabinet Legislation Committee.
- 47 Regulations under the Local Government Act 2002 will be required to enable the Minister of Local Government to support the operation of the bylaw system as well as to create infringement offences and fees for similar kinds of bylaws and related secondary legislation.

Impact Analysis

Regulatory Analysis Summary

- 48 A Regulatory Analysis Summary (RAS) has been prepared for the proposals in this paper and is attached as **Appendix A**.

- 49 The Panel considers that the information and analysis summarised in the RAS meets the quality assurance (QA) criteria.
- 50 The RAS is complete, with links and/or references to supporting evidence where appropriate. It is clear and concise and meets the 20-page limit. The analysis within the RAS is convincing, supported by an appropriate framework, noting that there is limited information on quantified or ‘monetised’ expected costs and benefits. There was evidence of efficient and effective consultation with affected stakeholders, with limited public consultation.
- 51 The RAS clearly acknowledges the limitations and constraints under which it has been prepared. Members of the public are likely to be affected by the regulatory proposal. Therefore, the Panel strongly supports the recommendation that there is an exposure draft of the Bill for public consultation to ensure any amendments are practicable and workable.
- 52 The Ministry for Regulations has determined that a number of the proposals in this paper are exempt from the requirement to provide a Regulatory Analysis Summary on the grounds that they have no or only minor economic, social, or environmental impacts. A list of exempted proposals is attached as **Appendix B**.

Climate Implications of Policy Assessment

- 53 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal as the thresholds for significance are not met.

Population Implications

- 54 The proposals are mainly procedural and are not expected to have significant negative population implications. The proposals are not expected to directly affect Māori and rural community rights and interests. However, indirect impacts may fall unevenly on these groups because bylaws and related secondary legislation operate at a local level and affect access to public places and areas of cultural significance, customary activities, and community behaviour. Unintended consequences will be reduced by councils continuing to engage with Māori and rural communities through the existing LGA02 processes.

Human Rights

- 55 No potential human rights implications or inconsistencies with the New Zealand Bill of Rights Act 1990 or Human Rights Act 1993 have been identified through these proposals.

Use of external Resources

- 56 No external resources were used on the local government bylaw system review.

Consultation

- 57 The following agencies were consulted on the contents of this paper: Ministry for Primary Industries, Maritime NZ, Ministry for Regulation, NZ Police, Department of

Conservation, Ministry of Justice, Land Information New Zealand, Ministry of Health, Parliamentary Counsel Office, Te Puni Kōkiri, Department of Prime Minister and Cabinet, and Ministry of Business, Innovation and Employment.

Communications

- 58 Once legislative drafting is complete, I intend to share an exposure draft for public consultation. This will ensure the proposals are workable for the local government sector as well as businesses, ratepayers and communities.

Proactive Release

- 59 This Cabinet paper and its corresponding minute will be proactively released within 30 business days of final policy decisions being taken by Cabinet.

Recommendations

The Minister of Local Government recommends that the Committee:

- 1 **note** the Local Government System Improvements work programme included giving councils appropriate and modern regulatory tools;
- 2 **note** in July 2024, a review into the local government bylaw system was commenced with the aim of providing local government with appropriate and cost-effective tools;
- 3 **note** targeted consultation with local government officials, stakeholders who regularly interact with local government bylaws, and relevant government agencies and government departments commenced in August 2025;
- 4 **note** there was unanimous support for reviewing the bylaw system and a clear need for reform on the overarching issues including:
 - 4.1 The system is fragmented and not always used appropriately;
 - 4.2 Statutory processes are unclear and inefficient; and
 - 4.3 Enforcement options are limited;

Providing options for how powers are delegated

- 5 **agree** that local government be enabled to regulate through an alternative form of secondary legislation where appropriate, such as where the nature of the regulation is highly prescriptive;
- 6 **agree** to include an appropriate framework and process requirements for the alternative form of secondary legislation made by local government in the Local Government Act 2002;
- 7 **agree** to convert existing local government bylaw-making powers in other Acts, including the Freedom Camping Act 2011, and in sections 147-147C of the Local Government Act 2002 (alcohol control bylaws), to the alternative form of secondary legislation where appropriate, consistent with the policy intent in this paper and agreed to by the administering department;

Supporting the system to be more responsive

- 8 **agree** to enable the Minister of Local Government to prescribe detail, provide clarity and structure, and make other changes to support the operation of the bylaw and related local secondary legislation systems including by;
 - 8.1 setting national direction, standards or thresholds that local secondary legislation must be consistent with;
 - 8.2 setting model bylaws, bylaw clauses and alternative instruments, and the procedural requirements for their adoption;
 - 8.3 prescribing procedural requirements for making, amending and reviewing local secondary legislation; and
 - 8.4 providing for technical matters such as definitions, scope and application;

Improving the way bylaws are made and reviewed

- 9 **agree** to amend the requirement for the first review in accordance with section 158 of the Local Government Act 2002 of a bylaw to be within 10 years of it being made, instead of the current five;
- 10 **agree** to remove the requirement in section 160(3)(b) of the Local Government Act 2002 to consult on a bylaw left unamended after a review;
- 11 **agree** to amend the Local Government Act 2002 to ensure that the requirement in section 155 of the Act is fit for purpose and requires local government to take into account the wider regulatory system;
- 12 **agree** to make amendments to the Local Government Act 2002 to support efficient and proportionate consultation processes;

Addressing fragmentation of the bylaw system

- 13 **agree** to amend the bylaw-making provisions in the Bylaws Act 1910 relevant to local government using plain, modern language and in current drafting style and format, and move to the Local Government Act 2002;
- 14 **agree** to remove bylaws as a fee setting tool from section 150 of the Local Government Act;
- 15 **agree** to remove unnecessary or duplicative bylaw-making powers in the Local Government Act 2002 and Local Government Act 1974, modernise remaining bylaw provisions in the Local Government Act 1974 and move to the Local Government Act 2002;
- 16 **agree** to progress legislative amendments required to ensure consistency and workability across the bylaw and alternative secondary legislation instrument system;
- 17 **agree** to make local government bylaws and alternative secondary legislation instruments subject to publication requirements under the Legislation Act 2019, with the timing of this coming into effect to be delayed to provide time for systems and

processes to be established, and to ensure additional work for councils and costs to ratepayers are minimised;

Broadening enforcement options within the system

- 18 **agree** to enable regulations to be made to create infringement offences for categories of bylaws and alternative secondary legislation instruments and the circumstances in which they can be made;
- 19 **agree** to enable councils to set lower infringement fees than the maximum prescribed in regulations;
- 20 **agree** to amend the Local Government Act 2002 and other Acts where appropriate, consistent with the policy intent in this paper and agreed to by the administering department, to introduce an abatement notice for breaches of bylaws and alternative secondary legislation instruments, and for failure to comply with an abatement notice to be an infringement;

Exposure draft

- 21 **agree** to issue an exposure draft of the Bill for public consultation to ensure any amendments are practicable and workable;

Drafting instructions

- 22 **invite** the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel Office for a bill to give effect to the policy decisions in this paper;
- 23 **authorise** the Minister of Local Government to make decisions on subsequent matters arising during the legislative drafting process consistent with the overall policy intent; and
- 24 **note** the proposals will be given effect through the Local Government Bylaws Bill, which holds a Category six priority on the 2026 Legislation Programme with drafting instructions to be issued in 2026.

Authorised for lodgement

Hon Simon Watts

Minister of Local Government

Appendix A: Regulatory Analysis Summary: Reform of the Local Government Bylaw System

Appendix B: Proposals exempt from Regulatory Analysis Summary requirements

- 1 Amend bylaw-making provisions relevant to local government in the BA1910 using plain, modern language and in current drafting style and format, and move to the LGA02;
- 2 Remove bylaws as a fee setting tool from section 150 of the LGA02;
- 3 Remove unnecessary and duplicate bylaw-making powers in the LGA02 and LGA74, and modernise the remaining bylaw provisions in the LGA74 and move to the LGA02;
- 4 Progress minor and technical legislative amendments required to ensure consistency across the system;
- 5 Make local government bylaws and related secondary legislation subject to publication requirements under the LA19;
- 6 Amend the LGA02 to ensure that the requirement in section 155 of the LGA02 is fit for purpose and requires local government to consider the wider regulatory system;
- 7 Remove the requirement for consultation when the outcome of a review is that a bylaw continues unamended;
- 8 Make amendments to the LGA02 to support efficient and proportionate consultation processes; and
- 9 Enable councils to set lower infringement fees than the maximum prescribed in regulations.



Regulatory Analysis Summary: Reform of the Local Government Bylaw System

Decision sought	Cabinet policy decisions on the local government bylaw system
Agency responsible	Ministry for Cities, Environment, Regions and Transport (MCERT)
Portfolio Minister(s)	Minister of Local Government
Date finalised	15 July 2026
Ministry for Regulation tracking number	Reg-2284

Brief description of the Minister's regulatory proposal (preferred option)

The Minister's preferred option is a system reform package for the local government bylaw system, covering delegation of powers, bylaw making and review, and enforcement. It introduces a notice-making framework, reduces unnecessary review requirements, and expands enforcement tools (including infringement and abatement-type responses). This creates a tiered and more proportionate system, improving how local regulation is designed, made, and enforced.

Summary of the problem definition

The bylaw system is fragmented, inefficient, and not aligned with the modern local government framework. A review of the problem was commissioned as part of the broader Local Government Systems Improvements Programme which seeks to reduce pressure on local government rates to help address concerns about the cost of living. Bylaws are often used as a one-size-fits-all tool, even where legislation already sets regulatory frameworks. This results in:

- duplication between central and local government
- resource-intensive bylaw processes
- limited and disproportionate enforcement tools

These reduce the effectiveness, efficiency, and consistency of local regulation.

Summary of options considered for addressing the problem

Four options were considered across the three stages of the bylaw system (delegation of powers, bylaw making and review, and enforcement):

- **Option One – Status quo**
Retains the current system, including prescriptive delegation arrangements, resource-intensive bylaw processes, and limited enforcement tools. This maintains existing inefficiencies, duplication, and reliance on court-based enforcement.
- **Option Two – Reduce reliance on regulation**
Reduces the use of bylaws and formal enforcement, relying more on non-regulatory approaches. While this lowers administrative burden, it does not provide workable mechanisms where regulation is mandated and risks gaps in regulatory coverage and inconsistent outcomes.
- **Option Three – Improve the bylaw system**
Improves the structure and processes of the existing system, including more efficient bylaw making and review requirements and better use of existing enforcement tools. However, it retains reliance on bylaws as the primary tool and does not address the lack of fit-for-purpose regulatory and enforcement options.

• Option Four – System reform package (preferred) Combines structural improvements with new regulatory tools, including a notice-making framework for prescriptive regimes, streamlined review requirements, and expanded enforcement options. This creates a tiered and proportionate system that improves effectiveness, efficiency, and proportionality across all parts of the system. Overall, the preferred option performs the best, as it addresses both how the system operates and the tools available, while the other options either retain existing limitations or do not provide workable alternatives.
Is the Minister’s preferred option in the Cabinet paper the same as the preferred option in the RAS? Yes
Summary of the main benefits of the Minister’s preferred option • Reduced duplication between central and local government • Lower administrative burden for local authorities • More proportionate and timely regulation • More proportionate and effective enforcement tools • Improved compliance outcomes and regulatory effectiveness Overall, the reforms improve the efficiency, consistency, and usability of the local regulatory system.
Summary of the main costs of the Minister’s preferred option • One-off implementation costs (legislation, systems, training, and guidance) • Transitional costs for local authorities adopting new tools and processes • Ongoing system stewardship and guidance requirements • Increased system complexity from introducing additional regulatory tools These costs are primarily short term and manageable.
Does the RAS indicate that the benefits of the Minister’s preferred option are likely to outweigh the costs? Yes The preferred option delivers a net benefit over time, with ongoing benefits outweighing implementation costs.
Have any potential inconsistencies with the principles of responsible regulation in the Regulatory Standards Act been identified in relation to the Minister’s preferred option? No

Limitations and constraints on analysis			
Condensed timeframes	No	Constrained option set	No
Legislative constraints	No	Data and evidence gaps	Yes
Ministerial direction	No	Other	No
Limited public consultation	Yes		
Summary of limitations and constraints on analysis Quantification of costs and benefits is limited due to: • Local government costs being largely staff time • Variation in council practices • Lack of system-wide cost and performance data The analysis therefore relies on qualitative evidence, consultation, and policy judgement. Consultation was targeted rather than broadly public, focusing on local authorities, sector groups, and directly affected stakeholders. This approach was considered appropriate and proportionate given the technical and system-focused nature of the reforms.			

What are the implications of these limitations and constraints, and what has been done – or will be done – to mitigate and manage them?

These limitations affect the precision but not the direction of findings.

They are mitigated through:

- Consultation with local government and stakeholders
- Multi-criteria and qualitative cost-benefit analysis
- Monitoring, guidance, and system stewardship
- Proposed public consultation on draft bill, subject to Cabinet agreement

Impacts will be evaluated over time.

I am satisfied that, given the available evidence, this RAS represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

Richard Ward

General Manager Local Government Policy and Partnerships

15 July 2026

Quality Assurance Statement

Reviewing Agency:

QA rating: Meets

Panel Comment:

The Ministry for Cities, Environment, Regions and Transport (MCERT) has reviewed the regulatory analysis summary (RAS): Reform of the Local Government Bylaw System, prepared by MCERT and associated supporting material on 9 July 2026.

The Panel considers that the information and analysis summarised in the RAS **meets** the quality assurance (QA) criteria.

The RAS is **complete**, with links and/or references to supporting evidence where appropriate. It is **clear and concise** and meets the 20-page limit. The analysis within the RAS is **convincing**, supported by an appropriate framework, noting that there is limited information on quantified or 'monetised' expected costs and benefits. There was evidence of efficient and effective **consultation** with affected stakeholders, with limited public consultation.

The RAS clearly acknowledges the limitations and constraints under which it was prepared. Members of the public are likely to be affected by the regulatory proposal. Therefore, the Panel strongly supports the recommendation that there is an exposure draft of the Bill for public consultation to ensure any amendments are practicable and workable.

Section 1: Diagnosing the policy problem

What is the policy problem?

Context

Local government in New Zealand has had bylaw-making powers for as long as it has existed

1. Bylaws are delegated secondary legislation used by local authorities to regulate local issues. Many entities can make bylaws, but this work looks at local government bylaws only. Bylaws are used for a broad range of purposes. Some powers are general, such as protecting public safety or controlling nuisance¹. Others are more specific such as regulating trading in public places, dog control or restricting freedom camping.
2. Local government bylaw-making was first introduced in 1842 and was very broad, allowing local authorities to make bylaws as they saw fit. Over the years, local government bylaw-making powers became increasingly prescriptive, to the point where the Local Government Act 1974 (LGA74) listed 50 purposes that councils could make bylaws about.
3. The Local Government Act 2002 (LGA02) introduced a power of general competence (section 12) and confirmed bylaws as secondary legislation (section 161A), shifting away from the previous reliance on prescriptive statutory powers and elevating bylaws in the regulatory hierarchy. Many older bylaw powers remain and are no longer aligned with the current system.
4. All local government regulatory roles and powers are derived from statute. Parliament delegates a range of functions and responsibilities to local government along with the systems and tools to deliver them. Bylaws are one such tool and have secondary legislation status. Other tools include specific regimes such as those in the Building Act 2004 and the Resource Management Act 1991, policies and resolutions (e.g., formal council decisions).² There are around 900 bylaws covering 17 different topics across 78 local authorities.

Policy problem

5. The current bylaw system is no longer fit for purpose and is not enabling local authorities to deliver good quality regulation and enforcement. Bylaws are not always an efficient or effective tool for the job they are intended to do. The process for local authorities to make and review bylaws is not clear or efficient, while at the same time local authorities lack the ability to enforce many of their bylaws.

Bylaws are not the most efficient or effective tool for some common uses

6. Bylaws as a tool have evolved considerably. The LGA02 has established a regime that suits bylaws as a regulatory tool but does not fit as well for other uses, such as setting fees and charges and other administrative details. Bylaws cannot be responsive to emerging issues, nor change easily as community needs change, due to process requirements.

The process to make and review bylaws can be onerous and confusing

7. The process for creating, amending, and reviewing bylaws is both time and resource intensive. The complexity and overly prescriptive nature of the process provide too many

¹ Section 145 of the Local Government Act 2002

² Policy examples include [section 101 of the Gambling Act 2003](#) and [section 5A of the Shop Trading Hours Act 1990](#). Resolution examples include [section 37 of the Dog Control Act 1996](#) and [section 151\(2\) of the Local Government Act 2002](#).

avenues for councils to inadvertently make mistakes and be challenged on technical procedural grounds. Bylaws can take between 18-24 months to make from start to finish.

8. Bylaw review requirements are not achieving their intended outcomes. The requirement to review bylaws within five years of adoption is considered too short and creates unnecessary compliance costs. In practice, if there are any significant issues with a bylaw, many councils will address these as they arise. Bylaw reviews can take 6-18 months to complete.
9. Consultation requirements can be the most time intensive part of the bylaw process. Consultation is required even when bylaws continue unamended after a review. While there is discretion as to what type of consultation should be used, many councils default to the special consultative procedure³. This can create unnecessary cost and time for local authorities and members of the public, especially if the bylaw is continuing unamended.

Local authorities have limited options for enforcing many of their bylaws

10. In several cases, prosecution through the courts is the only enforcement option for bylaw breaches. In practice, local authorities rarely undertake prosecutions because they are too costly and often disproportionate for low-level breaches of bylaws. The lack of enforcement short of a prosecution means many bylaws are seen as ineffective. This can embolden cavalier behaviour and undermine public confidence in local government.⁴
11. Infringement offences and fees are currently available for some bylaws. Section 259 of the LGA02 enables regulations to be made by Order in Council to prescribe breaches of bylaws as infringement offences, but this power is difficult to use in practice and to date has only been used in part on one occasion⁵. Infringement offences are appropriate for some bylaw breaches and are preferable to the current approach of court prosecution. This has been highlighted by the New Zealand Productivity Commission.⁶
12. Other legislation enabling local authorities to regulate behaviour, such as the Resource Management Act 1991, has a more varied and sophisticated range of enforcement mechanisms directed to achieving the desired outcomes.

Who are the regulated parties and what are their views of the problem?

13. Local authorities and the public are the regulated parties. Local authorities view the bylaw system as fragmented and not fit for purpose. The public view the system as difficult to engage with and note that the lack of meaningful enforcement leads to non-compliance. All regulated parties have an interest in ensuring that local authorities are regulating appropriately and that compliance is enforced fairly and consistently.

Objectives sought in relation to the policy problem

14. The overall objective is to modernise the bylaw system to provide efficient, proportionate, and effective regulatory tools for local government.

Consultation

15. In July 2024, the Minister of Local Government agreed to a comprehensive review of the local government bylaw system with the aim of providing local government with appropriate

³ [As found in section 83 of the Local Government Act 2002](#)

⁴ [Beach bylaws need enforcing, DOC ranger says | RNZ](#)

⁵ For alcohol control bylaws, at the introduction of sections 147-147C of the Local Government Act 2002

⁶ New Zealand Productivity Commission – [Towards better local regulation](#)

and cost-effective tools. This followed the Regulations Review Committee (RRC) presenting their report on their inquiry into bylaws to the House in September 2023. The report had a narrow focus on infringement offences and made three recommendations.⁷ Work on the RRC's recommendations highlighted broader issues with bylaws.

16. The comprehensive review was part of the broader Local Government System Improvement work programme announced by the Prime Minister in August 2024. The main feature in the programme is the [Local Government \(Systems Improvements\) Amendment Bill](#) that seeks to reduce pressure on local government rates to help address the cost of living. The Bill aims to do this by focusing the purpose of local government, better measuring and publicising council performance, prioritising core services in council spending, strengthening council accountability and transparency, and providing regulatory relief to councils.
17. In August 2025, the Department of Internal Affairs (the Department) shared an issues and options paper on the local government bylaw system for targeted consultation.⁸ The issues and options paper was intended to provide a structure for seeking further feedback from identified stakeholders on whether the issues and options had been correctly identified, and whether the options are technically and practically feasible. Issues and options were identified from pre-engagement with relevant parties, along with several reports and well-known issues within the local government bylaw system.
18. Targeted consultation took place in August 2025 with officials inside local authorities who worked with bylaws or had an interest in bylaws, and with relevant government agencies and government departments. Ministers who had an interest in bylaws were also invited to comment. Feedback was received from 10 local authorities' subject matter experts, 12 government agencies and departments and six Ministers. Some government department and agencies noted links between the Department's work and work they currently or soon will have underway. We continue to engage with them on related work programmes.
19. We also held further targeted consultation with key stakeholders who had an interest in matters commonly regulated by local government bylaws including Hospitality New Zealand, Federated Farmers, and the New Zealand Motor Caravan Association.
20. There was unanimous support for reviewing the local government bylaw system and respondents agreed there is a clear need for reforms. There was agreement on the overarching issues to be addressed, namely that the system is fragmented and not always used appropriately, statutory processes are unclear and inefficient, and enforcement options are limited.
21. If Cabinet agrees, it is intended an exposure draft of any legislation will be released for public consultation to ensure the public can have a say on proposals that may have an impact on them.

Section 2: Assessing options to address the policy problem

Scope of this work

22. This review has focused on bylaws made by local authorities as defined in the Local Government Act 2002 (i.e. regional councils and territorial authorities). Ministerial decisions narrowed the scope to legislation administered by the Department of Internal Affairs (now

⁷ [Inquiry into bylaws, Report of the Regulations Review Committee](#), August 2023

⁸ Local Government Bylaw System Issues and Options Paper: August 2025

MCERT). This includes the Bylaws Act 1910, LGA02, LGA74 and Freedom Camping Act 2011. As a result, the options considered do not include broader system-wide changes to bylaw powers in other agencies' legislation.

