

6. *Adoption of Water Races Bylaw 2025*

Author	<i>Richard Mabon, Senior Policy Advisor</i>
Activity Manager	<i>Neil McCann, Group Manager, Infrastructure and Open Spaces</i> <i>Mark Low, Strategy & Policy Manager</i>
Executive Team Member	<i>Toni Durham, Group Manager, Democracy & Engagement</i>

Summary

- The purpose of this report is present the Water Races Bylaw 2025 (“Bylaw”) for adoption. The Bylaw is enclosed as Appendix 1.
- Council discussed, debated and decided various issues highlighted in consultation material and the 2 submissions received. This material is summarised in paras 6-10.
- Officers have added an explanatory note to the draft Bylaw to reflect Council’s deliberations on the Bylaw.
- All changes proposed to the Bylaw from the document that was consulted upon are highlighted in yellow in Appendix 1.
- Officers recommend the adoption of the Water Races Bylaw 2025 per Appendix 1.

Recommendation

1. **That** Council adopts the Ashburton District Council Water Races Bylaw 2025 (as set out in Appendix 1) effective from 12 September 2025.
2. **That** Council advises submitters of the outcome of the consultation process and deliberations feedback.

Attachments

Appendix 1 Ashburton District Council Water Races Bylaw 2025 (including proposed amendments at 30 October 2024)

Background

1. The Water Races Bylaw 2019 was made by Council resolution on 26 September 2019, becoming effective on 27 September 2019.
2. As it was a new Bylaw, statutory review was required within five years. As this did not occur, section 160A Local Government Act 2002 provides that the 2019 Bylaw will expire on 26 September 2026.
3. Council considered a range of options in relation to the future of the Water Races Bylaw. On 21 May 2025, it resolved to consult on making a new Water Races Bylaw 2025 to "substantially roll-over" the 2019 Bylaw while making minor but beneficial improvements that support network management. Council favoured this "95% status quo" option because:
 - Council would retain the full suite of enforcement opportunities available to it.
 - Council's ability to recover the costs of maintenance done on behalf of landowners would be retained.
 - Minor errors in the Bylaw would be corrected.
 - A Bylaw that replicated what is already in place should help to retain community buy-in, as council worked through the Stock water Exit Transition Plan ("SETP").
4. This would not impact any aspects relating to the SETP.
5. The proposal opened for consultation on 30 May 2025 and submissions closed on 29 June 2025. Two submissions were received. Neither submitter asked to appear in support of their submission.

Submissions and Hearings

6. Council held a hearing and deliberations on 13 August 2025. The sole issue that was raised by submitters related to the existing 6 metre requirement to allow for water race maintenance.
7. Officers noted that owners have discretion over the cleaning method for their cleaning of local races. The 6 metre clearance applies to all races as landowners may decline to clean local races, at which the responsibility falls back to Council to clean at the cost of the landowner. Officers also noted that suction cleaning itself presents environmental challenges.
8. The Bylaw allows Council and landowners to contemplate other approaches to race cleaning. Having considered the matters raised, Council opted to maintain the 6 metre clearance rule, and add an explanatory note particularly relating to race cleaning methods.

Options analysis

9. The following options are available.

Option One – Adopt the amended Bylaw as attached in Appendix 1.

10. Under this option, Council would adopt the bylaw appended as Appendix 1.
11. Appendix 1 has been amended to include the explanatory note related to the 6 metre clearance for water race cleaning.

Advantages: <ul style="list-style-type: none">• It addresses the original objectives of the Review.• It reflects Council's consideration of the views expressed by submitters.	Disadvantages: <ul style="list-style-type: none">• Council has not viewed the changes to the explanatory note prior to this report.• This option presumes that Council would not wish to make changes to the explanatory note.
Risks: <p>There is a LOW reputational risk to Council if submitters are not satisfied with the decisions made by Council.</p>	

Option two – Make further amendments to the Bylaw and adopt with additional amendments

12. Under this option, Council may choose to make further amendments to the Bylaw detailed in Appendix 1 arising from the discussions.
13. At this stage of the process, amendments need to be explicitly worded for clarity as a change to the Bylaw.

Advantages: <ul style="list-style-type: none">• It reflects Council's consideration of the views expressed by submitters or other matters raised in debate.• It may enable Council to refine the Bylaw to better reflect its wishes	Disadvantages: <ul style="list-style-type: none">• The risk of an amendment that is materially different from the draft Bylaw as consulted upon. In the worst-case scenario Officers would advise Council to defer adoption of the bylaw and take further written advice on such an amendment.
Risks: <p>The risks are that 1. Council finds that the adjusted explanatory note requires changes; or 2. Council decides to amend the Bylaw for any reason. This is normal democracy in action and can be managed under normal rules of debate. This is LOW risk. There would be greater risk if Council proposed an amendment which was materially different from the scope of the original draft Bylaw as consulted upon. This is normally managed through the provision of officer advice enabling informed decisions. Depending on the nature of the amendment, this is LOW-to-MODERATE risk.</p>	

Legal/policy implications

Local Government Act 2002

14. Council has made the Bylaw within the statutory timeframes set out in the Local Government Act 2002 (“the Act”). In making the bylaw, Council has made the determinations set out in section 155 of the Act. Council has also complied with the consultation and procedural requirements in sections 155 and 156 of the Act.
15. The matters addressed within the Bylaw are within Council’s bylaw-making powers under the Act.
16. Section 157 of the Act requires Council to give public notice of the making of the bylaw, as soon as practicable after a bylaw is made, with the public notice stating:
 - a. The date on which the bylaw will come into operation; and
 - b. That copies of the bylaw may be inspected and obtained at Council’s office.
17. If Council adopts the officer’s recommendation, officers propose to give this public notice on 12 September 2025.
18. The draft Bylaw has had internal legal review, as has the explanatory note changes.

Climate change

19. As noted in the 21 May 2025 report to Council, one of the purposes of the Bylaw is “to ...provide for the ... ecological values of identified parts of the network.” Those ecological values include supporting biodiversity values, including those associated with adaptation to climate change, by preserving habitat and supporting blue-green corridors.

Review of legal / policy implications

Reviewed by General Counsel

Tania Paddock; General Counsel

Strategic alignment

20. The recommendation relates to Council’s community outcomes as set out in the table below:

Community outcome		Reasons why the recommendations have an effect on this outcome.
Residents are well-	✓	Public consultation on the Bylaw gives residents a say and the

represented, included and have a voice		conduct of Council business in public contributes to open, transparent and democratically accountable local government.
A district of great spaces and places	✓	The water race network contributes to the quality of open spaces in rural areas.
A balanced and sustainable environment.	✓	The water race network supports ecological values, including biodiversity.
A prosperous economy based on innovation, opportunity and high quality infrastructure	✓	The water race network supports farming operations in the district and agriculture is the cornerstone of the economy.

21. The recommendations relate to the four well-beings as set out in the table below:

Wellbeing		Reasons why the recommended outcome has an effect on this wellbeing
Economic	✓	An efficient and effective water race network supports the agricultural economy.
Environmental	✓	The water race network supports ecological values, including biodiversity.
Cultural	✓	The water race network supports cultural values, such as mahinga kai.
Social	✓	Public consultation on the Bylaw contributes to open, transparent and democratically accountable local government.

Financial implications

Requirement	Explanation
What is the cost?	Officers note that the Bylaw consultation and implementation of the adopted bylaw is expected to be delivered within operating budgets. No additional expenditure is required.
Is there budget available in LTP / AP?	Yes
Where is the funding coming from?	Operating budgets for Strategy and Policy will cover the direct costs of consultation. Implementation (including enforcement) is covered by operating budgets for stockwater management.
Are there any future budget implications?	No.
Reviewed by Finance	Erin Register, Finance Manager

Significance and engagement assessment

Requirement	Explanation
Is the matter considered significant?	No
Level of significance	Low
Rationale for selecting level of significance	The overall impact of the recommended decision is minor updates to the current bylaw, consistent with maintaining current levels of service, and minor updates for changes in the operating environment and to correct errors.
Level of engagement selected	3 Consult – formal two-way communication using consultation under s.82 of the LGA02
Rationale for selecting level of engagement	Consultation is always required for bylaws, and s.82 is required for bylaw matters that are not of significant interest to the public. This has now occurred and assuming Council adopts the revised bylaw will complete the bylaw review.
Reviewed by Strategy & Policy	Mark Low, Strategy & Policy Manager

Next steps

Date	Action / milestone	Comments
3 September 2025	Council to formally adopt Bylaw	
12 September 2025	Amended bylaw becomes effective.	Bylaw must be publicly notified after adoption.