



Hastings District Council

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OPEN A G E N D A

PLANNING AND REGULATORY COMMITTEE MEETING

Meeting Date: **Thursday, 10 May 2018**

Time: **1.00pm**

Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Committee Members	Chair: Councillor Lyons Mayor Hazlehurst Councillors Barber, Dixon, Harvey, Heaps (Deputy Chair), Kerr, Lawson, Nixon, O'Keefe, Poulain, Redstone, Schollum, Travers and Watkins. (<i>Quorum = 8</i>)
Officer Responsible	Group Manager: Planning and Regulatory Services – Mr J O'Shaughnessy
Committee Secretary	Carolyn Hunt (Extn 5634)

Planning and Regulatory Committee – Terms of Reference

Fields of Activity

Oversight of all matters relating to the Council's planning and regulatory functions and the development of policies and strategies in relation to those functions. The matters within this committee's responsibilities include (but are not limited to):

- Resource Management Act 1991
- Building Control including the Building Act 2004 and the New Zealand Building Code
- Bylaws
- Health Act 1956
- District Plan
- Historic Places Act 1993
- Security Patrol
- Maritime Planning Schemes

Other regulatory matters including:

- Animal and pest control,
- Dangerous goods and Hazardous substance,
- Fencing of swimming pools,
- Litter,
- Alcohol,
- Noise abatement,
- Public health and safety,
- Prostitution,
- Gambling,
- Parking control.
- Responsibility for all matters related to the District's environment including the environment of neighbouring districts and water bodies
- Other Regulatory matters not otherwise defined.

Membership

Chairman appointed by the Council
Deputy Chairman appointed by the Council
The Mayor
All Councillors

Quorum – 8 members

DELEGATED POWERS

General Delegations

1. Authority to exercise all of Council powers, functions and authorities (except where delegation is prohibited by law or the matter is delegated to another committee) in relation to all matters detailed in the Fields of Activity.
2. Authority to re-allocate funding already approved by the Council as part of the Long Term Plan/Annual Plan process, for matters within the Fields of Activity provided that the re-allocation of funds does not increase the overall amount of money committed to the Fields of Activity in the Long Term Plan/Annual Plan.
3. Responsibility to develop policies, and provide financial oversight, for matters within the Fields of Activity to provide assurance that funds are managed efficiently, effectively and with due regard to risk.
4. Responsibility to monitor Long Term Plan/Annual Plan implementation within the Fields of Activity set out above.

Bylaws

5. Authority to review bylaws and to recommend to the Council that new or amended bylaws be made including but not limited to the review of bylaws made pursuant to rules under the Land Transport Act 1998, (primarily relating to speed limits) and bylaws relating to parking.

Legal proceedings

6. Authority to commence, compromise and discontinue mediations, legal proceedings, prosecutions and other proceedings within the Fields of Activity.

Fees and Charges

7. Except where otherwise provided by law, authority to fix fees and charges in relation to all matters within the Fields of Activities.

Resource Management/Environmental issues

8. Authority to make submissions on behalf of the Council in respect of any proposals by another authority under any legislation, or any proposed statute which might affect the District's environment or the well being of its residents including such matters as adjacent local authorities' district plans, any regional policy statement, and Regional Plans.

HASTINGS DISTRICT COUNCIL
PLANNING AND REGULATORY COMMITTEE MEETING
THURSDAY, 10 MAY 2018

VENUE: Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings

TIME: 1.00pm

A G E N D A

1. Apologies

At the close of the agenda no apologies had been received.

At the close of the agenda no requests for leave of absence had been received.

2. Conflict of Interest

Members need to be vigilant to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to scan the agenda and assess their own private interests and identify where they may have a pecuniary or other conflict of interest, or where there may be perceptions of conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the relevant item of business and withdraw from participating in the meeting. If a Member thinks they may have a conflict of interest, they can seek advice from the Chief Executive or Executive Advisor/Manager: Office of the Chief Executive (preferably before the meeting).

It is noted that while Members can seek advice and discuss these matters, the final decision as to whether a conflict exists rests with the member.