23. Local government bylaw-making powers are found in 17 pieces of legislation, six of which are administered by the Department. Of the 11 that are administered by other agencies, all but two refer to the process steps in the LGA02, at least in part, for how bylaws are made under that legislation. System-level change (i.e., getting the process right) has been the focus of this work, rather than individual bylaw powers.
24. The reforms proposed are intended to establish a clear and coherent framework within the LGA02 that can be applied more broadly over time. This will support future alignment and provide a foundation for other agencies to adopt consistent approaches to delegating local regulatory powers. The Department was open to considering consequential amendments to a wider range of legislation where this was supported by the administering agency.

Why regulatory reform is preferred over non-regulatory reform

25. Bylaw powers are regulatory by nature – they are delegated by Parliament and set in primary legislation. Retention of the status quo would mean the issues identified would continue and no changes would be made to modernise and clarify the local government bylaw system. Various reports have recommended changes to the local government bylaw system, including the New Zealand Productivity Commission's Towards better local regulation and the RRC's Inquiry into bylaws.
26. The problems with the system have arisen in part because it has developed in an ad-hoc way and become fragmented over time. With aspects of the system sitting in different pieces of legislation, its stewardship and development sit across multiple agencies. To date non-regulatory tools have had limited effect because they are non-binding and can easily fall out of use if not actively maintained and promoted.
27. The local government sector has put significant effort into improving capability with and use of the bylaw system through guidance, peer-support and a community of practice but they acknowledge that issues still exist. Stakeholders who regularly engage with local government bylaws have also taken steps to build their capability and seek proactive involvement in bylaw processes, but they too note prevailing issues in the system.
28. Guidance alone is not considered sufficient to enable the local government bylaw system to provide efficient, proportionate, and effective regulatory tools for local regulation. It will however be an important part of implementation and ongoing stewardship. Guidance will be developed for both local and central government, in partnership with relevant parties. This was strongly supported in consultation on the issues and options paper.

What criteria will be used to compare options with the status quo?

29. This section assesses options across three stages of the bylaw system: delegation of powers, bylaw making and review, and enforcement. Costs and benefits are assessed collectively in Section 3.
30. The following criteria will be used to assess options in all three stages:
 - a. **Effectiveness** - Does the option support a regulatory system that is necessary, fit for purpose, and enables central and local government to appropriately manage harm, regulate behaviour, and administer rules?

- b. **Efficiency** - Does the option minimise duplication, time, cost, and complexity for central government, local government, and communities, and support timely responses to emerging issues?
- c. **Proportionality** - Does the option ensure that regulatory tools, processes, and responses are appropriate to the nature and scale of the issue or problem being addressed?
- d. **Consistency** - Does the option improve coherence, clarity, and usability across legislation and the bylaw system, supporting a more unified and consistent regulatory framework?

Delegation of Bylaw Powers

What scope will options be considered within?

- 31. Early analysis considered whether the use of bylaws could be significantly reduced or removed. This was not progressed as it would not provide workable mechanisms for addressing local regulatory issues, particularly public safety and nuisance.
- 32. Ministerial decisions narrowed the scope to improving flexibility and responsiveness without fundamentally changing the role or regulatory responsibilities of local government.

What options are being considered?

Option One – Status Quo

- 33. This option retains the status quo, with continued reliance on bylaws for local regulation. Existing inefficiencies, duplication, and delays would continue. Over time, the status quo is likely to reinforce reliance on bylaws as the default regulatory tool and increase fragmentation across legislation.

Option Two – Reduce Reliance on Regulation (deregulatory option)

- 34. This option reduces reliance on regulation and increases use of non-regulatory tools. No new regulatory tools would be introduced. Central government would reduce the creation of new bylaw-making powers over time. This option lowers administrative burden; it does not provide more workable mechanisms where regulation is required and does not address the underlying legislative constraints in the current system. It is unlikely to achieve the intended outcomes.

Option Three – Improve the Bylaw System (structural and process improvements)

- 35. This option improves the existing bylaw system through structural and process changes. It increases efficiency and consistency but does not address the lack of fit-for-purpose tools. These changes have been exempted from the RAS so are not analysed here in detail. The specific proposed changes are:
 - a. Modernise bylaw-making provisions in the Bylaws Act 1910 relevant to local government and move to the LGA02;
 - b. Remove bylaws as a fee setting tool from section 150 of the LGA02;
 - c. Remove unnecessary and duplicate bylaw-making powers in the LGA02 and the LGA74, modernise remaining bylaw provisions in the LGA74 and move to the LGA02; and

- d. Progress minor and technical legislative amendments required to ensure consistency across the bylaw system.

Option Four – System Reform Package (Option Three plus additional tools and powers)

36. This option builds on Option Three by introducing additional regulatory tools and system supports. It would establish a procedural framework for notice-making in the Local Government Act 2002, similar to and alongside the one that currently exists for bylaws. A regulation-making power would also be introduced to enable the Minister of Local Government to provide national direction and support the consistent operation of the local government bylaw and notice system.
37. Notices are a secondary legislation tool for delivering delegated regulatory powers, just as bylaws are. They already exist in New Zealand's regulatory framework, for example they are the tool used by the Department of Conservation and Land Information New Zealand to regulate freedom camping under the Freedom Camping Act 2011⁹. Their form and presentation are much simpler than bylaws and they often present information graphically. They can therefore be produced and amended faster than bylaws, and do not require expertise in secondary legislation drafting. This could reduce the time taken to make local regulation from 18-24 months to 12-18 months.
38. Notices are suited to situations where the delegated regulatory power contains a high-level of prescription or detail and the regulator's role is to determine and show where and how those requirements apply, or to choose between a defined range of options (e.g. [section 17 of the Freedom Camping Act 2011](#)). Bylaws are suited to situations where the delegated power gives the regulator a high level of discretion over what activities to regulate and how to regulate them, requiring the detail to be provided in the secondary legislation itself (e.g. [section 145 of the LGA02](#)).
39. Creating an enabling framework for local government to use both bylaws and notices means that when Parliament is delegating regulatory powers it can choose a delivery tool that is proportionate to and appropriate for the nature of the delegated power. This should enable more cost-effective and efficient delivery of regulation locally. It should also avoid duplication of work between central and local government where Parliament has delegated a prescribed power. Councils and communities will be able to focus on where and how regulation applies in their area, without having to relitigate and redraft what has already been decided by Parliament. Having an additional, proportionate tool to deliver regulation locally was supported during consultation on the issues and options paper, and by the Ministry for Regulation in their Hospitality Review.
40. Existing bylaw-making powers in the Freedom Camping Act 2011 and alcohol control provisions in the LGA02 would be converted to notice-making powers as a first step towards implementing the framework. There was support for this during consultation on the issues and options paper.

Bylaw Making and Review

What scope will options be considered within?

⁹ An example of a freedom camping notice - [wellington-castlepoint.pdf](#)

41. The issues and options paper did not recommend any option over another. Based on feedback received and Ministerial agreement, removing the requirement to use the special consultative procedure in section 156 of the LGA02; and removing the automatic revocation of bylaws that have not been reviewed have been ruled out.¹⁰
42. Feedback from consultation noted the importance of the special consultative procedure but also the flexibility in which local authorities are still able to choose whether to use it or not. Technical changes to section 156 will clarify the use of the special consultative procedure for local authorities.
43. Removing the automatic revocation of bylaws would mean bylaws remain on the books longer than they may need to without appropriate review and consultation with the community.

What options are being considered?

Option One – Status Quo

44. Under this option, bylaws would continue to be reviewed within five years of adoption, and then at ten-year intervals.
45. The five-year review requirement is generally considered too soon after adoption, particularly given the time and cost involved in developing a bylaw (typically at least six months). While reviews ensure bylaws remain fit for purpose, early reviews can create unnecessary administrative burden.
46. Ten-year reviews also impose ongoing compliance costs, including the need to track review timeframes. In practice, local authorities address significant issues with bylaws as they arise, reducing the need for early or frequent mandatory reviews.

Option Two – Remove the requirement to review bylaws within five years and ten years (deregulatory option)

47. Under this option, the requirements for mandatory bylaw reviews after five and ten years would be removed altogether. Local authorities would no longer be required to monitor review timeframes or undertake consultation where a bylaw remains unchanged.
48. This would significantly reduce administrative burden and costs by removing the need for scheduled reviews and associated consultation processes. However, without a statutory requirement to review bylaws, there is a risk that outdated or unnecessary regulation may remain in place for longer than intended. This could reduce regulatory transparency and coherence over time.
49. There was some support during consultation for removing both the five and ten-year reviews.

Option Three – Remove the requirement to review bylaws within five years

50. Under this option, the requirement to review bylaws within five years of adoption would be removed, while retaining the ten-year review requirement. The requirement to consult on bylaws that remain unchanged after a review would also be removed. If it is decided

¹⁰ LG202510429 Briefing, Next steps on the local government bylaw system review. LG202611925 Remaining policy decisions for local government bylaw system review

following the review that amendments do need to be made to the bylaw, then consultation would still be required.

51. This would reduce administrative burden and costs by decreasing the number of required reviews and removing unnecessary consultation, while still ensuring that bylaws are reviewed periodically. It can take between 12-18 months on average to complete the bylaw review process. The minimum is at least six months. Indicative costs for a bylaw review are in the range of \$15,000¹¹.
52. Retaining the ten-year review requirement ensures that bylaws remain fit for purpose over time, while allowing local authorities to address issues as they arise.
53. There was mixed support for this option in the issues and options paper consultation, with submitters preferring the ten-year review to be kept over keeping the five-year review of bylaws if some form of review was to be retained. This ensured local authorities were regulating responsibly and deciding whether regulation was still needed.

Bylaw Enforcement

What scope will options be considered within?

54. The issues and options paper canvassed a range of options regarding the enforcement of bylaws. The issues and options paper did not recommend any option over another, but based on feedback received, the following options have been ruled out:
 - a. Classify all bylaw breaches as infringement offences; and
 - b. Allow local authorities to designate bylaw breaches as infringement offences.
55. These options would have had the potential for penalties to be disproportionate to the breach committed. Ministry of Justice was not in favour of the two options above as it would cause too much inconsistency across the country as well as be disproportionate to the breach committed.

What options are being considered?

Option One – Status Quo

56. Under this option, local authorities would continue to rely primarily on prosecution through the courts to enforce bylaw breaches, with limited use of infringement regimes.
57. This maintains existing enforcement pathways but is often resource-intensive, time-consuming, and disproportionate for lower-level breaches. As a result, enforcement options remain limited, which can reduce compliance and the effectiveness of local regulation.

Option Two – remove the ability to make regulations under Section 259 of the Local Government Act 2002 (deregulatory option)

58. Under this option, enforcement would rely more heavily on non-regulatory approaches such as education, warnings, and voluntary compliance, with reduced use of formal enforcement tools. Due to the lack of infringement offences that have been made under section 259, this option would be very similar to the status quo. Enforcement options would remain limited, reducing compliance and the effectiveness of local regulation.

¹¹ [Transition Fund for Local Authorities | Ministry of Business, Innovation & Employment](#)

Option Three – Amend Section 259 to enable regulations to be made for infringement offences for categories of bylaws

59. Under this option, section 259 of the LGA02 would be amended so that regulations can be drafted to enable infringement offences for categories of bylaws across all local authorities, rather than on a council-by-council and bylaw-by-bylaw basis.
60. This would improve efficiency and consistency within the current system. However, it does not address the limited range of enforcement tools, and reliance on court-based enforcement for many breaches would remain.
61. There are risks of a lack of fit between a council's bylaw and the categories in the regulations, especially for bylaws made under the general bylaw-making power in section 145 of the LGA02. However, having the categories listed in regulations means an amendment can be made relatively easily.
62. There is a risk that infringement offences could be enabled for minor breaches that do not meet Ministry of Justice infringement regime guidelines. However, when regulations are being developed, the Ministry will consult with the sector along with using the guidelines from the Ministry of Justice and the Legislation Design and Advisory Committee to ensure that the breach should be an infringement offence.
63. Enforcement of bylaws does not automatically mean an infringement offence will be issued as councils use a sliding scale of enforcement ranging from warnings at the lower level to court action at the higher end.¹²

Option Four – Amend section 259 (option three), along with introducing abatement notices

64. Under this option, a broader and more flexible set of enforcement tools would be introduced, including infringement offences and abatement-type notices.
65. An abatement notice is a formal legal directive issued by a local authority requiring a person or business to stop, fix or prevent an activity. Failure to comply with an abatement notice is an offence and can be made an infringement offence. This enables a graduated and proportionate approach to enforcement, reducing reliance on court-based processes and improving compliance outcomes. Abatement notices are a middle ground between nothing and issuing an infringement offence, with court action at the higher end of the scale.
66. An abatement notice is aimed at addressing the problem itself, rather than punishing an action or behaviour. For example, if a public place is being obstructed in breach of a bylaw, an abatement notice requiring removal of the obstruction, with the possibility of an infringement or prosecution for failing to comply with the notice, would be more likely to see the thing moved in a timely manner rather than issuing an infringement notice or starting a prosecution as a first step.
67. While this introduces additional tools, the increased complexity is manageable and will be supported through guidance and system stewardship. There was strong support from local authorities for these options as they thought it would provide a quick and cost-effective way to manage breaches of bylaws compared to either taking no action or court prosecution.

¹² <https://wellington.govt.nz/your-council/plans-policies-and-bylaws/policies/enforcement-and-compliance-policy>

How do the options compare with the status quo? – Delegation of Bylaw Powers

	Option One – Status Quo	Option Two – Reduce reliance on Regulation	Option Three – Improve the Bylaw System	Option Four – System Reform Package (Minister’s preferred option)
Effectiveness	0	- Reduces regulatory capability where regulation is required.	+ Improves system performance but does not address lack of fit-for-purpose tools.	++ Introduces fit-for-purpose tools, improving outcomes with manageable increases in complexity.
Efficiency	0	+ Reduces regulatory burden but shifts costs where regulation is still needed.	+ Reduces duplication but retains inefficiencies from reliance on bylaws.	++ Reduces duplication and enables faster, lower-cost regulatory responses.
Proportionality	0	+ Encourages lighter-touch approaches but creates gaps where regulation is required.	+ Improves proportionality but bylaws remain resource-intensive and inflexible.	++ Improves proportionality by matching tools to the scale and nature of the issue.
Consistency	0	- Increased reliance on guidance risks inconsistent application across councils.	+ Improves consistency but retains limitations of a single tool.	++ Establishes a structured system with defined roles, improving consistency (with transitional risks).
Overall assessment	0	0	+	++

How do the options compare with the status quo? – Bylaw Making and Review

	Option One – Status Quo	Option Two – remove the requirement to review bylaws within five and ten years	Option Three – Remove the requirement to review bylaws within five years (Minister’s preferred option)
Effectiveness	0	- Local authorities would have no statutory requirement to ensure the regulatory approach is still current and fit for purpose.	+ Local authorities are still required to review their bylaws to ensure their regulatory approach is still needed and fit for purpose.
Efficiency	0	++ Time and costs would reduce for local authorities significantly as there would be no need to monitor, review, and amend bylaws every five and 10 years.	+ Time and costs would reduce for local authorities as number of reviews are reduced and consultation requirements removed for bylaws left unamended after a review.
Proportionality	0	- Regulatory requirements will be reduced but unnecessary bylaws may remain on local authorities’ books.	+ Provides a reasonable middle ground of not too much or too little regulatory oversight.
Consistency	0	- Significant risk that the regulatory system will become incoherent for local authorities and communities to navigate with unnecessary bylaws on the books.	+ System will remain coherent by improving the useability of the bylaw system for local authorities.
Overall assessment	0	-	+

How do the options compare with the status quo? - Enforcement

	Option One – Status Quo	Option Two – Remove the ability to make regulations under section 259 of the LGA	Option Three – Amend Section 259 to enable regulations to be made for infringement offences for categories of bylaws	Option Four – Amend section 259, as well as introducing abatement notices (Minister’s preferred option)
Effectiveness	0	- Primary legislation would need to be amended or created to create infringements.	+ Infringement offences are a better way to manage minor levels of harm that bylaws often regulate for.	++ Infringement notices and abatement notices will help local authorities enforce compliance appropriately.
Efficiency	0	- While central government would not have to make any regulations, local authorities would have to enforce breaches of bylaws through the court system or not at all.	+ Local authorities having the ability to issue infringements is more time effective and a much cheaper alternative to court action.	++ Infringement notices and abatement notices are a time-saving and cost-effective approach to enforcing breaches of bylaws.
Proportionality	0	- Prosecution through the courts would not be appropriate to the scale of bylaw breaches.	+ Infringement offences are a proportionate response to the nature of the problem.	++ Infringements and abatement notices provide local authorities an appropriate and proportionate approach.
Consistency	0	- Some local authorities would have the capacity to prosecute through the courts while others would not.	+ All local authorities will have the ability to issue infringements for bylaw breaches.	++ Proportionate and appropriate enforcement of bylaw breaches can occur across the country.
Overall assessment	0	-	+	++

Section 3: Cost-benefit analysis

What are the additional costs and benefits of the preferred option in the Cabinet paper?

68. The preferred package of options delivers system-wide benefits by improving how local regulation is designed, made, and enforced. It creates a more coherent and consistent framework, reduces duplication between central and local government, and provides a clearer basis for delegating regulatory powers. These represent the incremental benefits compared to maintaining the status quo. Overall, the preferred package of options delivers a net benefit over time, with ongoing efficiency gains and improved regulatory outcomes outweighing initial implementation and transition costs.

Benefits

69. The reforms are expected to deliver efficiency gains, particularly for local government. While costs are primarily internal staff resourcing and not easily quantified, councils have indicated that current processes are resource intensive. Streamlined processes will reduce this burden and free up resources for other policy and operational work.
70. The preferred option also benefits communities and businesses through more targeted and proportionate regulation, reducing unnecessary compliance costs and improving confidence that local rules are fair, consistent, and effectively enforced.
71. The introduction of notice-making powers and improved enforcement tools enables more flexible and timely responses to local issues. This is expected to improve compliance outcomes and reduce reliance on court-based enforcement, addressing concerns about limited practical enforcement options.
72. Removing the requirement to review bylaws more frequently, and to consult on bylaws left unamended after a review, will save time and money for local authorities and the public.
73. The reform will also reduce legal risk for local authorities with reduced complexity reducing the risk of challenge on technical grounds. These challenges create additional costs for both local authorities and those bringing the challenge.¹³

Costs

74. There are one-off implementation costs, including legislative development, updating systems and processes, training, and developing guidance. Transitional costs are also expected as councils adopt new tools and processes.
75. There are ongoing costs associated with maintaining guidance and system stewardship. Introducing additional tools may increase system complexity, and there is a risk of inconsistent application during transition. These risks are expected to reduce over time through guidance, monitoring, and support.
76. Many impacts cannot be readily quantified, and there is uncertainty about the precise scale of costs and benefits due to variation in council practices, the nature of local government resourcing, and the lack of system-wide data. However, feedback on the issues and options paper, subsequent engagement with central and local government and policy analysis consistently indicate that the overall direction and scale of impacts are positive.

¹³ [Court rules Queenstown council's Freedom camping bylaw 'invalid'](#)

Table One: Cost-Benefit Analysis

Nature of the benefit/cost to New Zealand	Dollar value of impact (or quantified impact)	Scale of unquantifiable impact	Nature of impact – one-off or ongoing	Source of evidence
Additional benefits of the preferred option compared with taking no action				
More coherent and consistent regulatory system	Not quantified	High – clearer statutory framework reduces fragmentation and improves consistency	Ongoing	Policy analysis; engagement feedback
Reduced duplication between central and local government	Not quantified	High – removes need for councils to replicate central policy through bylaws	Ongoing	Policy analysis; engagement feedback
Reduced administrative burden for councils	Not quantified (primarily local government staff time. Indicative costs of \$15,000 to review a bylaw and \$25,000+ to prepare a new one ¹⁴ . Standard bylaws can take 18-24 months to complete the bylaw-making process)	High – reduced review requirements and simplified processes reduce resource use	Ongoing	Local government engagement (unable to quantify costs)
More flexible and timely regulation	Not quantified (responding more quickly allows local authorities to focus on other issues)	High – multi-tool system allows better matching of tools to regulatory problems	Ongoing	Policy analysis; engagement feedback
Improved enforcement tools and compliance outcomes	Not quantified (abatement notices are quick and effective to issue)	Medium-High – alternative enforcement tools reduce need for prosecutions	Ongoing	Policy analysis; engagement feedback
Reduced reliance on court-based enforcement	Indicative: \$5,000–\$10,000 per prosecution, up to \$20,000 if appealed.	Medium – improved compliance outcomes	Ongoing	Policy analysis; engagement feedback

¹⁴ Based on applications to [Transition Fund for Local Authorities | Ministry of Business, Innovation & Employment](#)

Reduced compliance costs for communities and businesses	Not quantified (clearer rules and regulations will reduce time needed to get up-to-speed)	Medium – less complexity and costs for regulated parties	Ongoing	Engagement feedback
Improved overall regulatory effectiveness and confidence	Not quantified	Medium-High – enables quicker resolution of issues and improved compliance outcomes	Ongoing	Policy analysis; engagement feedback
Total annual benefits	Not quantified	High		
Total one-off benefits	Not quantified	Low		
Additional costs of the preferred option compared with taking no action				
Legislative development and implementation	\$300,000 (1.5 FTE for 12-18 months + regulation work)	Medium – policy development, drafting, and legislative process costs	One-off	Policy development process
Transition costs for local authorities	Not quantified	Medium – updating processes, training staff, and transitioning existing bylaws	One-off	Policy analysis; engagement feedback
Development of guidance and system support materials by MCERT	\$130,000 (12 months following passing of legislation and regulations)	Low-Medium – development of guidance and supporting materials	One-off (with minor ongoing updates)	Departmental planning assumptions
Capability building within local government	Not quantified (ongoing)	Medium – training and familiarisation with new tools and processes	Short-to-medium-term	Policy analysis; engagement feedback
Ongoing stewardship and monitoring by MCERT	Not quantified (ongoing)	Low – ongoing system oversight by central government	Ongoing	Policy design
Total annual costs	Not quantified	Low-medium		
Total one-off costs	Not quantified	Medium		
Net impacts compared with taking no action				
Total annual benefits minus costs	Benefits outweigh costs	High (positive)	Ongoing	Policy analysis; engagement feedback
Total one-off benefits minus costs	Costs likely exceed benefits in short term	Medium (negative/neutral)	One-off	Policy analysis; engagement feedback

Are the benefits of the preferred option in the Cabinet paper expected to exceed the costs?

