



# *Hastings District Council*

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## **OPEN MINUTES**

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## **COUNCIL**

Meeting Date: **Tuesday, 5 March 2019**

**Minutes of a Meeting of the Council held on  
5 March 2019 at 9.00am**

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## HASTINGS DISTRICT COUNCIL

### MINUTES OF A MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON TUESDAY, 5 MARCH 2019 AT 9.00AM

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**PRESENT:** Mayor Hazlehurst (Chair)  
Councillors Barber, Dixon, Harvey, Heaps, Kerr, Nixon,  
O'Keefe, Poulain, Redstone, Schollum, Travers and Watkins.

**IN ATTENDANCE:** Chief Executive (Mr N Bickle)  
Group Manager: Asset Management (Mr C Thew)  
Group Manager: Economic Growth and Organisation  
Improvement (Mr C Cameron)  
Group Manager: Human Resources (Mrs B Bayliss)  
Chief Financial Officer (Mr B Allan)  
General Counsel (Mr S Smith)  
Risk and Corporate Services Manager (Mr R Smith)  
Project Manager (Mr D Bishop)  
Manager: Democracy and Governance Services (Mrs J  
Evans)  
Committee Secretary (Mrs C Hunt)

**AS REQUIRED:** Matthew Shore (Stantec Geologist)  
Moana Smith Dunlop and Paul Roper (Department of  
Conservation)  
Mr Reg Kemper (Operational Director, Department of  
Conversation)  
Craig Goodier and Jose Beya (Hawke's Bay Regional  
Council)  
Harry Harvey (New Zealand Police)  
Jon Nichols (Chair of Audit and Risk)  
Colin and Kim Lindsay (Gannet Beach Adventures)

Approximately 50 members of the public were present in the  
gallery for the Cape Kidnappers Hazard Management.

#### 1. PRAYER

Councillor O'Keefe gave the opening prayer.

#### 2. APOLOGIES

Councillor Watkins/Councillor Travers

**That an apology for absence from Councillor Lawson be accepted.**

**CARRIED**

Leave of Absence had previously been granted to Councillor Lyons.

### 3. SEAL REGISTER

Mayor Hazlehurst/Councillor Dixon

**That the Seal Register lie on the Table.**

**CARRIED**

### 4. CONFLICTS OF INTEREST

Councillor Heaps declared a conflict of interest in Item 6 – Cape Kidnappers Hazard Management and withdrew from the meeting table.

Mayor Hazlehurst invited Councillor Heaps to join the “expert panel” consisting of; Matthew Shore (Stantec Geologist) and Colin Lindsay (Gannet Beach Adventures), who were present at the meeting to respond to questions.

### 5. CONFIRMATION OF MINUTES

Councillor Dixon/Councillor Barber

**That the minutes of the Council Meeting held Thursday 21 February 2019, including minutes while the public were excluded, be confirmed as a true and correct record and be adopted.**

**CARRIED**

### 6. CAPE KIDNAPPERS HAZARD MANAGEMENT

(Document 19/107)

#### **MOTION**

*Councillor Redstone/Councillor Dixon*

*That Council approve Option 1 - Not undertake a Quantitative Risk Analysis (QRA) and remove the temporary road closure notice after implementation of reasonable control measures.*

Mr Shore, Geologist advised that his expert recommendation was that:

- The beach access should remain closed to all beach users until a Quantitative Risk Assessment was completed to assess the risk associated with landslide hazard for both the immediate event area and the remainder of Clifton Beach between Clifton and Cape Kidnappers.

He advised that to complete a robust Quantitative Risk Assessment QRA would take in the region of six months, including time for peer review.

Mr Smith, General Counsel emphasised that the Officer’s recommendation set out in Option 2 of the report was preferred because:

- It aligns with expert advice on the geological hazard,
- It represents a prudent approach to ensuring any legal duties Council might have are met.
- It aligns with the overall purpose for Local Government to minimise the threat to public safety,

- Is consistent with Council's approach embodied in the HDC Enterprise Risk Management Policy and Framework.

Councillor Schollum proposed an amendment to the Motion on table as follows:

*That Council undertake a Quantitative Risk Assessment and remove the temporary road closure, but go ahead with Option 1 in place.*

Mr S Smith advised that from a legal perspective opening up the beach without a Quantitative Risk Assessment would place Council at greater risk of prosecution, whilst acknowledging that this would impact on the community and local businesses.

The Risk and Corporate Services Manager, Mr R Smith advised it was pragmatic for Council to take all reasonable steps to mitigate risk. Unless a Quantitative Risk Assessment was completed it was not possible to determine whether the risk to beach users was within an acceptable tolerance level.

*The Operational Director, Department of Conservation, Mr Reg Kemper joined the meeting at 10.30am.*

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*The meeting adjourned for morning tea at 10.30am  
and reconvened at 10.50am*

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### **WAIVING OF STANDING ORDERS**

Mayor Hazlehurst/Councillor Redstone

**That in accordance with paragraph 13.3 of Standing Orders Her Worship the Mayor exercised her discretion to waive the need for Councillors to stand to speak during a Council meeting.**

**CARRIED**

Mr Kemper advised that in terms of the Department of Conservation the Gannet Colony Reserve had been open a long time, but they had been unaware of possible risks along the beach. Now that the Department was aware of the risks it would close the track access to the Gannet Colony indefinitely until a Quantitative Risk Assessment could be undertaken and appropriate mitigation in place. From the Department's perspective it could not knowingly invite the public into their site.