3. Confirmation of Minutes

Minutes of the Planning and Regulatory Committee Meeting held Thursday 8 February 2018.
(Previously circulated)

4.	Building Consent Authority Accreditation Update	7
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9.	Recommendation to Exclude the Public from Items 10 and 11	41
10.	Designation in Howard St Urban Development Area	
11.	Development of Tarbet Street Subdivision	

REPORT TO: PLANNING AND REGULATORY COMMITTEE

MEETING DATE: THURSDAY 10 MAY 2018

FROM: BUILDING CONSENTS MANAGER
MALCOM HART

SUBJECT: BUILDING CONSENT AUTHORITY ACCREDITATION
UPDATE

1.0 SUMMARY

- 1.1 The purpose of this report is to update the Council on the results of the biennial accreditation assessment of Councils Building Consent Authority (BCA) completed in November 2017.
- 1.2 The assessment was carried out by International Accreditation New Zealand (IANZ). Accreditation is required to maintain Council's status as a registered Building Consent Authority and to enable the Council to continue issuing and certifying building consents.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by Section 10 of the Local Government Act 2002. That purpose is to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses. Good quality means infrastructure, services and performance that are efficient and effective and appropriate to present and anticipated future circumstances.
- 1.4 This report addresses Council's obligation to provide good quality regulatory activities.
- 1.5 This report concludes by recommending that the report be received.

2.0 BACKGROUND

- 2.1 Hastings District Council is deemed a Building Consent Authority (BCA) pursuant to the Building Act 2004, and is registered as a BCA with the Ministry of Business, Innovation and Employment.
- 2.2 The Council is required to comply with the relevant statutory controls affecting BCA's. In particular, Council is required to achieve and maintain Accreditation as a BCA, and comply with the Building (Accreditation of Building Consent Authorities) Regulations 2006 in order to issue and certify building consents.
- 2.3 BCA's are assessed by International Accreditation New Zealand (IANZ) every two years, and sometimes more frequently as each situation demands, to ensure all relevant statutory, systems and performance requirements are being complied with.
- 2.4 Hastings District Council has been registered as a BCA since 2006 and five assessments have been carried out since then.

- 2.5 The Council's BCA has maintained its accreditation as a Building Consent Authority during this time. The Council's BCA has never had its accreditation suspended or removed.

3.0 CURRENT SITUATION

- 3.1 An accreditation assessment was completed in November 2017. An intensive assessment of the BCA's systems, policies and procedures took place over four days. At the end of the assessment the BCA was left with one general non-compliance item to resolve.
- 3.2 The non-complying item has been addressed to the satisfaction of IANZ and MBIE. As a consequence the Council has retained its accreditation as a Building Consent Authority pursuant to the Building (Accreditation of Consent Authorities) Regulations 2006.
- 3.3 The non-complying item related to our use of a modified building consent application form in hard copy for wood burner consent applications.
- 3.4 Disappointingly, IANZ and MBIE deemed that the use of a modified form did not strictly conform to the Building (Forms) Regulations 2004, despite accepting a modified form for the past three assessments.
- 3.5 The next accreditation assessment is scheduled for November 2019.

4.0 OPTIONS

- 4.1 This report serves to update the Committee on building control activities and improvement initiatives, and no options have been identified.

5.0 SIGNIFICANCE AND ENGAGEMENT

- 5.1 The improvement initiatives identified do not trigger Council's Significance and Engagement Policy.

6.0 PREFERRED OPTION/S AND REASONS

- 6.1 The preferred option is for this report to be received.

7.0 RECOMMENDATIONS AND REASONS

- A) That the report of the Building Consents Manager titled "Building Consent Authority Accreditation Update" dated 10/05/2018 be received.**

With the reasons for this decision being that the objective of the decision will contribute to the performance of regulatory functions by:

- i) Ensuring compliance with statutory processes and maintaining accreditation and registration as a Building Consent Authority.**

Attachments:

There are no attachments for this report.

REPORT TO: PLANNING AND REGULATORY COMMITTEE

MEETING DATE: THURSDAY 10 MAY 2018

FROM: ENVIRONMENTAL POLICY MANAGER
ROWAN WALLIS

SUBJECT: UPDATE ON PROPOSED DISTRICT PLAN APPEALS

1.0 SUMMARY

- 1.1 The purpose of this report is to update/inform the Committee/ Council about the appeals on the Proposed District Plan
- 1.2 The Council is required to give effect to the purpose of local government as prescribed by Section 10 of the Local Government Act 2002. That purpose is to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses. Good quality means infrastructure, services and performance that are efficient and effective and appropriate to present and anticipated future circumstances.
- 1.3 The purpose of this report relevant to the purpose of Local Government is the performance of a regulatory function through the provision of a District Plan which will help to create an attractive and healthy environment for people, which promote the best use of natural resources and which is responsive to community needs. This report concludes by recommending that this report be received for information purposes.

2.0 BACKGROUND

- 2.1 A total of 47 appeals were received to the Proposed Hastings District Plan. This includes a later appeal by Golden Oaks as this hearing was held by Commissioners after the others were heard by the Hearings Committee. It also includes appeals on later Plan variations 1 (Omahu), 2 (Irongate) and 3 (Howard Street).
- 2.2 The appeals process is entirely managed by the Environment Court. The Council is automatically a party to the proceedings and must be available to attend any hearing to discuss or clarify matters in the hearing report/s, give evidence to the Court about its planning report and any other relevant information. Council staff will be required to act as witnesses and technical advisers. For each appeal, careful consideration is given to who are the best staff, consultants and/or independent experts needed for each case.
- 2.3 It is an expectation of the Court that Council have legal representation for all appeals. Council provided the first of its reporting memorandums to the Court in December 2015 and has provided further reports approximately every eight weeks' since.
- 2.4 The Court has an expectation that all appeals will involve mediation (where early resolution is not achieved) and memorandums and consent orders signed where an agreement can be reached. Mediation was facilitated by the

Environment Court who appointed an independent commissioner to mediate appeals. Where agreement is not reached, the mediation process is useful in refining the issues before any Environment Court hearing. There is a court expectation that a number of appeals be resolved through this process rather than ending up at a hearing.

- 2.5 Mediation on all appeals has largely concluded, with Council staff involved in approximately 8 weeks of mediation. The remaining appeal requiring mediation is Bourke a residential rezoning in Havelock North, which is pending the completion of further investigations by the appellant. Informal mediation on Howard Street has been ongoing and has involved expert engineering caucusing on an appropriate stormwater solution.

3.0 CURRENT SITUATION

- 3.1 Appended to this report as **Attachment 1** is an appeals tracking document which shows all appeals and where they are at in the appeals process. Included are several tables, broken down into the following categories: matters for which mediation has been held but all matters are not yet resolved (including where they are at in the process); on hold appeals and finally resolved appeals.

- 3.2 To date 41 appeals have been resolved, either through withdrawal, consent orders which have been lodged by parties and signed off by the Environment Court or through pending consent documents. 4 appeals have been placed on hold by the Environment Court, and are due to the:

- outcome of the Iona Streamlined Planning Process which affects 2 appeals. As a result of a Council resolution on August 8 2017 an application was lodged with the Environment Minister to adopt a Streamlined Planning Process (SPP) for the rezoning of land at Iona. The benefits of adopting a Streamlined Planning Process versus the standard planning process to rezone this land (by way of Plan Variation under the Resource Management Act 1991) were outlined in a Council Workshop on July 18 2017.

Council staff prepared and released a draft Structure Plan in August of this year for public comment. The draft Structure Plan incorporated the design elements worked on by the Iona Working Group with specialist input from Isthmus Group (landscape and urban design consultants). Comments received on the draft Structure Plan were used to shape the Structure Plan which has been incorporated as part of the Plan Variation.

The Minister issued a direction on the SPP application in late Feb 2018, and the variation was notified in conformity with the direction timetable on 6 the April 2018. Submissions closed 7th May and the hearing of submissions will begin on 30 May 2018.

- expert engineering conferencing on the appropriate stormwater solution for the Howard Street variation.
- structure planning work is carried out at Brookvale by the appellant in consultation with Council staff (Bourke appeal). Mediation will resume once the structure planning work has been completed; and

- due to matters that do not involve Council.
- 3.3 If hearings are needed on remaining outstanding appeals these will be on refined matters.
- 3.4 Since the last appeal update to Council the Environment Court has heard the Maungararu Tangitu Trust's appeal on the outstanding larger wāhi taonga sites and with the district plan provisions that manage the wāhi taonga sites. The decision from the Court is yet to be received.
- 3.5 The Federated Farmers of New Zealand appeal as it relates to Genetically Modified Organisms (GMOs) has also not yet been resolved. The Environment Court issued a decision in *Federated Farmers of New Zealand v Northland Regional Council* [2015] NZEnvC 159 which confirmed that there is jurisdiction for GMOs to be regulated in Resource Management planning documents. This decision was challenged by Federated Farmers of New Zealand because the question of whether GMOs should be managed with under the Resource Management Act 1991 as opposed to whether they can be so managed (the latter having already been confirmed) needs to be determined. The High Court recently issued its decision on the appeal and upheld the decision of the Environment Court. As a result an evidence exchange timetable has been entered into, and evidence has been exchanged to defend the Council's provisions relating to the management of GMO's. A hearing date has not yet been set by the Court, but is unlikely to be before July.
- 3.6 Changes required to the Proposed Plan as a result of signed consent orders will be incorporated into E-Plan (online version of the District Plan) and for later adoption as part of the new Operative District Plan.
- 3.7 Council is required under the Resource Management Act 1991 (RMA) to have in place a District Plan. The District Plan has been prepared following an extensive consultation process which has been carried out in accordance with the RMA. Consultation on the draft Structure Plan for Iona has occurred, through individual and neighbourhood meetings and a community open day with an opportunity to provide feedback. Notification of this plan change will occur in accordance with any direction issued under the Streamlined Planning Application lodged or if the regular Schedule 1 process is to be adopted, a decision on its notification will be brought to Council.

4.0 RECOMMENDATIONS AND REASONS

- A) That the report of the Environmental Policy Manager titled "Update on Proposed District Plan Appeals" dated 10/05/2018 be received.**

Attachments:

1 Appeals Tracking Table as at 30 April 2018

ENV-9-18-5-18-701

Appeals Tracking (as at 30 April 2018)

A – Matters for which mediation has been held but all matters are not yet resolved or awaiting Environment Court decisions

Appeal	Appellant	Subject	Comment
054	Maungaharuru-Tangitu Trust	<ul style="list-style-type: none"> Sites of cultural significance 	<ul style="list-style-type: none"> Environment Court hearing held on a small number of sites and on the provisions that would sit with those sites was completed 26th April 2018 for a much reduced number of sites.
079	Hansen, W (Haupouri Partnership)	<ul style="list-style-type: none"> Nature Preservation Zone (seeks Rural Zone) 	<ul style="list-style-type: none"> Environment Court hearing held and decision released upholding Council decision to zone the land Nature Preservation. Consent documents drafted and circulated for the remaining appeal points. Environment Court memorandum issued requiring consent documents or further reporting memorandum to be filed by 3 November 2017.
044	Karen Cooper	<ul style="list-style-type: none"> Howard Street Residential Rezoning Appeal limited to stormwater solution 	<ul style="list-style-type: none"> Mediation/expert caucusing ongoing between engineers around a stormwater solution.
053	Federated Farmers partial	<ul style="list-style-type: none"> Appeal on GMO provisions 	<ul style="list-style-type: none"> Evidence exchanged- awaiting Environment Court Hearing date.

B - On hold Appeals

Appeal	Appellant	Subject	Comment
061	Graeme Lowe Properties Limited and Lowe Family Holdings	<ul style="list-style-type: none"> Zoning – Iona Hills 	<ul style="list-style-type: none"> Expecting withdrawal of this appeal now that the Variation to rezone land has been notified.

062	JE Lowe and Lansdale Development Limited	<ul style="list-style-type: none">• Zoning – Iona Triangle	<ul style="list-style-type: none">• Expecting withdrawal of this appeal now that the Variation to rezone land has been notified.
083	Michael Bourke	<ul style="list-style-type: none">• Brookvale Rezoning	<ul style="list-style-type: none">• Awaiting lodgement of

C - Resolved Appeals

Appeal	Appellant	Status
071	Progressive Enterprises	Confirmed as withdrawn 31 March 2016
089	Evans Family Trust	Confirmed as withdrawn 10 March 2016
090	Kahuranaki Station Ltd and Caroline Greenwood	Consent order issued 2 June 2016
087	Advance Properties Group Limited	Memorandum filed by Mr Lawson regarding withdrawal of appeal 9 May 2016
067	New Zealand Wool Services International Ltd	Memorandum filed regarding withdrawal of appeal 25 May 2016
068	The Chief of New Zealand Defence Force	Consent order issued 29 June 2016
072	Transpower New Zealand Limited	Consent order issued 19 September 2016
063	New Zealand Association of Radio Transmitters Incorporated and Hawkes Bay Amateur Radio Club	Consent order issued 5 August 2016
075	Foodstuffs North Island Limited	Consent order issued 12 October 2016
058	Bunnings Limited	Consent order issued 9 September 2016
082	Farmers Transport (2015) Ltd	Consent order issued 3 October 2016
070	Meridian Energy Limited	Partial consent order issued 6 October 2016 and remaining appeal point withdrawn
066	Raikes, Peter	Consent order issued
081	Longview Group Holdings Limited	Consent order issued 12 December 2016
065	K Stone, K and D Whiting and J Boyes	Confirmed as withdrawn 5 August 2016
094	Raymond Road Zoning Change Society Incorporated	Memorandum filed regarding withdrawal of appeal 3 August 2016
073	House Movers Section of the New Zealand Heavy Haulage Association Inc.	Consent order issued 7 December 2016
078	Apatu Farms Limited	Consent order issued 12 December 2016

Appeal	Appellant	Status
069	Contact Energy Limited - Noise (site specific) Whirinaki	Consent order issued 21 November 2016
092	Drillers Poultry Farm (George Davies and Neville Charles Goldie Trading as Drillers Poultry Farm)	Consent order issued 12 December 2016
053	Federated Farmers of New Zealand <ul style="list-style-type: none"> • Rural Zone • Plains Production Zone • Natural Features and Landscapes • Riparian Land Management and Public Access • Earthworks (in relation to landscape areas) 	Partial consent order issued 14 October 2016 and 21 November 2016. One appeal point pertaining to GMOs outstanding.
077	Bradshaw, Wayne	Consent order issued 12 December 2016
076	Horticulture New Zealand <ul style="list-style-type: none"> • Biosecurity • Network Utilities • Rural Zone • Plains Zone • Definitions 	Consent order issued 1 November 2016
059	Brownrigg Agriculture Group Ltd	Consent order issued 12 December 2016

Appeal	Appellant	Status
088	Bell, Andy (Trading as Design Builders)	Resource consent issued to vary consent conditions to resolve concerns. Appellant still to file memorandum with the Court withdrawing appeal.
049	Renouf, David	Consent documentation lodged with the Environment Court. Minute requesting information received from the Environment Court and response provided with the agreement of all parties. Awaiting response/issuing of consent order.
055	Ngati Kahungunu Iwi Incorporated <ul style="list-style-type: none"> Urban Strategy Subdivision and Land Development Heretaunga Plains Aquifer System Definitions 	Partial consent order issued 15 December 2016. Remaining issued associated with Renouf appeal and the minute outlined above.
085	ERL Investments Limited (formerly Crasborn ERL Limited)	Consent order issued 12 December 2016
056 057	Bates, Martin Paul Hall, S and I <ul style="list-style-type: none"> Zoning - Haumoana – Te Awanga 	Consent order issued 28 April 2017
032	GA and SJ Cornes Partnership (trading as Golden Oak) <ul style="list-style-type: none"> Plains to Industrial Rezoning Request 	Environment Court scheduled for 6 June 2017, but appeal was withdrawn by the appellant prior to the hearing occurring.
060	Ocean Beach Wilderness Property Ltd, Ocean Beach Land Holdings Ltd, Tennyson OB Ltd and Andrew Lowe <ul style="list-style-type: none"> Nature Preservation Zone Landscape provisions for Ocean Beach Mediation held 4 July 2016 and 16 August 2016 	Consent order issued 12 October 2017

Appeal	Appellant	Status
	<ul style="list-style-type: none"> Mediated position discussed with members of the Hearings Committee 	
2017-045	Bayley & Others (Omahu – Variation 1)	Consent order issued 29 August 2017
2017-046	Navilluso Holdings, Tumu Timbers, Carrfields Investments and M Walmsley (Irongate – Variation 2)	Consent order issued 24 th Jan 2018
074	Ballance Agri-Nutrients	<ul style="list-style-type: none"> Request for Scheduled Activity (Irongate) Appeal withdrawn
084	Te Aute Holdings JV Ltd	<ul style="list-style-type: none"> Residential Rezoning – Havelock North – Te Aute Road Mediation held September 2017 and consent documents filed with the Environment Court with the signatures of all parties
064	Te Awanga Downs Family Trust	<ul style="list-style-type: none"> Residential Rezoning Request Consent order issued December 2017
093	Navilluso Holdings Limited	<ul style="list-style-type: none"> Appeal resolved by Consent order issued 24th Jan 2018
091	Roil, John	<ul style="list-style-type: none"> Appeal resolved by Consent order issued 24th Jan 2018
086	Mike Walmsley Limited	<ul style="list-style-type: none"> Appeal resolved by Consent order issued 24th Jan 2018
080	Carr Group Investments Limited (formerly Maraekakaho Properties Limited)	<ul style="list-style-type: none"> Appeal resolved by Consent order issued 24th Jan 2018