77. The benefits of the preferred package of options are expected to exceed the costs overall. While there are moderate one-off implementation costs, these are outweighed by substantial and ongoing benefits. The preferred package of options delivers efficiency and effectiveness gains by reducing duplication between central and local government, improving bylaw making and review processes, and introducing more proportionate regulatory and enforcement tools. This reduces ongoing administrative burden and reliance on costly court-based enforcement.
78. Although many impacts cannot be readily quantified due to the nature of local government resourcing and limited system-wide data, consultation and policy analysis consistently indicate a strong net positive impact over time.

What are the impacts on different groups of the preferred option compared with taking no action?

79. The preferred package of options is expected to have overall positive impacts across affected groups, with the most significant effects on local authorities as system operators, and on communities, businesses, and other regulated parties.

Table Two: Distributional Analysis

Affected groups	How they are affected	Description of level of impact(s)	Source of evidence
Local authorities	Transition to new framework, including capability building and implementation of notice-making and enforcement tools; improved flexibility and reduced administrative burden over time	Mixed positive – short-term implementation costs, offset by long-term efficiency gains and improved regulatory tools	Policy analysis, engagement, Regulations Review Committee, Productivity Commission
Communities and ratepayers	More targeted, proportionate, and consistent regulation; improved enforcement; faster issue resolution; reduced nuisance	Medium-High positive – clearer, fairer rules, improved compliance, and lower indirect costs	Policy analysis, engagement
Māori (iwi, hapū, whānau, Māori organisations)	Changes to how local regulatory powers are applied in areas of interest; ongoing engagement through existing LGA02 processes, including section 81 which requires a local authority to have processes for Māori to contribute to decision-making.	Medium-High positive – improved clarity and consistency; outcomes depend on effective implementation and engagement; no new Treaty implications	Policy analysis, engagement
Businesses and commercial operators	Reduced duplication; more targeted and proportionate regulation; improved enforcement consistency	Medium positive – reduced compliance costs and improved regulatory certainty	Policy analysis, engagement
Central government	Increased stewardship, guidance, and oversight responsibilities	Low-Medium cost – additional coordination, offset by improved system coherence	Policy analysis

Conclusion

Which option is the most effective, efficient, and proportionate response to the problem?

80. The preferred approach is to progress the preferred option for each stage of the bylaw system, resulting in an overall system reform package that improves both system structure and regulatory tools. Technical and non-regulatory changes are also being progressed but have been exempted from the RAS. The Minister's preferred option is the agency's preferred option.
81. The preferred package of options is the most effective because it best achieves the objectives by addressing the key system limitations and introducing fit-for-purpose tools. It is the most efficient because it reduces duplication and unnecessary processes. It is the most proportionate because it introduces a tiered and flexible system that matches tools to the scale of the issue, while maintaining appropriate safeguards. A package of options reflects the system-wide nature of the problem. Partial reforms would not address fragmentation, inefficiency, or the lack of fit-for-purpose tools. Risks are manageable and outweighed by overall benefits.

Section 4: Delivering an option

What are the next steps for implementing the legislation?

82. Following Cabinet decisions, a six-week public consultation period on an exposure draft of the legislation is proposed. This will be followed by refinement of the legislation. The bill will then be introduced into the House with a full four-month select committee process.
83. Regulations will be progressed, with policy development undertaken in parallel. There is a risk that competing priorities may delay this work. This will be managed through proactive communication with the sector and the Minister. Guidance will be developed in partnership with relevant parties. This will be delivered within existing departmental resources.

How will the proposal be monitored, evaluated, and reviewed?

84. An initial evaluation of the legislation is expected within 3–5 years of implementation as part of MCERT's requirements under the Regulatory Standards Act 2025. MCERT will also maintain ongoing engagement with councils and relevant agencies, and support consistency across the wider system over time.
85. Compliance monitoring will be integrated into existing processes. Courts will continue to make decisions and develop jurisprudence on local government's use of the system. Concerned members of the public may take judicial review action. MCERT officials will keep a watching brief on legal actions and court decisions on the system.
86. The Taituarā Regulations and Bylaws Reference Group has invited an MCERT official to attend the Group's quarterly meetings as an observer. This provides regular opportunities to engage with the local government sector. This engagement will focus on the key risks identified in the analysis including inconsistent use of notice-making powers, over- or under-use of regulatory tools, capability constraints, and increased complexity or administrative burden. Where risks emerge, MCERT will respond through targeted guidance and support, updates to best practice materials, and regulatory or legislative adjustments if needed.



Cabinet Economic Policy Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Reform of the Local Government Bylaw System

Portfolio **Local Government**

On 19 August 2026, the Cabinet Economic Policy Committee:

Background

- 1 **noted** that the Local Government System Improvements work programme included giving councils appropriate and modern regulatory tools;
- 2 **noted** that in July 2024, a review into the local government bylaw system was commenced with the aim of providing local government with appropriate and cost-effective tools;
- 3 **noted** that targeted consultation with local government officials, stakeholders who regularly interact with local government bylaws, and relevant government agencies and government departments commenced in August 2025;
- 4 **noted** that there was unanimous support for reviewing the bylaw system and a clear need for reform on the overarching issues including:
 - 4.1 the system is fragmented and not always used appropriately;
 - 4.2 statutory processes are unclear and inefficient; and
 - 4.3 enforcement options are limited;

Providing options for how powers are delegated

- 5 **agreed** that local government be enabled to regulate through an alternative form of secondary legislation where appropriate, such as where the nature of the regulation is highly prescriptive;
- 6 **agreed** to include an appropriate framework and process requirements for the alternative form of secondary legislation made by local government in the Local Government Act 2002;
- 7 **agreed** to convert existing local government bylaw-making powers in other Acts, including the Freedom Camping Act 2011, and in sections 147-147C of the Local Government Act 2002 (alcohol control bylaws), to the alternative form of secondary legislation where appropriate, consistent with the policy intent in the paper under ECO-26-SUB-0155 and agreed to by the administering department;

Supporting the system to be more responsive

- 8 **agreed** to enable the Minister of Local Government to prescribe detail, provide clarity and structure, and make other changes to support the operation of the bylaw and related local secondary legislation systems including by;
 - 8.1 setting national direction, standards or thresholds that local secondary legislation must be consistent with;
 - 8.2 setting model bylaws, bylaw clauses and alternative instruments, and the procedural requirements for their adoption;
 - 8.3 prescribing procedural requirements for making, amending and reviewing local secondary legislation; and
 - 8.4 providing for technical matters such as definitions, scope and application;

Improving the way bylaws are made and reviewed

- 9 **agreed** to amend the requirement for the first review in accordance with section 158 of the Local Government Act 2002 of a bylaw to be within 10 years of it being made, instead of the current five;
- 10 **agreed** to remove the requirement in section 160(3)(b) of the Local Government Act 2002 to consult on a bylaw left unamended after a review;
- 11 **agreed** to amend the Local Government Act 2002 to ensure that the requirement in section 155 is fit for purpose and requires local government to take into account the wider regulatory system;
- 12 **agreed** to make amendments to the Local Government Act 2002 to support efficient and proportionate consultation processes;

Addressing fragmentation of the bylaw system

- 13 **agreed** to amend the bylaw-making provisions in the Bylaws Act 1910 relevant to local government using plain, modern language and in current drafting style and format, and move to the Local Government Act 2002;
- 14 **agreed** to remove bylaws as a fee setting tool from section 150 of the Local Government Act 2002;
- 15 **agreed** to remove unnecessary or duplicative bylaw-making powers in the Local Government Act 2002 and Local Government Act 1974, modernise remaining bylaw provisions in the Local Government Act 1974 and move to the Local Government Act 2002;
- 16 **agreed** to progress legislative amendments required to ensure consistency and workability across the bylaw and alternative secondary legislation instrument system;
- 17 **agreed** to make local government bylaws and alternative secondary legislation instruments subject to publication requirements under the Legislation Act 2019, with the timing of this coming into effect to be delayed to provide time for systems and processes to be established, and to ensure additional work for councils and costs to ratepayers are minimised;

Broadening enforcement options within the system

- 18 **agreed** to enable regulations to be made to create infringement offences for categories of bylaws and alternative secondary legislation instruments and the circumstances in which they can be made;
- 19 **agreed** to enable councils to set lower infringement fees than the maximum prescribed in regulations;
- 20 **agreed** to amend the Local Government Act 2002 and other Acts where appropriate, consistent with the policy intent in the paper under ECO-26-SUB-0155 and agreed to by the administering department, to introduce an abatement notice for breaches of bylaws and alternative secondary legislation instruments, and for failure to comply with an abatement notice to be an infringement;

Exposure draft

- 21 **agreed** to issue an exposure draft of the Bill for public consultation to ensure any amendments are practicable and workable;

Drafting instructions

- 22 **invited** the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel Office for a bill to give effect to the above policy decisions;
- 23 **authorised** the Minister of Local Government to make decisions on subsequent matters arising during the legislative drafting process consistent with the overall policy intent;
- 24 **noted** that the above decisions will be given effect through the Local Government Bylaws Bill, which holds a Category 6 priority on the 2026 Legislation Programme (drafting instructions to be issued in 2026).

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Paul Goldsmith
Hon Louise Upston
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Casey Costello
Hon Nicola Grigg
Hon Andrew Hoggard
Hon Mark Patterson
Hon James Meager
Hon Scott Simpson
Hon Cameron Brewer
Simon Court MP

Officials present from:

Office of Hon Simon Watts
Officials Committee for ECO



Local Government briefing

Hon Simon Watts
Minister of Local Government

Title: Next steps on the local government bylaw system review

Date: 4 December 2025

Key issues

We have completed targeted consultation on *the Local Government Bylaw System Issues and Options Paper: August 2025*. Responses came from subject matter experts in local authorities, key stakeholders, as well as government departments/agencies and Ministers who have an interest in local government bylaws.

Respondents unanimously agreed on the need for reform. They strongly support progressing a package of regulatory and non-regulatory options designed to improve the functionality of the system.

Policy work on a number of regulatory options for this review is now complete. We seek your direction on these options now to enable us to start work on a draft Cabinet paper alongside completing the policy work for the review. This will allow us to make the best use of the resourcing we have available for this project.

Policy work continues to refine the details of the more significant and/or complex options, and those which have arisen during the targeted consultation process. We aim to provide you with a further briefing in March/April 2026 seeking final policy direction on the review. We will then provide you a draft paper for you to take through Cabinet to seek policy approvals for legislative change in April 2026.

Recommendations

Agree to the recommendations set out in this briefing.

Agree not to proceed with the United Kingdom's Public Spaces Protection Orders or Community Protection Notices for New Zealand's local government bylaw system, noting that other improvements through this work will deliver similar outcomes in a way that fits better with New Zealand's regulatory system;

Agree to receive a further briefing on the remaining issues and options in March/April 2026 for consideration and agreement to draft a Cabinet paper to seek policy approvals; and

Agree to write to the Regulations Review Committee with an update following this briefing.

Timeframe

At your convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Brooke Goodey	Manager, Policy	9(2)(a)	✓
Michael Smith	Senior Policy Analyst		

Return electronic document to: Michael.smith@dia.govt.nz

Hukatai reference WEJUA2TQC4JX-1613496928-269

Ministerial database reference LG202510429

Purpose

1. This briefing summarises feedback received to date on the *Local Government Bylaw System Issues and Options Paper: August 2025* (the issues and options paper). It seeks your direction on policy options to progress the work and presents you with recommended next steps and an indicative timeframe.

Executive summary

2. Targeted consultation on the *Local Government Bylaw System Issues and Options Paper* has concluded with the overwhelming consensus being that change is needed.
3. The issues and options paper came after a Regulations Review Inquiry into bylaws. While the Inquiry had a narrow focus on infringement offences, our work on the recommendations highlighted broader issues in the local government bylaw system and a comprehensive review was agreed to.
4. The intention of the review is to ensure councils have appropriate and modern tools for making and enforcing local regulations effectively. The review is part of the wider Local Government System Improvement Programme.
5. Consultation took place with subject matter experts within councils, along with government departments/agencies, Ministers, and key stakeholders who have an interest in bylaws, including Hospitality New Zealand, Federated Farmers and New Zealand Motor Caravan Association.
6. Respondents raised issues with the way bylaws are created, reviewed and enforced. They all agreed that the bylaw system is out of date and not fit for purpose.
7. We propose several options to progress further that will create a more efficient system, provide greater clarity and allow bylaws to be enforced more appropriately. These proposals, including non-regulatory proposals, taken as a package will help to address problems within the local government bylaw system.
8. At your request, we also sought feedback on anti-social behaviour tools used in the United Kingdom as part of the issues and options paper. There was mixed support for these tools from respondents and there were questions around local authority and Police responsibility. Both Police and the Ministry of Justice did not think these tools were appropriate in a New Zealand local government context.
9. While we do not recommend replicating tools based on those in the United Kingdom, we are proposing other regulatory options through this work that will help address anti-social behaviour for local authorities. This will complement work led by the Ministry of Justice on move on notices to be issued by the Police.
10. We continue to refine some of the policy options, and subject to your direction, we will provide you further advice on these proposals along with a draft Cabinet paper for your consideration in March/April 2026. Following final policy decisions, drafting instructions will be issued and we propose to release an exposure draft of the proposed changes.
11. We also propose to draft a letter from you to the Regulations Review Committee to keep them updated on this work as they have a keen interest in it.

Background

A Comprehensive review of the local government bylaw system was agreed to in August 2024

12. After completing an inquiry into local government bylaws, the Regulations Review Committee (the RRC) presented a report to the House in September 2023. The report had a narrow focus on infringement offences and made three recommendations. The Government responded to the RRC's report under the previous Minister of Local Government, Hon Simeon Brown.
13. Work on the RRC's recommendations highlighted broader issues in the local government bylaw system. On 27 July 2024, Minister Brown agreed to a comprehensive review of the local government bylaw system [LG20243366 refers]. The rationale for the review was that the bylaw system is outdated and creates inefficiencies and additional costs for local government. The local government sector has also been lobbying for change for some time.
14. The review is part of the Local Government System Improvements programme, announced by the Prime Minister in August 2024. The intention of the review is to ensure councils have appropriate modern tools for making and enforcing local regulations effectively. This aligns with the aims of the system improvements work and has the potential to deliver efficiencies and cost savings for local government and ratepayers.

Targeted consultation on the issues and options paper commenced in August 2025

15. In August 2025 you agreed to officials undertaking targeted consultation on the issues and options paper [LG20258467 refers]. This paper was based on the work and engagement to date on the local government bylaw review. We have attached the issues and options paper for your reference (**Appendix A**).
16. At your request, we also included options in the issues and options paper based on the United Kingdom's Public Spaces Protection Orders (PSPOs) and Community Protection Notices (CPNs) that help deal with anti-social behaviour [LG20258467 refers]. Feedback received on these tools is discussed at paragraphs 34-50 below.

Targeted consultation on the issues and options paper has largely concluded

17. We have completed targeted consultation with local government officials, and with relevant government departments/agencies. You wrote to your Ministerial colleagues who have an interest in bylaws and invited them to provide comments on the issues and options paper. We received feedback from 10 subject matter experts in local authorities, 12 government departments/agencies, and six Ministers. A list of Ministers and government departments/agencies who responded is included at **Appendix B**.
18. Local and central government officials provided comprehensive feedback on the questions raised in the issues and options paper. Some government departments/agencies noted links between this work and work they currently, or soon

will have, underway. We continue to engage with them on related work programmes across government.

19. We also held further targeted consultation with key stakeholders who have an interest in matters commonly regulated by local government bylaws. These included Hospitality New Zealand, Federated Farmers and New Zealand Motor Caravan Association. At the time of writing we are still attempting to engage with some key stakeholders including Wasteminz.

There was unanimous support for reviewing the local government bylaw system

20. Respondents generally agreed that the issues and options paper had correctly identified the issues in the local government bylaw system and clearly showed the need for reform. There was unanimous agreement on the overarching issues to be addressed, namely that:
 - 20.1 The system is fragmented and not always used appropriately;
 - 20.2 Statutory processes are unclear and inefficient; and
 - 20.3 Enforcement options are limited.
21. There was strong and unanimous support for progressing a package of regulatory and non-regulatory options designed to improve the functionality of the system and address these issues.
22. A common theme in the responses is that whatever system is ultimately adopted, it must be capable of delivering regulatory interventions where the benefits to society can be demonstrated to outweigh the costs.

A number of options were well supported

23. The issues and options paper tested options aimed at addressing key issues. It was structured around the three stages of the local government bylaw system - creation of local government bylaw powers by central government, making and reviewing bylaws, and bylaw enforcement.
24. Several of the regulatory options presented in the issues and options paper received strong support. In some cases, the options were supported as presented, for the reasons outlined in the paper. For others the intent of the option was supported but feedback indicated that further work is required on the detail. Alternative options were also put forward for some issues.
25. We have considered this feedback and formulated recommendations based on it and our work. The tables below outline these options and note those where policy work is now considered complete, and those which require further work. These tables are also structured around the three stages of the local government bylaw system. The rationale for our recommendations is summarised in **Appendix C, Table 1**.
26. We now seek your direction on the options where policy work is complete. If you agree, we can begin preparing a paper for you to take through Cabinet to seek policy approval for these legislative changes. Seeking these decisions now will allow us to

make a start on drafting the Cabinet materials alongside completing the policy work for this review, making the best use of the resources we have available for this project.

27. We will provide you with a further briefing in March/April 2026 to seek your direction on the remaining options, once we have completed the policy work. Following that direction we will complete drafting of the Cabinet materials.
28. In the table 1 and 2, we note under the Status column, if we seek your direction on an option or if work is ongoing and we will provide you further advice in a future briefing.

Creation of local government bylaw powers by central government

29. These options will remove some unnecessary and duplicate statutory provisions from the local government bylaw system. They will provide modern, fit-for-purpose tools for aspects of the bylaw process and setting certain fees and charges. The Local Government Act 2002 will become the key source of procedural provisions for local government bylaws, providing clarity and reducing the risk of missing process steps where these are spread across multiple pieces of legislation.

Table 1: Creation of local government bylaw powers by central government - issues and proposals

Key Issue	Description	Proposal	Status
The local government bylaw system has become fragmented and disjointed	Unnecessary bylaw powers have remained on the statute book	Remove unnecessary and duplicate bylaw-making powers during the legislative process.	Ongoing work, subject of future briefing. Requires cross-agency work and agreement.
	Duplication of powers and processes	Modernise provisions in the Bylaws Act 1910 that are relevant to local government bylaw-making and move them to the Local Government Act 2002. No longer apply the Bylaws Act 1910 to local government bylaws.	Direction sought in this briefing – Recommendation a)i
	General and specific bylaw-making powers each have their advantages and disadvantages	Develop methods other than primary legislation for providing details on bylaw-making powers, including situations where bylaws cannot be used.	Ongoing work, subject of future briefing.
Bylaws may no longer be the right tool	Bylaws are not the most efficient or	Develop an efficient regulatory tool for situations where the	Ongoing work, subject of future briefing.

	effective tool for some common uses	broader regulatory framework is set nationally and local government's role is to determine its application.	Requires cross-agency work and agreement.
	Using bylaws to set fees is an example of duplication and an inefficient process	Remove bylaws as a fee setting tool from section 150 of the Local Government Act 2002. Maintain processes for bylaw-related fees and charges, fees and charges to be set outside of the long-term plan/annual plan process, and capturing provisions about refunds, remissions or waivers.	Direction sought in this briefing – Recommendation a)ii

Making and reviewing bylaws

30. These options look to provide a clear and more streamlined process for making, reviewing and amending bylaws, and reducing unnecessary resource burden on councils and communities. An ideal system looks to ensure councils are required to make informed, robust and well communicated decisions about potential bylaws, with consideration about how they fit within the wider regulatory system.

Table 2: How bylaws are made and reviewed – issues and proposals

Key Issue	Description	Proposal	Status
The process to make and review bylaws can be onerous and confusing	The legislative process lacks clarity and can require significant resource with different requirements across multiple legislation	Amend section 155 of the Local Government Act 2002 to remove vague terms and provide more clarity on key assessments councils are required to undertake, including the timing of each process step.	Direction sought in this briefing – Recommendation a)iii
	Current legislation requires a five and 10 year review, which can be confusing and burdensome	Provide for a standard 10-year review for all bylaws.	Direction sought in this briefing – Recommendation a)iv

Consultation processes can be onerous, duplicative and time consuming	Legislation sets varying consultation requirements	Take opportunities to align bylaw-making powers and processes across all enabling legislation.	Ongoing work, subject of future briefing. Requires cross-agency work and agreement.
	The consultation process for continuing a bylaw without amendment after a review is disproportionate	Remove the requirement for consultation when the outcome of a review is that a bylaw continues unamended.	Direction sought in this briefing – Recommendation a)v
	Consultation requirements in legislation are unclear	Ensure the consultation process for bylaw-making is appropriate, fit-for-purpose and efficient.	Ongoing work, subject of future briefing.