Mr Kemper then responded to questions from the meeting.

Following considerable questioning and discussion the Amendment to the Motion proposed was considered and addressed.

**AMENDMENT TO MOTION**

Councillor Schollum/Councillor Harvey

- A) That the Chief Executive be delegated authority to negotiate and enter into a contract with Stantec and GNS Science to undertake a Quantitative Risk Analysis of the landslide hazard posed by the cliffs from Clifton beach to Cape Kidnappers, acknowledging that this will be unbudgeted expenditure.
- B) That the Chief Executive be delegated authority to negotiate and enter into cost sharing arrangements for the Quantitative Risk Analysis with other relevant stakeholders to achieve the most reasonable balance in costs for Council.
- C) **That the existing temporary road closure notice under s342 and the tenth schedule of the Local Government Act 1974 is removed after implementation of reasonable control measures, with urgency as outlined in Option 1. ~~is to remain in place until the results of the risk analysis are available to inform future decisions.~~**

With the reasons for this decision being that the objective of the decision will contribute to meeting the current and future needs of communities for good quality local infrastructure in a way that is most cost-effective for households and business by:

**i) Balancing public safety with public access**

The Amended Motion was PUT and a hand vote was taken.

The hand vote showed 6 FOR and 5 AGAINST

The Motion was declared **CARRIED**

Councillor Poulain abstained from voting

*Mayor Hazlehurst/Councillors Barber, Kerr, Watkins and Travers each requested that their vote AGAINST the Motion be recorded.*

As Councillor Poulain abstained from voting further discussion ensued. There was a desire from some members of the meeting to include an additional recommendation for Officers to continue to investigate known risks and minimise, where practical, and have regular reporting back to Council.

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*The meeting adjourned briefly at 12.35pm  
and reconvened at 12.45pm*

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The Substantive Motion was discussed and the Motion Put.

*Councillor Heaps having declared a conflict of interest did not participate in the Decision Making on Item 6 – Cape Kidnappers Hazard Management.*

The Chief Executive, Mr Bickle and Mayor Hazlehurst advised the Council that they were making a Decision contrary to the officer recommendation and independent expert advice which could potentially place Council at risk in the event of injury/fatalities as a result of further landslides.

Councillor Poulain/Councillor Dixon

- A) That the report of the Group Manager: Asset Management titled "Cape Kidnappers Hazard Management" dated 5/03/2019 be received.
- B) That the Chief Executive be delegated authority to negotiate and enter into a contract with suitably qualified professionals to undertake a Quantitative Risk Analysis of the landslide hazard posed by the cliffs from Clifton beach to Cape Kidnappers, acknowledging that this will be unbudgeted expenditure.
- C) That the Chief Executive be delegated authority to negotiate and enter into cost sharing arrangements for the Quantitative Risk Analysis with other relevant stakeholders to achieve the most reasonable balance in costs for Council.
- D) That the existing temporary road closure notice under s342 and the tenth schedule of the Local Government Act 1974 is removed after implementation of reasonable control measures, with urgency as outlined in Option 1.
- E) Officers continue to investigate known risks and minimise, where practical, and regularly report back to Council

With the reasons for this decision being that the objective of the decision will contribute to meeting the current and future needs of communities for good quality local infrastructure in a way that is most cost-effective for households and business by:

- **Balancing public safety with public access**

*A hand vote was taken with 7 FOR and 5 AGAINST*

THE MOTION WAS **CARRIED**

*MAYOR HAZLEHURST/COUNCILLORS BARBER, KERR, WATKINS AND  
TRAVERS  
RECORDED THEIR VOTE AGAINST THE MOTION*

## 7. **ADDITIONAL BUSINESS ITEMS**

There were no additional business items.

## 8. **EXTRAORDINARY BUSINESS ITEMS**

There were no extraordinary business items.

**9. RECOMMENDATION TO EXCLUDE THE PUBLIC FROM ITEM 10**

SECTION 48, LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

Councillor Watkins/Councillor Barber

**THAT the public now be excluded from the following parts of the meeting, namely;**

**10. Opera House Plaza Redevelopment**

The general subject of the matter to be considered while the public is excluded, the reason for passing this Resolution in relation to the matter and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this Resolution is as follows:

<i><b>GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED</b></i>	<i><b>REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER, AND PARTICULAR INTERESTS PROTECTED</b></i>	<i><b>GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF EACH RESOLUTION</b></i>
<b>10. Opera House Plaza Redevelopment</b>	<p><b>Section 7 (2) (i)</b></p> <p>The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> <p>The information in this report is commercially sensitive..</p>	<p><b>Section 48(1)(a)(i)</b></p> <p>Where the Local Authority is named or specified in the First Schedule to this Act under Section 6 or 7 (except Section 7(2)(f)(i)) of this Act.</p>

**CARRIED** .

*Councillor Kerr left the meeting at 1.10pm.*

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*The meeting adjourned briefly at 1.10pm and reconvened at 1.20pm in Public Excluded session.*  
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The meeting closed at 1.30pm  
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Confirmed:

Chairman:

Date: