

Bylaw Minor Amendment

TO	Thames-Coromandel District Council
FROM	Paul Davies - Legal, Audit & Risk Group Manager
DATE	10 September 2018
SUBJECT	Bylaw Minor Amendment

1 Purpose of Report

To consider for approval the proposed minor amendments to the Cemeteries Bylaw 2015 and Maritime Facilities Bylaw 2015.

2 Background

It has been standard practice in bylaws to include reference to "Authorised Officer" enabling such a person to exercise powers, duties and responsibilities found within the bylaw.

"Authorised Officer" means any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf and with its authority.

3 Issue

The Cemeteries Bylaw 2015 and Maritime Facilities Bylaw 2015 delegates certain powers to named positions where those titles are no longer used and it is proposed to undertake minor amendments to these bylaws to align them with reference to Authorised Officer.

It should be noted that authority for a named position to exercise a function duty or power is also authority for any officer who exercises the same or substantially similar role or function, whatever the title of his/her position, to exercise those duties or powers. In this instance powers have continued to be exercised lawfully.

4 Discussion

The Cemeteries Bylaw 2015 has delegations to the Sexton and Cemeteries Activity Manager. It is proposed to insert the definition for "Authorised Officer" and replace reference to Sexton and Cemeteries Activity Manager with Authorised Officer.

The Maritime Facilities Bylaw 2015 has delegations to Maritime Facilities Manager. It currently contains a definition of Authorised Officer and therefore it is proposed to replace reference to the Maritime Facilities Manager with Authorised Officer. The Authorised Officer definition in this Bylaw requires amendment to bring the wording in line with other bylaws.

Minor grammatical amendments have also been identified.

The proposed changes are outlined in below.

Cemeteries Bylaw 2015

Add:	
Definition	AUTHORISED OFFICER means any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf and with its authority.
Remove:	
Definition	SEXTON means any person appointed by the Council to carry out work on its behalf in any Cemetery.
Replace:	Reference to "the Council's Cemeteries Activity Manager" in clauses 10.4 and 11.4 and replace with "an Authorised Officer".
	Reference to "the Sexton" in clause 13.1, 17.4, 19.3, Sch 2 Cl 3(b)(iv) with reference to "an Authorised Officer".
	Clause 14.1 "the Sexton or his/her assistants or any other" with "a".
	Clause 21.3 ""the Sexton or other" with "an"

Maritime Facilities Bylaw 2015

Remove:	
Definition	MARITIME FACILITIES MANAGER means the person having charge of any maritime facility and includes any authorised officer appointed by Council to act on its behalf with its authority in respect of any matters referred to in this bylaw.

Amend:	
Definition of AUTHORISED OFFICER to read	AUTHORISED OFFICER means any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf and with its authority.
Replace:	Reference to "the Maritime Facilities Manager" in clause 8.1, 10.1, 10.2, 13.1, 14.1, 15.1, 15.2, 15.3, 16.1, 18.1, 24.1 and 25.1 with "an Authorised Officer".

5 Suggested Resolution(s)

That the Thames-Coromandel District Council:

1. Receives the report.
2. Approves the minor amendments to the Cemeteries Bylaw 2015 and Maritime Facilities Bylaw 2015 as outlined in the officers report and direct the Chief Executive to make the resultant changes.