Enforcement of bylaws

31. These options will provide local authorities with more tools to enforce breaches of bylaws without having to go through the court system. Local authorities already use a graduated compliance approach and allowing abatement type notices to be issued will enable compliance without an infringement fee being issued or prosecution undertaken.

Table three: How bylaws are enforced – issues and proposals

Key Issue	Description	Proposal	Status
Local authorities have limited options for enforcing many of their bylaws	Current regulation making power for infringements does not work as intended	Enable regulations to create infringement offences for similar kinds of bylaws rather than each bylaw from each local authority having to be named in a regulation.	Direction sought in this briefing – Recommendation a)vi
	Councils want a range of enforcement tools available to them	Introduce abatement type notices for bylaw breaches.	Direction sought in this briefing – Recommendation a)vii

A suite of non-regulatory options was also well supported

32. There was unanimous support for the non-regulatory options presented in the issues and options paper. These are primarily developing guidance for central government departments/agencies on the delegation, creation and use of local government bylaw-making powers, and supporting local government bylaw capability building.
33. Respondents noted that this type of guidance and support would contribute to addressing a number of the identified issues. They also noted that it could help ensure ongoing system-stewardship, reducing the risk that system issues reappear after this review. We intend to include these options as part of the implementation phase, following the regulatory changes coming out of the review.

There are some options we have decided not to proceed with

34. There are seven options presented in the issues and options paper that we do not intend taking further. They were not well supported with respondents either considering that they would not achieve the aims of the review, or preferring an alternative option. These options, and a summary of the rationale for excluding them, are outlined in **Appendix C, Table 2**.

There were mixed views on introducing tools to deal with anti-social behaviour based on the UK model

35. At your request, the issues and options paper included the options of introducing tools based on the UK examples of PSPOs and CPNs. These are primarily intended to address anti-social behaviour.
36. While the intent behind introducing these tools was generally supported, views on the suitability of the tools themselves in the New Zealand context were mixed. Other options were suggested that would achieve the same outcomes and fit better with New Zealand's regulatory framework.

PSPOs

37. PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life. They do this by imposing conditions on the use of that area.
38. While supporters of PSPOs thought they could provide a timely and proportionate response to emerging issues, several respondents expressed concern that they would duplicate what bylaws already cover. There were also concerns about their subjective nature, human rights implications, enforcement challenges, and a risk of net-widening and criminalising non-criminal behaviour.
39. Respondents also thought that the better solution would be to modernise the Local Government Act 2002 so that existing bylaws can be enforced through infringement fees (i.e. instant fines) where appropriate.

40. Police noted that councils would have to be clear on what constitutes a 'detrimental activity' and 'offensive behaviour' as required in a PSPO. Police, along with several local authorities raised concerns or questions about the potential overlap between PSPOs and Police duties. Local authorities noted that the matters and issues that may be suitable for PSPOs are handled by Police in the New Zealand system.

CPNs

41. CPNs can be issued to deal with anti-social behaviour. They can be issued to an individual over the age of 16, businesses or organisations. Local councils have traditionally taken the lead in issuing CPNs in the UK, but Police are also able to issue them. Before a CPN is issued, a formal written warning will be given and breaking a CPN is an offence that may result in a fine, goods confiscated, or prosecution.
42. Similar to the feedback on PSPOs, there were mixed views on introducing CPNs as an enforcement tool in New Zealand. There were concerns around their subjectivity and risk of misuse, as well as the potential to criminalise minor or harmless behaviour.
43. Respondents suggested that warning notices, abatement-type notices, and/or move on notices would be more appropriate. Some noted that the effectiveness of any tools would depend on the capacity of councils to provide additional resourcing to manage anti-social behaviour in public places. Several respondents questioned who would enforce such notices, as they did not consider this to be the role of local authorities.
44. Police highlighted the difficulty in defining anti-social behaviour and the overlap with criminal conduct, while the Ministry of Justice advised against proceeding with CPNs due to criticisms that they are too broad in their approach. Auckland Council's impact and social well-being team noted that existing powers, with the possible addition of move-on notices if resourced, could manage anti-social behaviour in public places.

There is other work underway that will deliver similar outcomes to PSPOs and CPNs

45. We do not recommend introducing PSPOs or CPNs as used in the UK into New Zealand's local government bylaw system. They would require a significant shift in New Zealand's underlying regulatory framework, introducing additional roles and responsibilities for local government that would duplicate the role of Police. They would also require significant resource from local government to be effective.
46. However, there are other ways to achieve the same aims as PSPOs and CPNs which do not require such a fundamental shift, and some of this work is already underway.
47. Other options being progressed in this review will provide the advantages of these tools in a way that fits with New Zealand's regulatory framework and the existing roles and responsibilities of local government.
48. For example, CPNs and abatement notices are very similar. Both involve a formal notice being issued to someone to stop them doing something, and if that is not complied with enforcement action can be taken. An abatement type notice for a breach of a bylaw is easier to implement and something local authorities are very supportive of. They already have these types of tools for other regulatory functions, such as resource management and food safety.

49. As noted in Table 1 above, we are undertaking work, including with the Parliamentary Counsel Office on an option for an efficient regulatory tool for situations where the broader regulatory framework is set nationally and local government's role is to determine its application. This has the potential to enable timely and proportionate regulatory responses to emerging issues like PSPOs can. That, alongside improved enforcement tools, could deliver the advantages of PSPOs in a way that minimises risk and fits in the New Zealand context.

Ministry of Justice is working on move-on notices

50. Minister Goldsmith is taking a paper through Cabinet to address anti-social behaviour by creating a new power for Police to issue orders to people who are engaging in disorderly behaviours in a public place. These move-on orders would require people to immediately leave the area and not return for a specified period of time.
51. Move-on orders are proposed to apply to activities that are disorderly, offensive, threatening or disturbing, interfering with trade or businesses, obstructing a public way, breaching the peace, or causing anxiety to a person.
52. Many of these behaviours are the same as those the UK tools are designed to deal with. In the New Zealand regulatory system, Police are the appropriate agency to deal with these types of issues.

Next steps

53. We will continue to work on the remaining options (noted in Tables 1 and 2) and provide you with further advice in March/April 2026. Following receipt of that advice we will complete a draft paper for you to take through Cabinet to seek policy approvals for legislative change in April 2026.
54. We will continue engaging regularly with relevant government departments/agencies including the Parliamentary Counsel Office. All are supportive of this work. This engagement will continue, especially where cross-agency agreement is needed to progress options.
55. Following Cabinet approval and the issuing of drafting instructions, we propose to issue an exposure draft of any proposed legislation changes. This will enable us to ensure that the proposed legislation is practicable and workable.
56. This timing means that legislation will not be introduced this Parliamentary term but it will be well advanced. It is achievable with the current level of resourcing we have available for this project (2 FTE).
57. We have prepared a bid (category 6 - drafting instructions to be issued in 2026) for an amendment bill to be added to next year's legislative programme to progress recommendations from the review requiring legislative change (LG202510101 refers).
58. We have been engaging regularly with relevant government departments/agencies including the Parliamentary Counsel Office. All are supportive of this work. This engagement will continue, especially where cross-agency agreement is needed to progress options.

59. The RRC remains interested in this work and you have provided them with updates at appropriate times throughout this review. You wrote to them and provided a copy of the issues and options paper. They responded noting that they have opened a dedicated briefing into the bylaws work programme. We recommend that you write to the RRC with an update following this briefing. The letter could note that you have been briefed on the outcomes of targeted consultation on the issues and options paper and outline the next steps for this work. We can work with your office to draft this letter.

Recommendations

60. We recommend that you:

- a) **Agree** that officials can begin to draft a Cabinet paper seeking policy approvals for the following proposals requiring legislative change:
- i. Modernising provisions in the Bylaws Act 1910 that are relevant to local government bylaw-making and moving them to the Local Government Act 2002, and no longer applying the Bylaws Act 1910 to local government bylaws; Yes/No
 - ii. Removing bylaws as a fee setting tool from section 150 of the Local Government Act 2002, while maintaining processes to allow bylaw-related fees and charges to be set, for fees and charges to be set outside of the long-term plan/annual plan process, and for capturing provisions about refunds, remissions or waivers; Yes/No
 - iii. Amending section 155 of the Local Government Act 2002, to remove vague terms, and provide more clarity on the key assessments councils are required to undertake, including the timing of each process step; Yes/No
 - iv. Providing for a standard 10-year review for all bylaws; Yes/No
 - v. Removing the requirement for consultation when the outcome of a review is that a bylaw continues unamended; Yes/No
 - vi. Enabling regulations to create infringement offences for similar kinds of bylaws; and Yes/No
 - vii. Introducing abatement notices for bylaw breaches. Yes/No

- b) **Agree** not to proceed with the United Kingdom's Public Spaces Protection Orders or Community Protection Notices for New Zealand's local government bylaw system, noting that other improvements through this work will deliver similar outcomes in a way that fits better with New Zealand's regulatory system;
- c) **Agree** to receive a further briefing on the remaining issues and options in March/April 2026 for consideration and agreement to draft a Cabinet paper to seek policy approvals; and
- d) **Agree** to write to the Regulations Review Committee with an update following this briefing.

Yes/No

DISCUSS.

Yes/No

Yes/No

9(2)(a)

Brooke Goodey
Policy Manager



Hon Simon Watts
Minister of Local Government

/ /

15 DEC 2025

Appendix A: Local Government Bylaw System Issues and Options Paper: August 2025

(Separate attachment)

Appendix B: List of respondents

Ministers who responded

- Hon David Seymour - Minister for Regulation
- Hon Louise Upston – Minister for Tourism and Hospitality
- Hon Penny Simonds – Minister for the Environment
- Hon Chris Penk – Minister for Land Information
- Hon Paul Goldsmith – Minister of Justice
- Hon Nicole McKee – Associate Minister of Justice, with responsibility for the Sale and Supply of Alcohol Act 2012

Government Departments/Agencies who responded:

- Ministry for Regulation
- Ministry of Justice
- Land Information New Zealand
- Maritime New Zealand
- New Zealand Infrastructure Commission
- Ministry of Urban Housing and Development
- Ministry of Health
- Ministry for the Environment
- Ministry of Transport
- New Zealand Police
- Ministry for Primary Industries
- Parliamentary Counsel Office

Feedback received from local authorities were from subject matter experts and were not the official view of the local authority.



Appendix C: Recommended actions on proposed changes to the local government bylaws system

Table 1: Regulatory options recommended to proceed further

Proposal	Rationale
<i>Creation of local government bylaw powers by central government</i>	
Modernising provisions in the Bylaws Act 1910 that are relevant to local government bylaw-making and moving them to the Local Government Act 2002 (the LGA02), and the Bylaws Act 1910 to local government bylaws	There was strong support to have as much of the local government bylaw-making process as possible in one place. Transferring relevant provisions from the Bylaws Act 1910 into the LGA02 would achieve this for a key piece of the local government bylaw-making system. Modernising these provisions at the time of transfer will ensure they are fit-for-purpose and meet current legislation drafting standards.
Removing bylaws as a fee setting tool from section 150 of the Local Government Act 2002, while maintaining processes to allow bylaw-related fees and charges to be set, for fees and charges to be set outside of the long-term plan/annual plan process, and for capturing provisions about refunds, remissions or waivers	There was strong support for the principle that bylaws should not be required simply for setting fees, and that section 150 of the LGA02 would benefit from amendment. It was noted that care will need to be taken to ensure that councils can still set fees and charges for bylaw-related matters, and that they have a way of capturing provisions about refunds, remissions or waivers. This is achieved in other legislation that may provide useful examples (e.g., the Resource Management Act 1991). Respondents also noted that a process for setting fees and charges outside of the long-term plan/annual plan process (other than bylaws) should also be maintained, suggesting this could be achieved through a revision of section 150. It was also suggested that section 150 be moved out of the bylaws section of the Act.
<i>Making and reviewing bylaws</i>	
Amending section 155 of the Local Government Act 2002, to remove vague terms, and provide more clarity on the key assessments councils are required to undertake, including the timing of each process step	The current wording, especially 'most appropriate form of a bylaw' and 'perceived problem' is vague, and assessment criteria could be clearer to support councils in their decision-making. While there was broad support for amending section 155 and removing ambiguous terms, further consultation and policy work will be required to determine what a fit for purpose decision-making process would look like. Respondents also advocated for further clarity on when the assessment is performed. We recommend for any amended process to include assessments both before and after consultation, and for this timing to be explicitly laid out in the legislation. Feedback also supported ensuring that any amended section still included an assessment against the Bill of Rights Act 1990.

Providing for a standard 10-year review for all bylaws	There was support for removing the five-year review requirement for new bylaws and instead having all bylaws subject to a standard 10-year review timeframe. Some responses noted that this would be an appropriate balance between reducing unnecessary burden for councils, while still ensuring that they maintain appropriate responsibility for keeping their bylaws current and relevant. It was also noted that councils could initiate an earlier review of any bylaws if needed.
Removing the requirement for consultation when the outcome of a review is that a bylaw continues unamended	Consultation when a bylaw is left unamended is expensive and resource heavy. Respondents highlighted the benefits of targeted early engagement when initiating any review, which helps identify whether the bylaw remains fit for purpose. Feedback did identify that there may be circumstances where it would be appropriate to consult even if no changes have been made, dependent on the level of public interest, and the right to comment on bylaws that restrict rights and freedoms. Councils could still choose to engage or consult in accordance with their significance and engagement policies. This provision could be replaced with less resource intensive requirements, such as requiring the council to publish the findings of the review.
<i>Enforcement of bylaws</i>	
Enabling regulations to create infringement offences for similar kinds of bylaws	This would ease the administrative burden and promote fairness while providing consistency across the country.
Introducing abatement notices for bylaw breaches	This was strongly supported as it is seen as a valuable additional enforcement tool that is likely to improve compliance without imposing a financial penalty.

Table 2: Options not proceeding

Proposal	Rationale
<i>Creation of local government bylaw powers by central government</i>	
Connecting bylaw-making to the purpose of local government, or matters expected to be dealt with by local government	This approach was used in very early local government bylaw-making powers but has been out of use for some time. Its use stopped when local government bylaw-making powers became specific. The option was included to test whether respondents could see any potential benefits from returning to this approach. No respondents supported this option. It was considered unnecessary because bylaw-making powers and bylaw decision-making processes already contain steps to ensure that local government only makes bylaws within their regulatory sphere. Risks were also noted, including the potential for local government to be prohibited from making regulation where they are the appropriate regulator, the uncertainty and changing nature of expectations, and the effect on existing bylaws as expectations and purpose change.
Replacing the term “bylaw” in the local government context	There was little support for this option. Respondents noted that the term is generally well understood, and that replacing it would require considerable work and resource for little to no benefit.
<i>Making and reviewing bylaws</i>	
Removing the specific decision-making process for local government bylaws, and instead using the general decision-making provisions of the Local Government Act 2002	There was acknowledgement of possible duplication between the two processes. However, due to the importance of bylaws as secondary legislation that potentially restrict freedoms, a bylaw-specific assessment process is appropriate.
Removing all mandatory review requirements	There was strong support for retaining the 10-year review, noting the importance of ensuring that bylaws are kept up to date through changing circumstances, requiring councils to be somewhat responsive to changes in population, demographics, technology and primary legislative frameworks.
Removing the automatic revocation for bylaws that have not been reviewed within two years of the due date	There was support for retaining the automatic revocation provision, noting that it provides a significant incentive to maintain good regulatory stewardship practices. Bylaws that restrict people’s freedom should be reviewed and only retained if still justified and used.
<i>Enforcement of bylaws</i>	
Classifying all bylaw breaches as infringement offences	Respondents thought it could be too disproportionate to the breach, and not all breaches of bylaws are strict liability offences.
Allowing councils to designate their own bylaw breaches as infringement offences	Respondents thought there was too much risk of inconsistency across the country along with the risks of poor drafting, legal challenges and the erosion of safeguards.

**LOCAL GOVERNMENT
BYLAW SYSTEM
ISSUES AND OPTIONS
PAPER: AUGUST 2025**

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Introduction

Purpose and timeframes for this work

1. New Zealand's bylaw system has developed in an ad hoc way over more than 100 years. Outdated tools mean that local government cannot develop and enforce bylaws efficiently and effectively.
2. The local government sector has been lobbying for change for some time, and in August 2023 the Regulations Review Committee (RRC) completed an inquiry into bylaws and recommended changes, with a focus on infringement offences.
3. We have been working on a first principles review of the local government bylaw system. It includes looking at the issues raised by the local government sector and the RRC's recommendations, as well as underlying system issues.

What is this paper about?

4. This paper outlines the issues identified through our work so far, and some initial options for addressing them.
5. It asks whether the issues and options have been correctly identified, and whether the options are technically and practically feasible.

Scope of this work

6. The scope of this work is bylaws made by local authorities as defined in the *Local Government Act 2002* (the LGA02) – i.e. regional councils and territorial authorities. "Local authority" has a broader meaning in the *Bylaws Act 1910* (the BA1910). Unless otherwise stated, when "local authority" is used in this paper it means regional councils and territorial authorities.
7. Our review has focused on legislation administered by the Department of Internal Affairs (the Department), as it relates to local government bylaws. This includes the local government bylaw related provisions of the BA1910, LGA02, *Local Government Acts 1974* (the LGA74), *Dog Control Act 1996* and *Freedom Camping Act 2011*.
8. At the time of writing this paper, the *Local Government (Water Services) Bill* is before Parliament. The Bill proposes a framework for water services bylaws, and to repeal the water services bylaw-making powers in Section 146 of the LGA02.
9. Local government bylaw powers are also included in a range of legislation administered by other central government agencies. These powers are part of the local government bylaw system so are referred to in this paper as context and examples, but they are not part of our policy work.
10. While the scope of this review is legislation administered by the Department, we are open to considering consequential amendments to a wider range of legislation where this is supported by the administering agency.

What we're hoping to achieve

11. This review aims to provide local government with appropriate and cost-effective tools to:
- Manage and control council facilities (e.g. an appropriate process for setting fees and other administrative matters like hours of operation etc);
 - Regulate behaviours to manage harm; and
 - Appropriately enforce local regulation, including considering whether there should be greater delegation to local authorities to set infringement fees.
12. The issues and options discussed in this paper are aimed at achieving these objectives.

How this paper is structured

13. This paper has been structured around the three stages of the local government bylaw system – **Part One: Creation of bylaw powers**, **Part Two: Making and reviewing bylaws**, and **Part Three: Enforcement**.
14. Each part begins with context, then the issues for each stage have been organised under two key issues:
- **Creation of bylaw powers** – Issue 1: The local government bylaw system has become fragmented and disjointed; Issue 2: Bylaws may no longer be the right tool;
 - **How bylaws are made and reviewed** – Issue 1: The process to make and review bylaws can be onerous and confusing; Issue 2: Consultation requirements for bylaws; and
 - **Enforcement** – Issue 1: Local authorities have limited options for enforcing many of their bylaws; Issue 2: Infringement regime and offences.
15. Potential options to address the issues are then identified and discussed. Many of the options are not an 'either/or'. A number of them could be implemented together to address the issues and achieve the aims of this review.
16. Questions have been included in coloured text boxes where specific information and feedback is sought. Feedback is also welcome on other matters discussed in this paper.

Question for feedback #1:

What combination or package of options do you think would best achieve the aims of this review?

Options relevant to all parts of this paper

17. The following options are relevant to many, or all of the issues identified in this paper. They are discussed below instead of being repeated for each issue.

Retention of status quo

18. The status quo could be retained. This would mean the issues noted in this paper would continue and no changes would be made to modernise and clarify the local government bylaw system. We know retention of the status quo is not something that local government wants. Various reports have recommended changes to our local government bylaw system, including the New Zealand Productivity Commission's *Towards better local regulation* and the RRC's *Inquiry into bylaws*.

Improved guidance for central government

19. Greater guidance could be provided to central government agencies on the delegation, creation and use of local government bylaw-making powers.
20. This could include specific guidance based on the findings of this review, with recommendations to consider whether a delegated power is actually needed, the appropriateness of bylaws as compared to other possible tools to address the issue, and the need to continue any existing bylaw-making powers in light of any changes to the broader local government system (such as Section 12 of the LGA02).
21. More thinking is needed to understand what form this guidance could take, and the level of consistency possible. Options could include:
- Non-statutory principles or frameworks to support consideration and decisions about when a local government bylaw-making power is the appropriate tool and how best to frame them when they are used.
 - Principles or a framework in legislation.
 - Formal guidance from the Department on local government bylaw powers.

Question for feedback #2:

Would this type of guidance be useful? If so, what would you like to see it contain?

Support local government capability building

22. Greater guidance on making, reviewing and enforcing bylaws could be provided to local government. We have heard that existing guidance could be more thorough, or that new guidance could be issued which sets out step-by-step processes.
23. The local government sector has put significant work into building its bylaw capability and has built a strong community of practice. Working with the sector to understand what further non-regulatory support would be useful, and continuing to build relationships.
24. Non-regulatory support could include guidance or tools, which could address options for alternative regulatory and management options to support staff in advising against the use of bylaws where it is not appropriate or necessary.

Questions for feedback #3:

Would this type of support be useful? If so, what would you like it to look like?

PART ONE: CREATION OF BYLAW POWERS

Context

What are bylaws?

1. Bylaws are delegated legislation authorised by Parliament that regulate specific local issues. Many entities can make bylaws including local government, government departments, crown entities, trusts and other organisations such as schools, hospitals and airports. **This paper is about local government bylaws only.**
2. The BA1910 defines “bylaw” as, *“any rule or regulation which is made by any local authority¹ by virtue of any Act now or hereafter to be in force, and which is termed a bylaw in the Act by virtue of which it is so made”*. “Bylaw” is also defined in the Local Government Act 2002 where it means, *“a bylaw made by a local authority² under any enactment”*.

History of local government bylaws in New Zealand

25. Understanding how we got here helps us understand the issues and opportunities in our current system.
26. Local government in New Zealand has had bylaw-making powers for as long as there has been local government. Its first power, in 1842, was very broad and allowed councils to make bylaws as they saw fit *“for the more effectual exercise of the powers hereby given and for the good rule and government of the borough”*.
27. Over the years local government bylaw-making powers became increasingly prescriptive, to the point where the LGA74 listed 50 purposes that councils could make bylaws about. These included bylaws to:
 - Regulate, control or prohibit activities and behaviours;
 - Protect council property from damage, injury or misappropriation; and
 - Prescribe terms and provisions for leases.
28. A prescriptive approach to bylaw-making powers provides clarity and certainty about what powers have been delegated and how they can be used. They are also inflexible and difficult to change - adding a new bylaw-making power or amending an existing one means changing legislation. Between 1842 and 2002 there were at least 14 principal acts, and 49 amendment acts that created and/or amended local government bylaw-making powers.

¹ In the Bylaws Act 1910 “local authority” includes regional councils and territorial authorities as well as any body corporate, Board, Council, Trustees or other governing body that has been given the power to make a bylaw under any Act.

² In the Local Government Act 2002 “local authority” means a regional council or territorial authority

Our current approach

29. The LGA02 marked a significant shift in New Zealand's local government system. Both territorial authorities and regional councils were given bylaw-making powers in the LGA02 as enacted, and those powers look largely the same today.
30. Territorial authorities have a set of "general" bylaw-making powers to address three specific areas – nuisance, public health and safety, and offensive behaviour. They also have a set of "specific" bylaw-making powers.
31. Regional councils were given the power to make bylaws for certain types of land and works under their control. They also have a general power to make bylaws for property they own or control, and in relation to amenity values on their land.
32. The LGA02 made two other changes of particular relevance to this work:
 - Local government was given a 'power of general competence' – councils are now body corporates with perpetual succession and have "full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction" (and full rights, powers and privileges to do so), for the purposes of performing their role (Section 12); and
 - Local government bylaws were made secondary legislation (Section 161A).
33. In the early days of New Zealand's local government, councils had to be expressly granted every power they exercised. This is apparent in the highly prescriptive nature of bylaw-making powers up until the LGA02, and is why early bylaw-making powers included matters such as the ability to enter leases and set operating hours. Section 12 of the LGA02 means these kinds of bylaw-making powers, and the bylaws made under them, are no longer needed.
34. Secondary legislation is law made by someone other than Parliament, under a power that Parliament has formally delegated. It is an umbrella term covering many types of documents including regulations, orders, rules, and notices.
35. The *Legislation Act 2019* sets out procedural requirements for secondary legislation. Local government bylaws are exempt from three specific requirements - they do not need to be presented to the House of Representatives (unless legislation expressly requires it), they do not need to be published under the *Legislation Act 2019*, and they cannot be disallowed by the House of Representatives.
36. This gives local government bylaws a high status in New Zealand's regulatory hierarchy. The procedural exemptions mean that they are not subject to the same level of scrutiny and oversight from the delegator (i.e. Parliament) that secondary legislation prepared by central government is.

Local government bylaws are also subject to non-local government legislation

The Bylaws Act 1910 still applies to local government bylaws

37. Bylaws are defined broadly in the BA1910, so the Act would apply to local government bylaws made under any enabling legislation. Section 144 of the LGA02 notes that the BA1910 prevails over Parts 8 ("*regulatory, enforcement, and coercive powers of local authorities*") and 9 ("*offences, penalties, infringement offences, and legal proceedings*") of that Act.

38. The BA1910 sets out a number of procedural provisions related to bylaws, such as the validity, operation and proof of bylaws, and fines. It includes a process for invalid bylaws to be quashed or amended by the “Supreme Court” (now the High Court) with £5 to be paid as security for the costs of the application.
39. We have heard examples where its provisions about the validity of bylaws have been useful and also examples where these have caused confusion. Of particular note are the provisions enabling bylaws to leave reasonable discretionary powers to the local authority (Section 13), to deal with matters also dealt with by statute (Sections 14-15), and for bylaws to apply to parts of a district or region (Section 16).

Local government has bylaw-making powers under a range of legislation

40. This is discussed further in Part Two. It is noted here because it is part of understanding how Issue 1.1 developed.

The system has developed in an ad hoc way

41. The local government bylaw system is spread across many pieces of legislation, developed over a period of more than 100 years. Stewardship and oversight of different parts of the system sit with different central government agencies. This makes it difficult for the whole system to evolve in a co-ordinated way. As the system has evolved it has become more fragmented and disjointed which has led to inefficiencies and complexities for local authorities, and confusion for the public.
42. We can see from the history of New Zealand’s local government bylaw powers that both their processes and their use have developed in response to the needs of the day - from attaching notices to the town hall to publishing on websites, and from regulating billiard rooms to freedom camping.
43. While newly introduced powers and significant changes to the system (e.g. the introduction of the LGA02) have moved parts of the local government bylaw system forward in tandem, the fragmented nature of the system means that other parts have been left behind.

Issue 1.1: The local government bylaw system has become fragmented and disjointed

Issue 1.1.1: Unnecessary bylaw powers have remained on the statute book

Existing bylaw powers were not updated following the grant of the general power

44. As the system has evolved it has become more fragmented and disjointed which has led to inefficiencies and complexities for local government, and confusion for the public. There are current bylaw-making powers that pre-date the LGA02, meaning they were granted before councils had a power of general competence and before local government bylaws were considered secondary legislation. There are also examples that pre-date the LGA74.

45. Some of these powers were not updated when the LGA02 was introduced. They continue to contain bylaw powers written at a time when a highly prescriptive delegation of powers was needed, and when bylaws were needed for matters that can now be done as a matter of course.
46. For example, Sections 16(1) and 40 of the *Burial and Cremation Act 1964* give local government bylaw-making powers in relation to cemeteries and crematorium under their control. They include the ability to make bylaws for “controlling or restricting” operating hours, “fixing a scale of fees” and “maintaining, preserving, and embellishing” cemeteries and crematorium – all things that can arguably be done now without the need for a bylaw.
47. We received feedback that the continued presence of these powers in legislation creates an expectation of bylaws, and can make it difficult for councils to deal with these matters in other ways. Specific statutory reference to a bylaw can increase the perception from communities, elected representatives and council staff that a bylaw is the best or most appropriate way to address a matter when that may not be the case.

Newer legislation is not immune to this issue

48. There are examples of bylaw powers, both in and after the LGA02, which have led to unnecessary bylaw clauses. A number of bylaws include clauses about how council assets are used, how council services are delivered, and matters that can be dealt with through contracts or other means.
49. For example, in *Thirty Eight Moffat Limited v Auckland Council and Watercare Services Limited*³ the Court of Appeal confirmed Auckland Council and Watercare’s ability to manage its assets without the need for a bylaw. In particular the Court noted:
- “the ability of Watercare to decline to accept vesting of the watermain... and an easement..., is not derived from [a bylaw]. Like any other company that owns and operates network infrastructure, it is free to decide whether or not to accept the transfer of an asset and the grant of an easement”*⁴.
- “Absent the bylaw, Watercare would have precisely the same ability to decline to accept ownership of infrastructure that did not comply with its own internal codes of practice”*⁵.
50. There is a cost to putting a bylaw in place, and in maintaining it. This can be both a monetary cost and an opportunity cost, as time spent by council staff, elected members and communities in the bylaw process is time not spent elsewhere.

Issue 1.1.2: Duplication of powers and processes

51. There are instances where bylaw-making powers are duplicated across legislation. For example:
- (i) The general bylaw-making powers in Section 145(a) and (b) of the LGA02 replicate, at least in part, powers found in the *Health Act 1956*.

³ [2023] NZCA 107

⁴ Ibid at [61]. The Court noted that these powers are exercised within a public law framework and subject to public law constraints.

⁵ Ibid at [64]

- (ii) All of the specific bylaw-making powers in Section 146 of the LGA02 (except for regulating trading in public places) are either currently⁶ or soon likely to be⁷ covered in other legislation.
52. There are also instances where bylaw-making powers duplicate matters regulated by other legislation. For example:
- (i) Powers to make bylaws protecting local government property/assets from destruction or damage are common. This is arguably covered by criminal and common law, and it is questionable what a bylaw adds in these circumstances.
 - (ii) There are bylaw-making purposes in section 64 of the *Health Act 1956* that replicate, at least in part, regulatory powers found in the *Resource Management Act 1991* (RMA) and the LGA02.
53. Regulating matters under multiple documents and legislation is not efficient or effective. It can create confusion for the public about what regulation applies when. It is inefficient for councils as effort has to be duplicated. It can also give rise to issues about ensuring the right process is followed, as discussed further in Part Two.

The Bylaws Act 1910 adds complexity

54. The operation of the BA1910 alongside the LGA02 and other local government bylaw-enabling legislation means that councils have to comply with two or three pieces of legislation for their bylaw processes. We have heard that this can create confusion and increase the risk for legal challenge if the required provisions are not complied with. Outdated provisions in the BA1910 add to this confusion.

Issue 1.1.3: General and specific bylaw-making powers each have their advantages and disadvantages

55. Our bylaw history includes both very general and very specific bylaw-making powers. Over the years we have seen a move away from overly general powers like providing for the “*good government*” of areas, and also from an overly prescriptive approach like the list of 50 bylaw purposes in the LGA74. The current approach in the LGA02 appears to strike a reasonable balance between our historic approaches, but we have heard that there are still issues.
56. Specific bylaw powers can provide certainty and a more complete response to issues. In recent times we have seen consideration of particular issues in either standalone legislation such as the *Freedom Camping Act 2011*, or in the LGA02 such as alcohol control. This has enabled a holistic approach to issues, with specific bylaw-making and enforcement powers being introduced together.
57. If powers are too specific however, they risk becoming out of date as issues and communities evolve. They are not easy to change as this requires amendments to primary legislation, a process that takes a lot of time and resource. This means that issues can go unaddressed while the legislation catches up.

⁶ E.g. Waste Minimisation Act 2008, Health Act 1956, Burial and Cremation Act 1964 and Reserves Act 1971

⁷ E.g. The Local Government (Water Services) Bill proposes new provisions for water service bylaw powers, and repealing section 146(1)(a)(i) and (iii) and (b)(ii) and (iii) of the LGA02

58. If powers are too broad, they are not good delegation practice. General powers enable flexibility to deal with emerging issues, but they also create the potential for ‘scope creep’. Examples include bylaws regulating appearance industries (e.g. hairdressing) and cats. In both cases decisions were made not to regulate the issue at a national level, and no specific bylaw-making powers have been given. Some councils have received interest or pressure to address these issues, and the general bylaw-making powers in the LGA02 and the *Health Act 1956* have enabled bylaws to be made.

Issue 1.2: Bylaws may no longer be the right tool

Issue 1.2.1: Bylaws are not the most efficient or effective tool for some common uses

59. Local government is now a very different entity to what it was in 1842 when the first bylaw-making powers were put in place, and in 1910 when the BA1910 was introduced. It has also moved on since the introduction of the LGA02. Bylaws as a tool have also evolved considerably, at least in the local government setting. The LGA02 has established a regime that suits bylaws as a regulatory tool, but does not fit as well for other uses.
60. As discussed in Part Two, the bylaw-making process is lengthy and detailed. The RRC has described the process as “elaborate”⁸. Local government has raised concerns that the bylaw process is costly, prescriptive, and involves legal risk.
61. The following examples, both post-LGA02, show a shift from using bylaws to a more efficient tool for their purpose:
- (i) Speed limit setting – bylaws were previously used for setting and reviewing speed limits. The *Land Transport Rule: Setting of Speed Limits 2022* amended the process and bylaws are no longer required. Instead, road controlling authorities can now set and amend speed limits using the process outlined in the relevant *Land Transport Rule*, and once set the speed limits are recorded on the *National Speed Limit Register*.
 - (ii) Easter Sunday trading – the *Shop Trading Hours Amendment Bill* proposed giving territorial authorities the power to create a bylaw to allow shops to open in all or part of their districts on Easter Sunday. A power to make a policy, not a bylaw, was eventually included in the *Shop Trading Hours Act 1990*.
62. In the second example above, the reasons given for ultimately creating a policy-making power instead of a bylaw included that policies are better suited to enabling activities, whereas bylaws are better suited to restricting them. It was also noted that the policy-making process is more flexible than the bylaw-making process, and that incorporating some modified aspects of the bylaw process into the process for this type of policy would retain safeguards relating to community choice, transparency, and accessibility.
63. It takes considerable time, effort and resource to make or amend a bylaw. This means they cannot be responsive to emerging issues, nor change easily as the needs of the community change. While this level of process may be appropriate for secondary legislation level regulation with significant penalties, there may be situations where another tool with a simpler process is a better fit.

⁸ [Inquiry into bylaws, Report of the Regulations Review Committee, August 2023](#), page 4

Issue 1.2.2: Using bylaws to set fees is an example of duplication and an inefficient process

64. Legislation includes a variety of methods for setting local government fees and charges. Some are set by central government through primary or secondary legislation, while others can be set by local government following criteria and processes set in primary or secondary legislation. These processes range from using the special consultative procedure in the LGA02⁹, to being able to set fees by resolution¹⁰. Bylaws are a specified tool in some cases, but they are arguably not the most efficient nor effective one.
65. As noted above, the *Burial and Cremation Act 1964* includes specific bylaw-making powers for setting fees. Section 65 of the *Health Act 1956* allows bylaws to set fees for licencing, registration and inspections under that Act. The *Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013* enables territorial authorities to make bylaws prescribing certain fees in connection with the *Sale and Supply of Alcohol Act 2012*, while that Act notes that if no such bylaw exists the fees will be as set in regulations.
66. The power to prescribe fees and charges in section 150 of the LGA02 can be exercised through a bylaw, or by another (unspecified) process provided there has been consultation that gives effect to the requirements of the principles of consultation in section 82 of the LGA02. In practice this latter option appears to be the most commonly used.
67. A stocktake of local government bylaws completed in October 2023 found nine bylaws setting fees and charges. Three were made under each of the *Burial and Cremation Act 1964* and the *Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013*. The remaining three bylaws covered fees and charges for an airport, dogs and mooring respectively. It is arguable that six of these bylaws are unnecessary as the fees and charges could either have been set by resolution, or by using another process that meets the LGA02's principles of consultation.
68. Including fees and charges in a council's annual plan or long term plan prepared under the LGA02 is a common way of meeting the latter in practice. This has advantages over using a bylaw, including:
- It requires little or no extra resource to set fees and charges this way as councils are already undertaking the annual plan/long term plan process.
 - Fees and charges can be reviewed annually, and doing this at the same time as budgets are being set helps ensure the fees and charges are appropriate and adequate.
 - The need to produce and maintain a bylaw/bylaw provisions is removed, freeing up budget and time for council staff, elected members and the public.
 - The public can find information about all fees and charges in one place and engage in consultation about setting fees and charges once instead of across multiple processes.

⁹ E.g. section 36 of the Resource Management Act 1991, which uses a modified version of the process in s150 of the LGA02, but does not require fees to be set in a bylaw.

¹⁰ E.g. sections 37 and 68 of the Dog Control Act 1996

69. We have heard from some territorial authorities that the fees set in the *Sale and Supply of Alcohol (Fees) Regulations 2013* are no longer adequate for them to recover the actual and reasonable costs of providing their functions under the *Sale and Supply of Alcohol Act 2012*. We've also heard that they haven't put a bylaw in place setting their own fees because the resources required to do this are prohibitive. While a tool for local government to set fees is desirable, having that tool be the potential for 67 pieces of secondary legislation (i.e. a bylaw for each territorial authority) is not efficient.
70. For completeness it is noted that Section 150(6) of the LGA02 clarifies that the requirements in Section 150(1)-(5) do not apply to charges for goods, services, or amenities provided in reliance on the general power of competence in Section 12.

Options and Analysis for Part One

Options for unnecessary or duplicated provisions (Issues 1.1.1 and 1.1.2)

Remove unnecessary and duplicated bylaw powers

71. One option, that is within the scope of this work, is to remove bylaw-making powers from the LGA02 where they are no longer needed, or where they duplicate powers found elsewhere. This would tidy up the powers in the LGA02 but mean that local government bylaw-making powers remain spread across multiple pieces of legislation.
72. Another option is to seek opportunities for bylaw-making powers to be removed from other legislation where they are no longer needed, or where they duplicate powers found in the LGA02. Seeking opportunities to remove redundant bylaw-making powers from other legislation appears worthwhile as it would assist with tidying up the local government bylaw system. This could happen as well as the option described above.
73. Removing bylaw-making powers from other legislation that duplicate those in the LGA02 would mean that local government bylaw-making powers for certain subjects (e.g. health) would be spread across two or more Acts. The local government bylaw system would also remain spread across multiple pieces of legislation. This is not considered to be an improvement on the status quo as it would add to the existing confusion and fragmentation.
74. Putting all local government bylaw-making powers in the LGA02 is not considered a viable option. It would mean amending multiple pieces of legislation and would be a significant piece of work that is outside the scope of this project.

Remove local government bylaws from the Bylaws Act 1910

75. Modernising the BA1910 in its entirety is outside the scope of this work. That Act covers bylaw-making by entities other than local government, and this work has not considered those aspects of New Zealand's broader bylaw system.
76. Local government bylaws could be removed from the BA1910, with consequential amendments to Section 144 of the LGA02. Consideration would need to be given to which, if any, provisions of the BA1910 are still needed for local government bylaws. Modernised provisions could be added into the LGA02, potentially at Section 144.

77. This would mean some procedural provisions for New Zealand's bylaw system are duplicated in legislation. The status quo would remain for non-local government bylaw-making entities. There would be one less piece of legislation for local government bylaws, with the LGA02 becoming the single source for key procedural provisions on (most) local government bylaws.

Questions for feedback #4:

Can you foresee any unintended consequences if modernised provisions were included in the Local Government Act 2002 and local government bylaws were no longer subject to the BA1910? Would this be a useful thing to do?

Options for general vs specific bylaw-making powers (Issue 1.1.3)

78. General bylaw-making powers in previous local government legislation have included wording to connect bylaw-making to the purpose of local government, or matters expected to be dealt with by local government. Consideration could be given to including similar wording in the LGA02 to address the potential for scope creep.

Question for feedback #5:

Do you think this would provide clarity on what local government can make bylaws for and help reduce regulatory scope creep, or would it add confusion and areas for potential challenge?

79. If there are specific matters that central government does not want local government making bylaws for, this direction could be given either informally (e.g. letters from Ministers) and/or formally (e.g. legislation could list matters where bylaw powers are specifically not given).

Question for feedback #6:

Would this type of direction be useful?

80. Options could be considered to make it easier to amend bylaw powers, such as creating the delegation in primary legislation and using secondary legislation like regulations to set the detail. More thinking is needed on how this could work in practice and what is legally possible.

More efficient and effective tools (Issue 1.2.1)

Consider other tools in place of bylaws as opportunities arise

81. The speed limit setting and Easter Sunday trading examples discussed above show that this is possible. We have heard that at times bylaws are suggested as a tool because they already exist in New Zealand's local government system and it is considered that using an existing and known tool is better than creating something new. The issues identified in this paper suggest that this is not always the case.

82. While it is outside of the current scope of this work to make significant changes to legislation that is not administered by the Department, it is possible to highlight opportunities to consider replacing bylaws with a more appropriate tool should the opportunity arise in future.

Question for feedback #7:

Are there examples where current bylaw-making powers could be replaced by a more appropriate tool?

An international example – Public Spaces Protection Orders in the United Kingdom

83. Public Spaces Protection Orders (PSPO) are a tool available to local authorities in the United Kingdom under the *Anti-social Behaviour, Crime and Policing Act 2014*. They are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life. They do this by imposing conditions on the use of that area. Consultation is required with police, owners or occupiers of land in the restricted area, and other community representatives as the council sees fit.
84. Two conditions must be met before a PSPO can be made. The first is that activities carried on in a public place must have had a detrimental effect on the quality of life of people in the locality, or it must be likely that activities will have such an effect. The second is that the actual or likely effect of the activities must be (or be likely to be) persistent or continuing to the point of being unreasonable, and these effects must justify the restrictions in the PSPO.
85. Each PSPO must set out what the detrimental activities are, what is being prohibited and/or required (including any exemptions), the area covered, consequences for a breach, and the period the PSPO has effect.
86. A PSPO can last up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to three years. There is no limit on the number of times a PSPO may be reviewed and renewed.
87. Failing to comply with a PSPO is an offence. 'On-the-spot' fines (i.e. infringement fees in the New Zealand setting) of up to £100 (approx. \$220) can be issued to anyone who breaches a PSPO.
88. Supporters of PSPOs note that they can provide a timely and proportionate response to emerging issues. Critics note that they have been used to fine people for very minor activities including dropping kids off outside the school gates, swearing in the street, and asking for casual work.
89. A tool similar to PSPOs may be appropriate for some purposes that currently have bylaw-making powers, such as "minimising the potential for offensive behaviour in public places" at Section 145(c) of the LGA02 and the regional council bylaw-making powers at Section 149(1)(a) and (b). In appropriate circumstances they could potentially replace the bylaw-making power, or they could be an option in addition to bylaws. A 'modified bylaw' process could be used for making PSPOs to ensure appropriate safeguards.

