



Far North
District Council

Te Kaunihera o Tai Tokerau Ki Te Raki

Private Bag 752, Memorial Ave

Kaikohe 0440, New Zealand

Freephone: 0800 920 029

Phone: (09) 401 5200

Fax: (09) 401 2137

Email: ask.us@fndc.govt.nz

Website: www.fndc.govt.nz

Our reference: RFS 3927508

Monday 4 February 2019

To Leonie Exel

By email only to: fyi-request-9263-61185eed@requests.fyi.org.nz

Dear Ms Exel,

Official information request - RFS 3927508

Thank you for your information request. A response to your request is provided to you today in accordance with the provisions of the Local Government Official Information and Meetings Act 1987 ("the LGOIMA").

Your request and corresponding answers are as follows:

"My understanding is that under the LGA 2002, a brand new bylaw must begin to be reviewed within five (5) years of it first being 'made'. There are then two (2) years where Council can spend time consulting with the community on that bylaw. After a new bylaw has been reviewed once, Council can wait ten (10) years for the next review (again, with the two (2) year leeway period for consultation). I am aware that there have been multiple amendments to the LGA over time, which may affect the legally required review dates of some of FNDC's bylaws."

1. *Is the above also FNDC's understanding of the requirements of the LGA 2002 in this regard?*

In part. However, you state *"There are then two (2) years where Council can spend time consulting with the community on that bylaw."* and further *"(again, with the two (2) year leeway period for consultation)"*. This is not accurate.

To review a bylaw, a local authority must follow the same procedure as if it was making the bylaw afresh. A review consists of the following:

- a. Determine the perceived problem that the bylaw is addressing;
- b. Determine whether the bylaw is the most appropriate way of addressing the perceived problem;
- c. Determine whether the proposed bylaw is the most appropriate form of bylaw; and
- d. Consider whether the proposed bylaw gives rise to implications under the New Zealand Bill of Rights Act 1990.

Once the above steps have been followed and a local authority concludes that the most appropriate way of addressing the problem is by bylaw, then the review is complete.

The bylaw *review* procedure does not include the special consultative procedure (SCP) that follows; SCP is not part of the review procedure and does not have to be completed by the review date.

2. Other than the Chief Executive, please advise the position title of the person responsible for ensuring that the Far North District Council's bylaws are current, and lawful. Please do not provide their name.

No one person works on Council's bylaws. A number of departments collaborate to fulfill Council's bylaw requirements.

3. Please advise whether the current Mayor and/or Councillors have ever been made aware that any FNDC bylaw has become 'revoked' as a result of Council being 'out of time' to review it, or to make a new bylaw.

No, because this circumstance has never arisen.

4. In relation to each of the following bylaws, please advise (i) in your view, given the date on which the bylaw was first made, when should it have been first reviewed, and thereafter reviewed? and (ii) do you consider that particular bylaw to be 'revoked' currently due to it being out of time for review? (iii) why/why not?

In accordance with Ombudsman guidelines questions which require the agency to form an opinion or provide an explanation and so create new information to answer the request is not official information. However, in this instance we can provide you with information that is known to the organisation; and that is that all Council's bylaws subject to the review requirements under the Local Government Act 2002 have been reviewed and that none of Council's bylaws as currently published on Council's website have been automatically revoked due to review noncompliance.

Thank you for your enquiry.

Legal Services