Questions for feedback #8:

- Would such a tool be useful in New Zealand? If so, what situations do you think it

would be useful for?

- What sort of process, criteria and other safeguards do you think would be needed for this type of tool to work here?

‘Local government secondary legislation’ instead of bylaws

90. If bylaws as a tool for administrative purposes (e.g. fees and charges, managing council’s assets) are replaced by more efficient processes, unnecessary and duplicative powers are removed, and matters which can be dealt with by other tools are given that ability (e.g. policies, national registers, a PSPO-style tool, decisions by resolution of council etc), what remains of bylaws?
91. In that situation the purposes which retain bylaw-making powers are considered likely to be a better fit with secondary legislation status than some parts of the current system. To recognise that status and avoid confusion with the varied uses and understandings of the term “bylaw”, it might be appropriate to give this part of the local government regulatory system another name.
92. The existing naming structure for central government secondary legislation could be applied to local government secondary legislation, e.g. regulations, orders etc. Alternatively, the tool currently known as local government bylaws could be given a specific name or simply be referred to as local government secondary legislation. For ease we have continued to refer to “bylaws” throughout this paper, but if this option is taken then other options could be amended accordingly.

Questions for feedback #9:

Should we continue using the term “bylaw”, or is it time to look for a replacement in the local government context? If it was to be replaced, what could that look like?

Remove references to bylaws in section 150 of the LGA02 (Issue 1.2.2)

93. Removing references to “bylaws” in Section 150 of the LGA02 would tidy up this section and bring it in line with current practice. Councils would still have an effective tool for setting fees and charges using the remainder of Section 150. This option may involve some consequential amendments to other legislation that references Section 150 of the LGA02.

Questions for feedback #10:

Can you foresee any unintended consequences of removing bylaws from this section? Would this be a useful thing to do?

Part Two: How bylaws are made and reviewed

Context

Legislation sets out the bylaw making process for local government

General process of making a bylaw under the LGA02

94. The LGA02 sets out a prescribed process for local government bylaw-making. The main provisions are found in Sections 155 to 157.

95. To set a bylaw under the LGA02, a local authority must:

- determine that a bylaw is the most appropriate way of addressing a perceived problem.
- determine that the proposed bylaw is an appropriate form of bylaw.
- determine that the proposed bylaw is not inconsistent with the *New Zealand Bill of Rights Act 1990*.
- consult on the proposed bylaw, usually using a special consultative procedure.
- formally make the bylaw after that consultation because the governing body of a local authority cannot delegate its power to make a bylaw.
- publicly notify the bylaw and make a copy available for inspection.

Local government has bylaw making powers under a range of legislation

96. The above procedure for making bylaws expressly applies to bylaws made under the LGA02 and the *Maritime Transport Act 1994*. However, local authorities have specific bylaw-making powers under a range of other legislation.

Other legislation with local government bylaw-making powers include:

Burial and Cremation Act 1964	Litter Act 1979
Dog Control Act 1996	Prostitution Reform Act 2003
Freedom Camping Act 2011	Reserves Act 1977
Health Act 1956	Sale and Supply of Alcohol Act 2012
Maritime Transport Act 1994	Walking Access Act 2008
Land Transport Act 1998	Waste Minimisation Act 2008

LGA02 establishes a regime for the review of bylaws made under that Act

Requirement to review bylaws

97. The LGA02 also sets out requirements for reviewing bylaws. Local authorities are required to review any newly created bylaw within five years of it being made, and again no later than 10 years after it was last reviewed.
98. If a bylaw is not reviewed within the required timeframes, it is revoked on the date that is two years after the last date on which it should have been reviewed (if not earlier revoked).

Procedure for and nature of bylaw reviews

99. A local authority must review a bylaw by making the determinations set out in Section 155 of the LGA02 (appropriate way of addressing the problem, form of bylaw and not inconsistent with the Bill of Rights). If after the review the local authority considers that the bylaw should be amended, revoked, or revoked and replaced, it must act under Section 156.

Consultation requirements for bylaws under the LGA02

100. Section 156 sets out the consultation requirements when making, amending, or revoking bylaws made under the LGA02.
101. The special consultative procedure (SCP) is to be used if the bylaw concerned is identified in the local authority's policy as being of significant interest to the public, or the local authority considers that there is, or is likely to be a significant impact on the public.
102. If the local authority does not decide to use SCP, then they must consult in a manner that gives effect to the principles of consultation in Section 82 of the LGA02.
103. If the local authority considers that a bylaw should continue without amendment following a review, Section 160 says it must consult on the proposal using SCP if:
 - The bylaw concerns a matter identified in the local authority's policy as being of significant interest to the public; or
 - The local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed continuation of the bylaw; and
 - In any case, consult on the proposed continuation of the bylaw in a manner that gives effect to the requirements of Section 82.

Issue 2.1: The process to make and review bylaws can be onerous and confusing

Issue 2.1.1: The process to make and review bylaws can require significant resource

104. Creating, amending and reviewing bylaws is often an involved process; from the data and research needed to inform the proposals, to the stakeholder engagement often necessary on top of public consultation requirements.
105. We have heard that for some of the more involved bylaws, such as a freedom camping bylaw, this can take over a year to develop and adopt and require at least one full time staff member's primary capacity.

The process can result in a risk adverse approach from councils

106. Councils have also raised that the complexity and 'over prescribed' nature of the process provides too many avenues for councils to inadvertently make mistakes. ⁹⁽²⁾
(ba)
(i)

107. In addition to creating extra costs for councils, there is concern that this both undermines local authority's power to make and enforce local legislation and promotes a very risk adverse approach to policy and community engagement.

Issue 2.1.2: Different requirements across different legislation

108. The procedure for local authorities to make bylaws varies across the different pieces of enabling legislation. While many of these Acts make reference to the general procedure in the LGA02, the majority require some deviation from this process.

Examples of these different or additional requirements include:

- Bylaws made under the Walking Access Act 2008 must be submitted to the New Zealand Walking Access Commission for approval.
- Bylaws made under the Land Transport Act 1998 must be sent to the Minister of Transport within one week of confirmation. The Minister may disallow any part of the bylaw at any time.
- The Burial and Cremation Act 1964 and the Health Act 1956 require local authorities to provide a copy of proposed bylaws to the relevant Minister or Director prior to confirmation.
- Bylaws made under the Prostitution Reform Act 2003 can be made even if they are inconsistent with the Bill of Rights Act 1990.
- Bylaws made under the Dog Control Act 1996 have direct implications on the local authority's dog control policy, often requiring review or update.

109. The myriad of different steps across bylaw procedures can result in council staff inadvertently making an error in the process. This puts further resource and capability pressures on local authorities, who have to be knowledgeable across the multiple different processes. It also likely raises the legal risk for councils regarding the making of and defence of bylaws.
110. In some cases, there may be genuine reasons for the process differences. In others they appear to be the result of legislation repeating a process which was later changed.

Inconsistency with how the bylaw making process in the LGA02 applies

111. Some enabling legislation makes reference to specific parts of the LGA02 procedure. For example, when making bylaws under the *Walking Access Act 2008*, local authorities have to follow the consultation requirements under Section 156 of the LGA02. However, there is no reference to the steps required under Section 155, and the *Walking Access Act* does not explicitly provide any process to be used instead.
112. Conversely, some enabling legislation contains no reference to the processes in the LGA02, although the wording of some procedural provisions appear to be direct copy of the wording of key sections of the LGA02 (e.g. the *Freedom Camping Act 2011*).

Issue 2.1.2: Assessments on the ‘most appropriate form’ of a bylaw

113. Section 155(1) of the LGA02 requires that “*a local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem*”.
114. Following this, the LGA02 then requires that “*If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—*
 (a) *is the most appropriate form of bylaw; and*
 (b) *gives rise to any implications under the New Zealand Bill of Rights Act 1990*”.

Clarity of the Section 155 assessment

115. Councils have noted that Section 155 does not provide clear direction on the actual steps required when making a bylaw. Concerns have also been raised over the wording of the section, especially use of the term ‘appropriate form’ which is vague, and how the preferred ‘form’ of a bylaw is best assessed.

Performing the assessment twice

116. In practice, these assessments under Section 155(2) are performed twice; once when preparing the draft bylaw for consultation and again when preparing a final bylaw for adoption after incorporating the outcomes of consultation. This can be quite confusing for practitioners new to the bylaws process. The LGA02 does not provide any explicit direction on how this assessment is impacted by the consultation process.

Issue 2.1.3: Review requirements for bylaws can be burdensome and confusing

The review requirements are not achieving their intended outcomes in practice

- 117. It can take between 12-18 months on average to complete the bylaw review process required by the LGA02. The minimum is at least six months by the time it goes through content review, consultation, and council processes.
- 118. The requirement to review bylaws within five years of adoption could be considered too short, and to create unnecessary compliance costs. While the review ensures the bylaw is working as intended from an early stage, the review process involves a lot of work and expense that may not be justified so soon after the bylaw was adopted.
- 119. Similar issues also arise from the ongoing reviews every 10 years. These can create unnecessary compliance costs and significant work for councils, for little or no benefit.
- 120. In practice if there are significant issues with a bylaw, many councils will address these as they arise. Amendments can be made to a bylaw at any time, so there is no need to wait until five or 10 years have passed to address things that are not working as intended.
- 121. Conversely, the mandatory review process can create the perverse outcome of a council not amending bylaws outside of the five and 10 year reviews. In these cases, outdated or inappropriate provisions remain in a bylaw for longer than they should.

The drafting of the review provisions is creating confusion

- 122. We received feedback questioning when the review period starts. Some councils consider it is unclear whether the period starts from the date the bylaw comes into operation, or the date of council's resolution to adopt the bylaw. The LGA02 is not clear on the point at which a bylaw is considered to be "made", and greater clarity would be useful.
- 123. 9(2)(h) [REDACTED]
- 124. Similar to the multiple processes for making bylaws across the various enabling legislation, there are also variations in the review requirements. For instance, Section 58 of the *Waste Minimisation Act 2008* only requires 10 year reviews of bylaws. Some Acts do not have any review requirements for bylaws.

Automatic revocation of a bylaw if it is not reviewed

- 125. If the review requirements in the LGA02 are not met, a bylaw will be automatically revoked two years after the date it should have been reviewed. The aim of this provision is to ensure that councils carry out regular reviews of their bylaws.

126. 9(2)(h)

[REDACTED]

127. Councils have previously been caught out with a bylaw being automatically revoked without the council being aware it had been revoked. An example of this arose when a council raised the issue of their speed limit bylaw being inadvertently revoked in 2012 because it had not been reviewed as required under the LGA02. The potential invalidity of this type of bylaw raised issues for enforcement action taken by the Police under the bylaw.

128. A desktop analysis at the time indicated that up to 25 councils may have been in a similar position. In this case, the *Land Transport (Speed Limits Validation and Other Matters) Act 2015* was required to be passed under urgency to ensure the ongoing validity of speed limits, validate past speed limit enforcement actions and preserve public safety by enabling ongoing enforcement.¹¹

Issue 2.2: Consultation requirements for bylaws

Issue 2.2.1: Legislation sets varying consultation requirements

Consultation requirements can be the most time intensive part of the bylaw process

129. The process to develop a new bylaw can take 18-24 months, and reviewing a bylaw can take between 12-18 months. A key contributor to these time periods is the consultation requirements which involve engaging with the community and identified stakeholders.

The LGA02 provides some discretion for bylaw consultation

130. This allows councils to tailor the consultation to the specific bylaw. 9(2)(ba)(i)

[REDACTED]

This can create unnecessary cost and time in the bylaw making and reviewing process for both local authorities and members of the public who participate in the consultation process.

131. While consultation is important and can raise critical issue, sometimes the quality of feedback received is not of high value, especially when at the same time the process is costly and time consuming. This includes not only the consultation but the associated administration of summarising submissions and responding to enquiries.

¹¹ Regulatory Impact Statement: Land Transport (Speed Limits Validation) Bill. [https://www.dia.govt.nz/diawebsite.nsf/Files/RIS-for-speed-limits-validating-legislation-July2015/\\$file/RIS-for-speed-limits-validating-legislation-July2015.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/RIS-for-speed-limits-validating-legislation-July2015/$file/RIS-for-speed-limits-validating-legislation-July2015.pdf)

The wording of the consultation requirements in legislation is unclear

132. Sections 156(1) and 160(3) LGA02 provide this discretion by requiring local authorities to assess the potential significance of any decisions around bylaws to determine whether the SCP should be used.

133. The SCP has to be used if:

- The bylaw concerns a matter identified in the local authority's significance and engagement policy as being of significant interest to the public; or
- The local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed continuation of the bylaw.

134. The wording of this requirement is unclear. It also risks duplicating the process and considerations used to establish a local authority's significance and engagement policy in the first place. The lack of clarity around this assessment could be contributing to councils defaulting to using the SCP to avoid risk.

Various additional consultation requirements in other legislation

135. Consultation requirements for making bylaws under other legislation can differ from the LGA02. Some legislation explicitly requires the SCP to be used, while others require councils to specifically consult with certain Ministers or government agencies before adopting certain bylaws. Some examples of these are provided in paragraph 108.

136. A specific example that councils have raised as an issue sits in the *Dog Control Act 1996*. This Act requires territorial authorities to have a dog control policy and enables them to make bylaws to implement their policy. Territorial authorities must review their dog control policy if the bylaw implementing the policy requires review under the LGA02. If after a review, the territorial authority considers that the bylaw should continue without amendment, it must use the SCP to consult on this.

137. Similar to the issues identified with the varying procedural requirements in bylaw-making powers, there have also been questions raised about the purpose and value of additional and varied consultation requirements across different pieces of legislation.

Issue 2.2.2: There are stricter consultation requirements for the Freedom Camping Act 2011

138. Under the *Freedom Camping Act 2011*, local authorities are required to use the SCP when making bylaws to restrict freedom camping. The SCP is also required when the bylaw is amended, revoked, revoked and replaced, and when the bylaw is proposed to be continued without amendment following a review.

139. This is stricter than the consultation requirements for other local government bylaws made under the LGA02. It is also stricter than the process for the Director-General of the Department of Conservation when restricting freedom camping on conservation land, as well as for the commissioner when restricting freedom camping on Land Information New Zealand (LINZ) land. These varying requirements are said to balance the need for public input, with the operational efficiencies required by the different agencies to manage their respective responsibilities effectively.

140. 9(2)(ba)(i)

141. While removing this specific requirement could be an option, further discussions would need to be had with the NZTA before any recommendation could be made.

Options and analysis for Part Two

Options for clarifying the process for making bylaws (Issue 2.1.1)

Make it clearer in the legislation, which aspects of the LGA02 apply to bylaws made under the various enabling legislation

142. A preferred option presented in early engagement on this work is to review the wording and processes provided for across the many different pieces of enabling legislation, with the goal to make it as consistent as possible. Additional requirements could remain if they have a clear purpose.
143. As noted earlier, this project is unable to review and amend all bylaw making provisions across legislation. However, we are keen to identify changes that could be made to the LGA02 to better clarify where certain provisions apply. An example of this would be removing s155(1AA) which states that the section only applies to bylaws made under the LGA02 or the *Maritime Transport Act*. As some other legislation expressly links to the processes in the LGA02, we understand this sub-section to be redundant and confusing.

Amendments to the assessments required when making or reviewing a bylaw under the LGA02 (Issue 2.1.2)

Provide a clearer and more streamlined procedure for making decisions regarding bylaws

144. There are options to amend the assessments in Section 155 to provide a more 'fit for purpose' procedure for making bylaws.
145. Initial consultation has told us that a preferred procedure would provide clarity in what steps are required by councils, but have enough flexibility to appropriately allow for local decision making,
146. An option may be to remove the assessment in Section 155(2) that requires councils to "*determine that the proposed bylaw is an appropriate form of bylaw*", and replace it with a new assessment, based on prescribed principles that councils have to consider when making decisions on bylaws.
147. A principles-based assessment could require councils to thoroughly assess proposals within their local contexts, while not creating too many new requirements that may "trap" councils into making an error in the process.

148. A feature of such an amendment could be to clarify at which point in the process this assessment is required, to address the current issue where the Section 155 assessment is performed twice. It may even be preferable for two different assessments to take place in the process, one at the stage of development prior to consultation, and one to occur after consultation prior to the finalisation of the bylaw.

Question for feedback #11:

- What would be the key considerations to include in a principles-based assessment in a new Section 155?
- Do you think there should be separate assessments and determinations on a bylaw before and after community consultation?

Remove the specific assessment for making and reviewing bylaws under Section 155

149. Initial consultation has suggested that the assessment process outlined in Section 155 could be simplified. Some feedback questioned the need for a specific assessment for decisions around bylaws, separate to the general decision-making requirements and processes set out in Sections 76-81 of the LGA02.

150. Sections 76-81 already apply to all decisions made by a local authority. Key provisions require that, during the decision-making process, a council must seek to identify all reasonably practicable options for the achievement of the objective of the decision and then assess these options in terms of their advantages and disadvantages.

151. We note that for bylaws made under legislation that doesn't explicitly follow the bylaws procedure in the LGA02 (such as the *Land Transport Act 1998*), these general decision-making provisions apply, instead of a 'bylaw-specific' assessment.

Question for feedback #12:

Do you think that it is important for bylaws to retain their own decision-making process?

Options to reduce the burden of bylaw reviews (Issue 2.1.3)

Remove mandatory requirements to review bylaws

152. This option could remove the need to review bylaws within the statutory timeframes of five and/or 10 years.

153. Removing the requirements for review could mean local authorities have bylaws on their books that are outdated and not fit-for-purpose. However, it will still be up to the local authority to decide whether the bylaw needs a review or needs to be looked at if any issues arise.

154. Councils are likely to review their bylaws anyway because they or the public have identified issues. Removing the mandatory requirement would remove the burden on councils having to review bylaws within short and specified periods of time. This could also make bylaws more responsive to community needs.

Provide for a standard 10-year review for all bylaws

155. The requirement to review bylaws made under the LGA02 within five years could be replaced with a requirement to review bylaws every 10 years. This option could help reduce costs for local authorities by reducing the frequency of reviews.
156. While a review would only need to be conducted every 10 years, the ability for local authorities to review their bylaws at any time would not change.
157. There could be an opportunity to consider other review periods in other Acts that the Department of Internal Affairs administers, like the *Freedom Camping Act* and *Dog Control Act*.

Remove the automatic revocation of bylaws that have not been reviewed

158. This option would prevent bylaws from being revoked if they are not reviewed within the required two year window. This would have the advantage of local authorities not having to keep a check on when bylaws may be expired and when they are required to be reviewed.
159. It would also be more efficient for local authorities, in terms of time and money spent, in having to start the process again when the bylaw expires after not being reviewed. It would also prevent bylaws from becoming redundant.
160. While it could mean that bylaws remain on a local authorities' books indefinitely, again there would be nothing stopping local authorities from revoking the bylaw to keep their books tidy if they believed the bylaw was no longer required.

Questions for feedback #13:

- Should the five- and ten-year reviews be removed? If so, how should bylaws be reviewed to ensure they stay up-to-date?
- Should a bylaw be automatically revoked if not reviewed within a set timeframe?

Options for simplifying and clarifying the consultation requirements for bylaws (Issue 2.2.1)***Simplify the consultation requirements when making or reviewing a bylaw***

161. Simplifying processes to ensure that people do have a genuine opportunity to comment, while reducing administration requirements, could reduce the cost of the process without significantly affecting the quality of regulation.

162. 9(2)(ba)(i)

Questions for feedback #14:

- What level of consultation is the most appropriate for making a bylaw?
- Are there consultation processes outside of the provisions in the LGA02 that would be more appropriate for bylaw-making and review?

Providing clarity in the legislation about when the SCP does not need to be used

163. The legislation could be more prescriptive about when the SCP needs to be used, and when consultation should be conducted in a way that gives effect to the requirements of Section 82 of the LGA02.
164. While this could take away some level of flexibility and discretion for councils in deciding what level of consultation is most appropriate, it could also provide more certainty for councils and look to provide circumstances for councils to use the less onerous consultation process without the perceived risk.
165. This approach also has the potential to conflict with the approach taken in each council's significance and engagement policy, which is the key mechanism for local authorities to determine the level of consultation required for certain decisions.

Question for feedback #15:

Are there examples where a consultation process conducted under section 82 of the LGA02 would be more appropriate than the SCP?

Clarifying the wording of consultation requirements in the legislation

166. The wording of Sections 156(1) and 160(3) could be amended to provide greater clarity in how councils can effectively exercise the discretion in consultation requirements that the LGA02 aims to provide for.
167. Potential amendments could include more expressly connecting how significance and engagement policies can effectively help councils determine the level of consultation required, and mitigating the risk of challenge to their process.
168. There could also be a non-regulatory aspect to this approach, by more clearly outlining the consultation processes the community can expect regarding decisions around bylaws.
169. For example, Auckland Council's Significance and Engagement Policy expressly outlines when the SCP will or won't be used in regard to making, changing or revoking a bylaw. The policy doesn't provide any different or additional criteria for when either the SCP or Section 82 is used for bylaws, but does communicate engagement expectations to the community and mitigate process risks for councils.

Questions for feedback #16:

Are significance and engagement policies the most effective basis for councils to exercise discretion around the best level of consultation?

Simplify the consultation requirements for reviewing a bylaw

170. The legislation could be amended to say that when a bylaw is being reviewed and only small amendments are proposed, then the SCP does not have to be used.
171. This could raise questions and risks about what constitutes small amendments and would create another point of discretion for local authorities.

Remove the consultation process when bylaws are continuing unamended

172. To require consultation when a bylaw is left unamended is expensive and resource heavy. This requirement could be removed if no changes are proposed to the bylaw. Public notice could be given that no amendments have been made, rather than requiring consultation.
173. A review is still required to get to that point and if it is decided that amendments do need to be made, then consultation would be required.

Question for feedback #17:

Should the requirement to consult when a bylaw is left unamended be removed or does it provide assurance that nothing has been missed?

Expand the reasons when a local authority may use a resolution to notify certain changes

174. Section 156(2) allows minor changes to be made to a bylaw by a resolution followed by a public notice. Changes cannot be made if they effect an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies,
175. This clause could be expanded to allow local authorities to give bylaws a ‘facelift’, update language, and structure them differently without triggering the consultation requirements that are required when amending a bylaw.
176. This could reduce time and money for local authorities. It may also encourage making bylaws clearer and more accessible to the public if the process is made easier for them to be updated in this way.

Question for feedback #18:

Should Section 156(2) be amended to extend the reasons for when a bylaw can be changed? Are there any limits you would put on the reasons?

Options for simplifying the consultation requirements for freedom camping bylaws (Issue 2.2.2)***Amend legislation to allow discretion as to what form consultation for freedom camping bylaws can take***

177. Under this option, Section 11B(3) of the *Freedom Camping Act* would be amended to replicate the consultation requirements in the LGA02.
178. Further discussions would be required with the Department of Conservation if any changes were proposed to be made to the *Freedom Camping Act*. The Ministry of Business, Innovation and Employment, and LINZ, would also have an interest.
179. While the Act could be amended to allow more discretion around consultation, it is likely that the decision to make a bylaw on freedom camping will trigger the SCP anyway, as it is likely to be considered of significant interest to the public. This may also apply when the bylaw is being amended.
180. An alternative could be to simplify the requirements for consultation when amending or revoking a bylaw. While the SCP may need to be used if significant amendments are being made, having discretion may be a better alternative than a blanket requirement to use the SCP.

Question for feedback #19:

Should the Freedom Camping Act be amended to allow more discretion in terms of what consultation should be used?

Part Three: Enforcement of bylaws

Context

The LGA02 contains several provisions to enforce bylaws

181. Section 239 of the LGA02 provides that any person who breaches a bylaw commits an offence and is liable on conviction to a penalty. The maximum fine of \$20,000 is applicable to most bylaw offences, while offences against trade waste bylaws can attract a \$200,000 fine.
182. Section 20 of the BA1910 provides that local authorities can set fines up to a maximum of \$500 if the legislation is silent on penalty. Section 21 of that Act also makes it clear that fines are at the court's discretion.
183. The LGA02 contains several enforcement powers that relate to bylaws. These powers allow local authorities to:
 - Apply for injunctions restraining someone from breaching a bylaw (Section 162)
 - Remove works that are in breach of a bylaw (Section 163)
 - Seize property involved in the breach of a bylaw (Sections 164 and 165)
 - Enter private land to detect a breach of a bylaw (Section 172)
 - Recover costs from remedying damage caused in breaching a bylaw (Section 176)
 - Appoint enforcement officers in relation to bylaw offences (Section 177)
 - Contract out or authorise bylaw enforcement by other local authorities or parties (Sections 179 and 180).

Infringement offences

184. Section 259 of the LGA02 enables regulations to be made by Order in Council, on the recommendation of the Minister of Local Government, to prescribe breaches of bylaws that are infringement offences and set infringement fees of up to \$1,000 for those offences.
185. Infringement offences are often considered an easier way to encourage people to follow the law. A person who commits an infringement offence is liable to receive a penalty, which often is a fee. Infringement fees are a fixed amount a person is immediately liable to pay upon being served an infringement notice.
186. Fees for infringement offences in regulatory settings are normally set at a low level. This is because the level of offending is low. A person who commits an infringement offence does not receive a criminal conviction.

187. There are other powers throughout other pieces of legislation that enable bylaw breaches to be designated as infringement offences. These powers, which are more specific than those in Section 259 of the LGA02, have been used successfully to create infringement offences for certain bylaw breaches.
188. For dog control, freedom camping and the Stewart Island/Rakiura visitor levy, the infringement offences are set in primary legislation, with regulations used to set fees and prescribe forms for notices. This is the same for alcohol control.
189. Traffic/parking and navigation safety use regulations to establish which bylaw breaches are infringement offences, as well as setting the infringement fees and notice forms.

Issue 3.1: Local authorities have limited options for enforcing many of their bylaws

Issue 3.1.1: Prosecuting breaches of bylaws requires a high threshold

190. Due to the current enforcement regime, where bylaw breaches do occur, local authorities rarely prosecute. A charging document is required under *the Criminal Procedure Act 2011*, which involves taking a court case to prove the charges. Prosecutions tend to happen in only the most egregious of cases.

The lack of court action can create a perception of no consequences

191. Many bylaw offences concern relatively minor or low-level behaviour including:
- repeatedly displaying a sign without a permit;
 - skateboarding in areas where this is banned; or
 - failing to notify the council of use of a public park for an organised sports game.
192. Court prosecutions are not always the most appropriate enforcement tool for these type of bylaw related offences. Prosecution can be considered 'using a sledgehammer to crack a nut'. However, the lack of enforcement powers short of a prosecution in the District Court also means that most bylaws are toothless. This can embolden cavalier behaviour in relation to compliance with bylaws and undermine public confidence in local governance.

Issue 3.1.2: Fines imposed are too small

193. The fines that may be imposed by a court are often relatively small, especially compared to the costs of bringing a case to court.
194. The small amount that fines can impose are often driven by statutory limitations. For example, the maximum penalty under the LGA02 for a breach of a bylaw is \$20,000, while the penalty for a breach of a bylaw under the *Health Act 1956* is only \$500 with a further fine of \$50 for every day the offence continues. The courts sometimes have discretion to impose their own appropriate levels of penalties.
195. The low financial penalties that can be imposed reflects that often bylaw breaches are minor offences, and the penalty should proportionately reflect the nature of the offence committed.

Issue 3.1.3: Prosecutions can be very costly for local authorities

196. It can cost between \$5,000 and \$10,000 to bring simple proceedings to court. The high cost is due to court and witness costs, and lawyers' fees. There are additional sentencing costs if the defendant pleads guilty, but these are limited.
197. There are further costs if the case is defended, or the defendant engages in delay tactics. Altogether, the costs could easily exceed \$20,000 (or more, for difficult and complex cases).

Issue 3.2: Infringement regime and offences

Issue 3.2.1: General problems with the infringement regime

198. Local authorities and sector groups have expressed their frustration that no regulations have been made under Section 259 of the LGA02 to enable local authorities to issue infringement notices for bylaw breaches.
199. It was hoped that by including an infringement regime in Section 259 of the LGA02 that infringement offences would become more widely available. However, this has only been used, in part, for alcohol control bylaws to date. The *Local Government (Alcohol Ban Breaches) Regulations 2013* were made under s259 of the LGA02. They prescribe the infringement fee and infringement notice forms for breaches of alcohol ban bylaws, using ss 259(1)(b) and 259(1)(c) respectively.
200. To give effect to the regime in Section 259 as currently drafted, each local authority bylaw must be named in a regulation, along with each individual offence that is to be made an infringement offence and the infringement fee for each.
201. The New Zealand Productivity Commission in their *Towards better local regulation* report said that Section 259 is a cumbersome process and should be amended to enable regulations to be made for infringement notices for similar kinds of bylaws across local authorities, rather than on a council-specific and bylaw specific basis.¹²
202. Regulations can take between 9-13 months to make and are dependent on resourcing both within local authorities and central government. If each individual bylaw requires an individual regulation (like has been done for navigation safety), there are in excess of 400 potential regulations, and these would have to be amended every time the relevant bylaw is amended. An Order in Council would need to go through Cabinet for every new and updated regulation, tying up Cabinet and Departmental resources.
203. While addressing the recommendations in the RRC's report, the Department found that the issue of bylaw breaches lacking infringement offences was not as widespread as commonly portrayed. Just over half of all local authority bylaws (approximately 466 out of 900) either already have an infringement regime, will soon have an infringement regime (addressed through work on the water services), or do not require enforcement tools. There are currently infringement offences in place for at least 253 local authority bylaws.

¹² <https://www.treasury.govt.nz/sites/default/files/2024-05/pc-ing-tblr-final-report-towards-better-local-regulation.pdf> at page 10.
<https://www.treasury.govt.nz/sites/default/files/2024-05/pc-ing-tblr-final-report-towards-better-local-regulation.pdf>, page 10

Issue 3.2.2: Infringement offences are not suitable for all bylaws

204. Some bylaws/clauses are unlikely to meet guidelines for having an infringement offence. Both the Legislation Design and Advisory Committee (LDAC) and the Ministry of Justice have issued guidelines about the circumstances in which infringement offences are appropriate.
205. Infringement offences are strict liability offences, and reverse the presumption of “innocent until proven guilty”. There are certain situations where they are most appropriate, including:
- the conduct addressed is a minor contravention of the law;
 - the conduct occurs frequently and at a high volume;
 - the conduct is straightforward and can easily be identified by an enforcement officer (there is no mens rea/guilty mind element); and
 - the contraventions of the law are reasonably uniform.
206. LDAC says infringement offences should be reserved for the prohibition of conduct that is of concern to the community, but which does not justify the imposition of a criminal conviction, significant fine, or imprisonment.

Issue 3.2.3: An infringement regime is a small part of an effective enforcement system

207. In comparison to the bylaw regime, the RMA has a much more varied and sophisticated range of enforcement mechanisms that are directed to achieving the desired outcomes. Rather than simply punishing offenders with an infringement fee, the Resource Management system includes daily fines for continuing offences, and the use of abatement notices and enforcement orders.
208. When not utilised effectively, infringement regimes can also disincentivise compliance. If the cost of compliance is similar to, or higher than, the infringement fee, an infringement regime could result in people preferring the risk of the infringement fee over the cost of compliance, and businesses accepting the infringement fee as a cost of doing business.¹³ This would provide little or no financial incentive to remedy the underlying issues and achieve compliance.
209. The desire to see greater use of infringement offences rests on the assumption that the best and only way to achieve bylaw compliance, apart from moral persuasion, is monetary punishment. However, this is not always the case as recently shown in Whangārei where mobility parking violations have actually increased despite the higher fines that are now able to be issued.¹⁴

¹³ <https://www.nzherald.co.nz/nz/auckland-transport-struggles-to-collect-millions-in-unpaid-fines/MPUJRG4ZV5FJ7BS6KLJXTDH5WY/>

¹⁴ <https://www.nzherald.co.nz/northern-advocate/news/mobility-parking-violations-rise-in-whangarei-despite-higher-fines/QI4NRBEHI5DZLC3CDA2UATTZ3Q/>

Options and analysis for Part Three

Options for reform of section 259 of the LGA02 (Issue 3.2.1)

210. There are several options available to reform Section 259 of the LGA02 to allow more breaches of bylaws to be infringement offences. These are discussed in more detail below. There are also alternatives to infringement offences that are discussed below as part of a wider to look into bylaw enforcement.

Classify all bylaw breaches as infringement offences

211. Legislation could designate all breaches of bylaws as infringement offences. It would also need to set the infringement fees, or provide a way to do so (e.g. allow for fees to be set in regulations, which would enable them to be amended more easily than if they were in primary legislation).
212. There are already examples of this approach in New Zealand legislation. The *Land Transport (Offences and Penalties) Regulations 1999* designates some traffic-related bylaw breaches as infringement offences and prescribes an infringement fee of \$750; a lesser fee may be set by relevant bylaw.
213. The *Freedom Camping Act 2011* prescribes a default infringement fee for offences, unless a different fee is set by regulations. The default fee is \$400, and the fee set by regulations must be no more than \$1,000.
214. This option is not consistent with best practice infringement principles. Given the varying scope, subject matter and nature of local government bylaws, having one blanket offence and fee level that covered all bylaw breaches would be invariably too high or too low for some offences. The “one size fits all” option is very blunt and would create many new infringement offences, some of which may be inappropriate.
215. Infringement notices can still be contested in court – so local authorities need to ensure they are on reasonable grounds before issuing a notice. However, this is the case now in regard to other bylaws that have infringement regimes attached, like freedom camping or parking tickets.¹⁵ Clear drafting can prevent too many opportunities for legal challenge.

Questions for feedback #20:

- Should all bylaw breaches be classified as infringement offences?
- Would classifying all bylaw breaches as infringement offences be considered too blunt for minor level offences?

¹⁵ Invercargill City Council parking requirements successfully challenged in court. <https://www.stuff.co.nz/nz-news/350187728/icc-parking-requirements-successfully-challenged-court>

Amend Section 259 to enable regulations to be made for infringement offences for similar kinds of bylaws

216. Section 259 could be amended so that regulations can be drafted to enable infringement notices for similar kinds of bylaws across local authorities, rather than on a council-by council basis. This was recommended in the *Towards better local regulation* report and was considered by the RRC.¹⁶
217. The scope of such a regulation-making power would need to be clear, allowing for categories of bylaw breaches to be specified. This approach would be less time consuming for policy and drafting staff as fewer regulations would be needed and then would not need updating as often.
218. A disadvantage of this approach is that once the regulations are in place, there is the potential for a lack of “fit” between categories and a specific local authority bylaw which could create opportunities for legal challenges.
219. An example of what this could look like in practice is the approach taken for setting fees for traffic offences under the *Land Transport Act* through the *Land Transport (Offences and Penalties) Regulations 1999*.

Questions for feedback #21:

- Would enabling regulations to be made for infringement notices for similar kinds of bylaws be an idea worth considering?
- Are there any risks of a lack of fit between categories and a specific local authority bylaw?

Alternative options for bylaw infringements (Issue 3.2.2)

Allow local authorities to designate bylaw breaches as infringement offences

220. The power to make bylaws could be expanded to enable local authorities to prescribe certain breaches of bylaws as infringement offences. The level of infringement fee could be set by central government, or it could be delegated to local authorities within certain parameters.
221. Under this option, central government could set criteria that local authorities must meet before they can designate the breach of a bylaw as an infringement offence. The Ministry of Justice’s guidelines for infringement offences could form the basis of the criteria. Local authorities would have to consult with the Department before they could designate the breach as an infringement offence. The Department in turn would consult with the Ministry of Justice.
222. This option retains the discretionary power to designate breaches as infringement offences, but places it with local government instead of central government. Local authorities would be able to ensure that the designated bylaw breaches would be appropriate to be enforced using the infringement notice process. If this is done as part of the bylaw-making process then it would be subject to consultation, which is a partial safeguard on appropriateness.

¹⁶ <https://www.treasury.govt.nz/sites/default/files/2024-05/pc-inq-tblr-final-report-towards-better-local-regulation.pdf>, page 10.

223. Designating a bylaw breach as an infringement offence could erode some of the procedural safeguards that would usually apply in criminal law. Under this option central government would not be able to monitor the legislative quality of bylaws before breaches are made infringement offences, as can happen under the current process in s259 of the LGA02.

Questions for feedback #22:

- Would you prefer to be able to designate their own bylaw breaches as infringement offences?
- If so, do you see any risks with local authorities being able to designate their own bylaw breaches as infringement offences?

Further consideration on infringement offences will be required

224. As noted above, LDAC and the Ministry of Justice have issued guidelines about the circumstances in which infringement offences are appropriate. Further discussions will be needed with LDAC and Ministry of Justice around the appropriateness of allowing infringements for breaches of bylaws made under the LGA02.

Other enforcement options (Issue 3.2.3)

225. A complete bylaw-enforcement regime would include tools designed to encourage compliance, as well as tools to appropriately punish non-compliance.

Abatement Notices

226. Abatement notices are found in the RMA and are served by enforcement officers on persons for breaching a provision in the RMA, any regulations, a rule in a plan, or a resource consent. Unlike enforcement orders they do not require an application to be made to the Environment Court first.¹⁷ Enforcement officers of local authority's issue abatement notices.

227. Abatement notices are an efficient mechanism for obtaining compliance with the RMA. The majority of abatement notices are complied with, so it can be a cost-effective way of achieving positive behaviour change. It is often recommended as being the enforcement officer's primary tool.¹⁸

228. A council can cancel the abatement notice if it considers the notice is no longer required. Written notice of cancellation must be given.

229. An appeal can be lodged by the recipient of an abatement notice. Appeals operate as a 'stay' on some types of abatement notices, which means that they need not be complied with until the matter is resolved. A hearing of an appeal to the Environment Court against an abatement notice (depending on the issues) can be both expensive and time-consuming.

230. Non-compliance with an abatement notice is an offence under Section 338(1)(c) of the RMA.

¹⁷ Ministry for the Environment, Enforcement decisions and tools. <https://environment.govt.nz/publications/compliance-monitoring-and-enforcement/enforcement-decisions-and-tools/>

¹⁸ *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*. <https://environment.govt.nz/assets/Publications/Files/best-practice-guidelines-cme.pdf>

231. An advantage of abatement notices is that they are aimed at addressing the problem itself, rather than punishing an action or behaviour. For example, if there is something that needs to be removed, being able to issue a notice requiring removal would be more likely to see the thing moved in a timely manner than issuing an infringement notice or starting a prosecution. This option is also more efficient from a time and resource perspective. Punitive options are still available for failing to comply with the notice.

Question for feedback #23:

Would abatement notices be a useful tool for bylaw enforcement?

Greater search and surveillance powers

232. Section 172 of the LGA02 allows a warranted enforcement officer to enter land for the purpose of detecting a breach of a bylaw or the commission of an offence against the LGA02 if the officer has reasonable grounds for suspecting that a breach of a bylaw or the commission of the offence has occurred, or is occurring, on the land.
233. Section 172(2) requires that before exercising the power above, the officer must, if practicable, give reasonable notice to the occupier of the land of the intention to exercise the power, unless the giving of notice would defeat the purpose of entry.
234. LDAC guidelines say that new search powers should not be granted for the convenience of an agency or ease of prosecution. A general justification that search powers are required is not sufficient, and search powers must be proportionate to their objective. Consequently, search powers connected to lower-level offending give rise to concerns.

Question for feedback #24:

Some councils have suggested there needs to be an easier way for their enforcement officers to enter property to identify if a breach of a bylaw is being committed. We are interested in knowing more about the nature and scale of this issue.

An international example – Community Protection Notices in the United Kingdom

235. Under the United Kingdom's *Anti-social Behaviour, Crime and Policing Act 2014*, Community Protection Notices (CPN's) can be issued to deal with conduct that is causing anti-social behaviour. Notices can be issued to an individual over the age of 16, businesses or organisations.
236. An authorised person may issue a CPN, if satisfied on reasonable grounds that the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality; and the conduct is unreasonable.
237. Council officers, police officers, and social landlords can issue a CPN. Local councils have traditionally taken the lead in dealing with the sorts of issues that can be addressed through the use of a CPN, but police are able to issue CPN's, as are social landlords where they have been designated to do so by the relevant local authority.

238. There are no restrictions on the types of behaviour CPN's can be used to deal with and examples where CPNs have been used include untidy land, noise issues, street litter, dog fouling, and irresponsible landlords.
239. Before the decision is made to issue a CPN, the person, business or organisation will be given a formal written warning, called a Community Protection Warning (CPW).
240. The purpose of a CPW is to warn that a CPN will be issued unless the conduct described changes. A CPW will confirm that should a breach of any CPN take place, this would be a criminal offence.
241. Breaching a CPN is an offence and may result in one or more of the following actions being taken:
- Fixed penalty
 - Items used in commission of any offence being forfeited, or seized
 - Council executing remedial work
 - Prosecution and a maximum penalty of £2,500 (approx. \$5,600) or in the case of any business or other such body £20,000 (approx. \$45,000).
242. The Local Government Association in the UK supports the use of a CPN, noting that they are only used to address issues that have a clear detrimental impact, and which residents have raised concerns about.
243. The use of CPN's has been criticised as people have been fined for slamming doors, feeding birds and leaving bins out for too long.¹⁹ Civil liberty groups have also been campaigning against the 'busybody' powers which they consider are unprecedentedly arbitrary and without basic due process.²⁰ Recipients of CPN's have also criticised their use due to feeling the process was unjust, the issuing process was poor, and the evidence threshold was low.²¹
244. A tool similar to CPNs could be considered for New Zealand's bylaw-enforcement toolkit. Similar to abatement notices, this tool could provide a way to address bylaw breaches by formally requiring compliance. Punitive options remain if compliance is not achieved.

Questions for feedback #25:

- Would such a tool be useful in New Zealand? If so, what situations do you think it would be useful for?
- What sort of process, criteria and other safeguards do you think would be needed for this type of tool to work here?

¹⁹ <https://www.thesun.co.uk/news/5282195/council-fines-asbo-feeding-birds-bins/>

²⁰ <https://manifestoclub.info/>

²¹ <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/recipients-experiences-of-community-protection-notice>



Local Government briefing

Hon Simon Watts
Minister of Local Government

Title: Remaining policy decisions for local government bylaw system review
Date: 29 May 2026

Key issues	
This briefing seeks your direction on the remaining policy decisions for the local government bylaw system review to progress approvals to Cabinet for consideration. Together with the policy decisions you agreed to in January 2026, the suite of legislative amendments seek to: • introduce a framework for the bylaw system with notice-making powers as a more proportionate alternative to prescriptive regulatory powers; • enable greater use of regulations to provide national direction and flexibility; and • remove redundant or duplicative bylaw-making provisions across legislation to create a more coherent system. You requested further advice on tools to address anti-social behaviour. We have been in contact with United Kingdom officials on their anti-social behaviour tools. Following signing of the Auckland City Deal, we are working with the Auckland Mayor’s office to confirm their support for the proposed abatement notices. We expect to provide you further advice on this in June.	
Recommendations	Timeframe
Agree that officials draft a Cabinet paper seeking policy approvals for proposals for legislative change set out in this briefing, in addition to those you already agreed to in January 2026 (LG202510429 refers). Agree that officials work with local government and relevant central government agencies to develop implementation guidance to support the local government bylaw system.	At your earliest convenience

Contact for telephone discussions (if required)

Name	Position	Contact Number	Suggested 1 st contact
Brooke Goodey	Policy Manager	9(2)(a)	✓
Renée Duffell	Senior Policy Analyst		

Return electronic document to:	Renee.duffell@dia.govt.nz
Hukatai reference	WEJUA2TQC4JX-1613496928-353
Ministerial database reference	LG202611925

Purpose

1. This briefing seeks your direction on the remaining policy decisions for the local government bylaw system review to progress approvals to Cabinet for consideration.

Executive summary

2. Your direction is sought on the remaining policy issues for the review of the local government bylaw system. Together with decisions already agreed in January 2026, the proposals in this briefing form a comprehensive package to modernise how local government regulates local issues.
3. The current system is fragmented, inefficient, and at times disproportionate, with duplication between central and local government and inconsistent legislative frameworks. The proposed reforms aim to establish a more coherent, flexible, and efficient system that supports councils to regulate effectively while reducing unnecessary costs for ratepayers.
4. The key element of the proposed amendments include introducing a framework for the bylaw system with notice-making powers as a more proportionate alternative to bylaws for prescriptive regulatory powers. Changes also include enabling greater use of regulations to provide national direction and flexibility, and removing redundant or duplicative bylaw-making provisions across legislation.
5. The changes will improve system responsiveness to emerging and local issues, enhance regulatory consistency, and reduce administrative burden. They will also support better alignment between central and local government roles and improve the overall quality of local regulation.

Background

6. In January 2026, you agreed to a range of amendments as part of the local government bylaw system review [LG202510429 refers]. That advice identified some remaining policy issues that required further work and this paper seeks policy decisions on those.
7. The review is part of the broader Local Government System Improvements programme. The intention of the review is to ensure councils have appropriate modern tools for making and enforcing local regulations effectively. This aligns with the aims of the system improvements work and has the potential to deliver efficiencies and cost savings for local government and ratepayers.
8. Taken together, the proposed changes in this briefing, and those you have already agreed to, will modernise the local government bylaw system so it works better as a whole. **Appendix A** sets out a table showing the full suite of recommended policy proposals for the local government bylaw system.
9. Their combined effect will shift us away from a fragmented system and ensure that in future, bylaws are used only where they are the right tool. This supports the Government's priority for local government to get back-to-basics and will help councils manage regulatory responsibilities within tighter financial settings.

Improving statutory processes to provide efficiencies, responsiveness and clarity

10. Local government bylaws are a secondary legislation making power delegated by Parliament. Councils can only make bylaws when given express permission to do so through primary legislation, and they must follow the process set in legislation.
11. Some local government bylaw-making powers are very broad and councils have a high level of discretion. For example, section 145(a) of the Local Government Act 2002 (LGA02) allows territorial authorities to make bylaws for the purpose of “protecting the public from nuisance”. Councils can determine what is a nuisance, and how to go about protecting the public. Bylaws made under this section cover a wide range of topics, from obstructions on footpaths to the keeping of cats.
12. Other bylaw-making powers are highly prescriptive and councils’ discretion and decision-making is limited. In essence they are applying national regulation locally. In these cases, Parliament has made the decision that a specific matter or activity can be regulated by councils and set the bounds of that regulation. The decisions that councils can make are limited to:
 - 12.1 whether or not to apply the regulation in their district/region;
 - 12.2 the specific location/s it will apply in; and
 - 12.3 setting conditions, where these are enabled in the delegation.
13. For example, alcohol control bylaws (i.e. liquor ban areas) in sections 147-147C of the LGA02. This allows territorial authorities to make bylaws prohibiting or controlling the consumption, bringing and possession of alcohol in public places. The Act sets strict parameters and process requirements for these bylaws.
14. We consider that bylaws are an appropriate and proportionate tool for councils to exercise their delegated powers when those powers are broad and councils have a high level of discretion. Bylaw drafting and the bylaw adoption processes include appropriate safeguards and formalities for the level of decision-making councils are exercising, and help ensure good regulation.
15. Where the delegated power is highly prescriptive, some of those same safeguards and formalities result in duplication of effort between central and local government. In these cases, Parliament has been through a primary legislation process to decide what can be regulated and how it can be done. The focus for councils and their communities should be on applying that locally, not relitigating what Parliament has already decided.
16. Duplicative processes place unnecessary extra costs on councils and their communities. The costs of bylaw-making and stewardship are generally funded through rates. There is an actual cost to this work (e.g. staff time, legal and technical input as most councils do not have legislative drafting expertise in-house) and an opportunity cost as staff time is used here instead of elsewhere.

Adding notice-making powers to the local government regulatory toolbox would address these issues

17. We recommend a legislative framework enabling local government to use notices as a tool where the powers delegated to them are highly prescriptive. This would avoid duplication of regulation and gain resource and cost efficiencies. Notices are a tool that already exists in New Zealand’s regulatory landscape.

18. We recommend that a framework and general process requirements for notice-making by local government be included in the LGA02, in the same way one is included for bylaws. This would create a local government notice-making system and support Parliament to delegate powers to local government in this way in appropriate circumstances.
19. Like bylaws, local government notices would be secondary legislation-making powers delegated by Parliament. They would also have process safeguards such as specific considerations prior to decision-making, and consultation requirements.
20. We have discussed the overall concept of introducing notice powers for local government with officials from 9(2)(g)(i) and the Ministry for Regulation. Both are supportive of this concept in principle.
21. Once the framework is established, specific notice-making powers would be delegated through primary legislation. The scope of our current work has not included looking at potential new regulatory powers for local government. We have identified two existing bylaw-making powers in legislation administered by the Department that could be changed to notice-making powers through this work on freedom camping and alcohol control. These are discussed below.
22. Notices would enable councils to be more responsive to emerging issues and issues that are seasonal or temporary. They are faster to develop and the resource requirement is more proportionate to the issue. They would be more efficient and cost effective for individual councils, the local government sector collectively, and the country as a whole.

There are examples of similar settings already in use in the broader system

23. Councils can now set speed limits by formal decision in a council meeting (i.e. by resolution), instead of by producing a full bylaw. This achieves cost and time savings for councils from not having to draft or amend a bylaw and councils can be more responsive to their community's needs. There are still safeguards in the process such as specific considerations prior to speed limit setting, and consultation.
24. Similarly, the Freedom Camping Act 2011 enables central government regulators (the Department of Conservation (DoC) and Land Information New Zealand (LINZ)) to regulate freedom camping on land they control, within set parameters, by notice. All must carry out consultation, and all have publication requirements. Councils are only enabled to regulate the same thing by way of bylaw.

There is the opportunity to change the regulatory tool for councils regulating freedom camping and alcohol control from bylaws to notices

Freedom camping

25. We recommend changing the regulatory tool for councils to exercise their freedom camping powers to notices, in the same way as DoC and LINZ can. This change would provide a consistent tool for all regulators under the Freedom Camping Act 2011 and make New Zealand's freedom camping rules more accessible and understandable for the public.
26. This would not change the policy intent of the legislation, or the implementation of local regulation. Process safeguards such as mandatory considerations, consultation, publication and review requirements would apply to notices as they do to bylaws.

Alcohol control

27. The alcohol control bylaw-making powers in the LGA02 discussed above could also be made notice-making powers. Again, this would not change the policy intent or implementation, and process safeguards would be maintained.
28. These would lead to time and cost savings for councils from not having to draft or amend a bylaw to give effect to prescriptive primary legislation. It would also reduce the legal risk to councils associated with potential inconsistent application of the prescriptive primary legislation. A faster process means councils can be more responsive to emerging issues and community need.
29. The Department administers the relevant legislation, but other agencies have a portfolio interest in freedom camping and alcohol control. As this work involves introducing a new power for local government, we are seeking your direction before discussing specific proposals for its use with other agencies. If you agree in principle to introduce notice-making and change the powers discussed above, we will undertake engagement with relevant agencies alongside drafting the Cabinet paper. We can also support you to raise this with relevant Ministerial colleagues.

9(2)(f)(iv), 9(2)(g)(i)

Water services and dog control

32. The Department also administers the Local Government (Water Services) Act 2025 and the Dog Control Act 1996, both of which contain bylaw-making powers. No changes are proposed to these Acts because they are subject to either very recent or signalled as future work. Any inconsistencies between these Acts and the LGA02 following the completion of these bylaw system amendments can be addressed through implementation guidance and, in the case of the Dog Control Act, through its' review next term.

There is potential for other agencies' bylaw legislation to be amended in future

33. Establishing a framework for bylaws in the LGA02 that enables local government to have notice-making powers provides greater options for regulation by local government.
34. This will support other agencies to enable the right tool for the job when existing local government powers are being reviewed and new powers are being considered.
35. 9(2)(f)(iv)

- 35.1 9(2)(f)(iv) [Redacted]
- 35.2 9(2)(f)(iv) [Redacted]
- 35.3 9(2)(f)(iv) [Redacted]
- 35.4 9(2)(f)(iv) [Redacted]

36. Strengthening the local government regulatory framework in the LGA02 may also encourage use of the LGA02 (instead of topic-specific legislation) to delegate future powers to local government. This would reduce fragmentation and bolster the LGA02 as the central source of local government regulation-making.

Greater use of regulations can improve system efficiency and support better regulation

37. In the current system any changes to bylaw-making powers or processes require changes to primary legislation. All of the detail, including process requirements, must be set out in legislation at the time the bylaw-making power is created, or added later through legislation change. This makes the system unresponsive to emerging issues, and to the changing needs of the Government, councils and communities.
38. We recommend a new regulation-making power in the LGA02 to address this. This would enable the Minister of Local Government to prescribe detail and make other operational changes to the bylaw and notice system in a more timely and responsive manner than changing primary legislation. Regulations would also be a more proportionate tool than primary legislation for these types of provisions.
39. The intention of regulations would be to provide clarity and structure to bylaw and notice powers set in primary legislation. They would enable national direction and procedural requirements to be applied to bylaws and notices and provide targeted flexibility to deal with emerging issues. The regulations would not enable the creation of new bylaw or notice making powers, as it is appropriate that the delegation of new secondary legislation making powers remains with Parliament.
40. We expect the types of matters covered by the regulations would include things like:
- 40.1 specifying matters that are suitable or unsuitable for bylaws and notices;
 - 40.2 setting national direction, standards or thresholds that local instruments must be consistent with;
 - 40.3 prescribing procedural requirements for making, amending and reviewing bylaws and notices; and
 - 40.4 providing for technical matters such as definitions, scope and application.

We recommend giving councils flexibility to set a lesser infringement fee than the maximum prescribed in regulations

41. You previously agreed to enable regulations to create infringement offences for similar kinds of bylaws [LG202510429 refers]. There are two options for how infringement fees could be set:
- 41.1 regulations set the infringement fee that applies in all situations; or

- 41.2 regulations set the maximum infringement fee with councils enabled to set a lesser fee.
42. We recommend that the local government bylaw system framework in the LGA02 enables the latter approach. This option currently exists for infringement fees for breaches of bylaws made under the Land Transport Act 1998. It has the advantage of providing national consistency for the maximum fee, while allowing flexibility for councils to address local circumstances by prescribing a lesser fee (e.g. due to concerns about ability to pay, or because they believe the penalty is disproportionate to the actual harm caused in their area). Ministry of Justice officials support this approach.

Addressing a fragmented system

43. The local government bylaw system has become fragmented and disjointed and unnecessary bylaw powers have remained on the statute book. There is also duplication of powers and processes that can be addressed.

We propose moving bylaw-making powers from the LGA74 to the LGA02, and removing any unnecessary and duplicate bylaw-making powers from both Acts

44. We have identified a number of unnecessary and duplicate bylaw-making powers in the LGA02 and the Local Government Act 1974 (LGA74) that we propose are removed.
45. The rationale for removing these powers can be categorised into one of the following scenarios, where a specific bylaw-making power:
- 45.1 is in scope of a more general bylaw-making power, rendering the specific power duplicative/unnecessary;
 - 45.2 pre-dates, and is therefore superseded by, LGA02 section 12 general powers of competence which were introduced in 2002; or
 - 45.3 has been superseded by a separate legislative regime that regulates the topic, subject to consultation and agreement from relevant agencies (e.g. waste management/minimisation, and reserves).
46. The LGA74, which now largely operates as a residual and topic-specific statute superseded by the LGA02, still contains a number of bylaw provisions. Once unnecessary or duplicate provisions are removed, any that remain in the LGA74 can be modernised and moved into the LGA02.
47. This will further support the tidying up of legislation and reduce fragmentation of the system. You have already agreed for us to do the same for local government bylaw provisions in the Bylaws Act 1910 [LG202510429 refers].
48. Other minor and technical amendments may be needed in the LGA02 to achieve the review's objectives.

We recommend some minor and technical amendments to the consultation provisions for bylaws to support its original intent

49. In 2014, changes to section 156 of the LGA02 gave councils flexibility when consulting on bylaws to choose between the special consultative procedure (SCP) or a process in line with the principles of consultation (section 82 of the LGA02), depending on significance. Prior to 2014, the SCP was the required process. This change was

intended to balance meaningful public input with a more proportionate and cost-effective process where appropriate.

50. In practice, councils often still default to the SCP to reduce legal risk, meaning the original intent is not being fully realised. Feedback on consultation options were mixed, reinforcing the need to retain flexibility.
51. We do not propose any policy changes, but to give councils confidence in using the existing flexible approach we recommend minor and/or technical amendments through drafting instructions to better support the original policy intent. Bylaw-making is only one of many things councils are required to consult on. A potential Phase 2 of the Local Government System Improvements programme may consider consultation in local government more broadly.

With time we expect to see the local government bylaw system become less fragmented

52. We would expect that by embedding the foundational settings proposed through this work in the local government bylaw system, fragmentation will reduce over time. These changes are deliberately designed to work across the system, with incentives to encourage greater consistency in future.
53. You previously agreed to limit the scope of this work to legislation administered by the Department [LG20256768 refers]. Alongside this you asked us to look for opportunities for 'quick wins' in other agencies' legislation. These would be changes not requiring policy work that could be made to support the overall goal of simplifying and modernising the local government bylaw system.
54. There are additional opportunities to improve the local government bylaw system, but they would all require policy work and agreement from other agencies. This is outside the scope of what you have agreed to. As a result, we do not propose any regulatory changes to other agencies' legislation at this time.
55. We will continue to engage with agencies responsible for bylaw-making powers and Ministry for Regulation to seek opportunities to make changes that align with the objectives of this work. Some may be easier to action once the changes proposed through this work are complete.
56. We also intend to produce guidance for central government agencies on the appropriate use of bylaw-making powers and processes. This will include working with the Parliamentary Counsel Office on formal drafting guidance, Legislative Design and Advisory Committee (LDAC) on relevant guidance, and the Ministry for Regulation on the appropriate delegation of regulatory powers. Such guidance will be an important part of ensuring the system-level changes from this work are embedded consistently over time.

The Associate Minister of Justice is interested in feedback on alcohol licensing cost-recovery

57. During our engagement councils raised concerns about the default alcohol licence fees set in regulations being too low for cost-recovery. They also noted the alternative process of setting fees in a bylaw is inefficient. As a result, several councils are under-

recovering the cost of providing alcohol licensing, leading to subsidisation through rates. This service is supposed to be cost recoverable.

58. In her response to the issues and options paper, the Associate Minister of Justice asked to be kept advised if concerns were raised about this during consultation. We will work with your office to share relevant feedback.
59. We understand this issue has also been raised through the Ministry for Regulation's Hospitality Review. The report on the Review is due in July 2026 and is likely to recommend that the issue of alcohol licensing fees be addressed. The Local Government Bylaw Amendment Bill could provide a legislative vehicle for addressing this issue if needed. We will continue to engage with the Ministry for Regulation on this work.

Update on further anti-social behaviour advice requested

60. You have requested further advice on how our proposed changes to the infringement regime and the introduction of an abatement type notices compares to and contrasts with the United Kingdom tools such as Community Protection Notices and Public Spaces Protection Orders (PSPOs) for addressing antisocial behaviour in New Zealand. We have been in contact with United Kingdom officials about their anti-social behaviour tools.
61. You also requested we engage with the Auckland Mayor on this, given the Auckland City Deal includes action on anti-social behaviour as one of the commitments. Following signing of the Auckland City Deal, we have been working with the Auckland Mayor's office to confirm their support for the proposed abatement notices and infringement regime you have agreed to introduce (LG202510429 refers). We understand that Auckland Council is considering the proposal soon and we expect to provide you further advice on this later in June.

Next steps

62. We are available to discuss the content of this briefing at your next officials' meeting.
63. Pending your agreement to the policy decisions in this briefing, officials will draft a Cabinet paper for the full suite of amendments requiring legislative change (including those you already agreed to in January – LG202510429 refers).
64. Pending Cabinet's agreement to these policy proposals, officials will develop drafting instructions for Parliamentary Counsel Office, with the intention of releasing an exposure draft of the Local Government Bylaws Amendment Bill in early 2027.
65. The RRC remains interested in this work and you have provided them with updates at appropriate times throughout this review. We recommend forwarding a copy of this briefing to them.

Recommendations

66. We recommend that you:

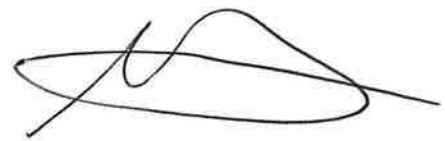
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|---|-----------------------|
| a) agree that officials draft a Cabinet paper seeking policy approvals for the following proposals for legislative change, in addition to those you already agreed to in LG202510429: | Agree/Disagree |
| i. establish a framework in the Local Government Act 2002 for local government to be delegated notice-making powers; | Agree/Disagree |
| ii. convert existing bylaw-making powers in the Freedom Camping Act 2011, and sections 147-147C of the Local Government Act 2002 to notice-making powers, subject to engagement with relevant Ministerial and agency stakeholders; | Agree/Disagree |
| iii. provide regulation-making powers in the Local Government Act 2002 to enable the Minister of Local Government to support the operation of the bylaw and notice system; | Agree/Disagree |
| iv. enable councils to set lower infringement fees than the maximum prescribed in regulations; | Agree/Disagree |
| v. make minor and technical amendments to section 156 of the Local Government Act 2002 to support efficient and proportionate consultation processes; | Agree/Disagree |
| vi. remove unnecessary and duplicate bylaw-making powers in the Local Government Act 2002 and Local Government Act 1974, and modernise remaining bylaw provisions in the Local Government Act 1974 and move to the Local Government Act 2002; | Agree/Disagree |
| vii. progress minor and technical legislative amendments required to ensure consistency across the bylaw system; and | Agree/Disagree |
| b) agree that officials will work with local government and relevant central government agencies to develop implementation guidance to support the bylaws system; | Agree/Disagree |
| c) agree to forward a copy of this briefing to the Regulations Review Committee; | Agree/Disagree |

- d) **note** that we have been in contact with United Kingdom officials on their anti-social behaviour tools, and following the signing of the Auckland City Deal, we are working with the Auckland Mayor's office to confirm their support for the proposed abatement notices you have agreed to introduce; and
- e) **note** that we will provide you with further advice on anti-social behaviour and the Auckland Mayor's support for the proposed abatement notices in June 2026.

9(2)(a)



Brooke Goodey
Policy Manager, Local Government Policy, Partnerships and Operations



Hon Simon Watts
Minister of Local Government

/ /

- 8 JUN 2026

Appendix A: Summary of recommended policy proposals for the local government bylaws system

Objective	Proposal
Address system fragmentation	Modernise bylaw-making provisions in the Bylaws Act 1910 relevant to local government and move to the LGA02 <i>previously agreed LG202510429</i>
	Remove bylaws as a fee setting tool from section 150 of the LGA02 <i>previously agreed LG202510429</i>
	Remove unnecessary and duplicate bylaw-making powers in the LGA02 and LGA74, modernise remaining bylaw provisions in the LGA74 and move to the LGA02 <i>pending rec a) vi)</i>
	Progress minor and technical legislative amendments required to ensure consistency across the bylaw system <i>pending rec a) vii)</i>
Improve statutory processes to be clearer and enable the bylaws system to be more responsive to emerging issues	Amend section 155 of the LGA02 to remove vague terms, and provide more clarity on the key assessments councils are required to undertake, including the timing of each process step <i>previously agreed LG202510429</i>
	Provide for a standard 10-year review for all bylaws <i>previously agreed LG202510429</i>
	Remove the requirement for consultation when the outcome of a review is that a bylaw continues unamended <i>previously agreed LG202510429</i>
	Establish a framework in the Local Government Act 2002 for local government to be delegated notice-making powers <i>pending rec a) i)</i>
	Convert existing bylaw-making powers in the Freedom Camping Act 2011, and sections 147-147C of the Local Government Act 2002 to notice-making powers, subject to engagement with relevant Ministerial and agency stakeholders <i>pending rec a) ii)</i>
	Provide regulation-making powers in the LGA02 to enable the Minister of Local Government to support the operation of the bylaw and notice system <i>pending rec a) iii)</i>
	Make minor and technical amendments to section 156 of the LGA02 to support efficient and proportionate consultation processes <i>pending rec a) v)</i>
Broaden enforcement options within the bylaws system	Enable regulations to create infringement offences for similar kinds of bylaws <i>previously agreed LG202510429</i>
	Introduce abatement notices for bylaw breaches <i>previously agreed LG202510429</i>
	Enable councils to set lower infringement fees than the maximum prescribed in regulations <i>pending rec a) iv)</i>