REPORT TO: PLANNING AND REGULATORY COMMITTEE

MEETING DATE: THURSDAY 10 MAY 2018

FROM: GROUP MANAGER: PLANNING & REGULATORY
JOHN O'SHAUGHNESSY

SUBJECT: CLIFTON REVETMENT EMERGENCY WORKS

1.0 SUMMARY

- 1.1 The purpose of this report is to obtain a decision from the Council on whether to undertake emergency protection works at Clifton.
- 1.2 This issue arises as a consequence of a request by Mr Paul Hursthouse of the Clifton Marine Club (CMC) to undertake emergency works where the proposed Clifton revetment is proposed to protect access to Clifton Camp No. 1 and the CMC boat ramp and facilities. Mr Hursthouse considers there is an imminent threat of loss of access due to possible winter storms.
- 1.3 The Council is required to give effect to the purpose of local government as prescribed by Section 10 of the Local Government Act 2002. That purpose is to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses. Good quality means infrastructure, services and performance that are efficient and effective and appropriate to present and anticipated future circumstances.
- 1.4 The objective of this decision relevant to the purpose of Local Government is related to the provision of good quality local infrastructure and local public service and how best to fund this infrastructure and services in accordance with funding principles as set down in the Local Government Act 2002.
- 1.5 This report concludes by recommending:
 - A) *That the report of the Group Manager: Planning & Regulatory titled "Clifton Revetment Emergency Works" dated 10/05/2018 be received.*
 - B) *That Council delegate powers under section 330 of the Resource Management Act (RMA) to the Chief Executive Officer, to authorize emergency works within Hastings District.*
 - C) *That Council Transportation staff monitor the physical condition of the Clifton Camp No. 1 access road to ensure public safety.*
 - D) *That Council supports the relocation of the existing Clifton Camp No. 1 access road back further into Clifton Station.*
 - E) *That Council obtain a letter confirming that Clifton Marine Club and Clifton Reserve Society will fund the relocation of Clifton*

2.0 BACKGROUND

- 2.1 The Clifton Reserve is the location of the Clifton boat ramp which is the only ramp with access to Hawke Bay between Cape Kidnappers and Napier. The

Reserve, and more particularly that part of the Reserve that includes the access to the boat ramp, has been subject over the years to significant erosion activity. As a consequence of this erosion activity, access to the Camp and Reserve have become particularly difficult and at risk.

- 2.2 The consent granted for a short term protection wall to protect road access to the Clifton Camp No. 1 expires 31 August 2018. This has triggered a proposal to apply for a new 35 year consent to extend the protection wall by way of a revetment through to the Clifton Café. Both the Clifton Reserve Society (CRS) and Clifton Marine Club (CMC) wish to have certainty over their respective futures.
- 2.3 The basis for the five year consent was to enable the relocation of the Clifton Camp No. 1 and the CMC. This meant HB Regional Council consent staff accepted a lower level of engineering design durability due to the fixed period. The consent also requires Hastings District Council (HDC) to remove the revetment at the end of the five year period.
- 2.4 The Council resolved to include funding for the proposed Clifton revetment in its Annual Plan following consultation in the 2017/18 Annual Plan at “whole of life cost” (\$2,800,000, 35 years) comprised of a capital cost of \$1,163,000 and annual operating costs of \$80,000 per annum. Following public consultation, this funding was approved. The Council also asked officers to seek a resource consent for the proposed revetment. Assuming a consent is granted with conditions, a report will come back to Council to seek instruction on whether to proceed with the revetment or not.

3.0 PROGRESS ON RESOURCE CONSENT APPLICATION

- 3.1 Following Council’s resolution at its December 2016 meeting to engage a resource management consultant, Council has engaged Sage Planning (Planning Consultant) to prepare the necessary resource applications for a permanent revetment structure at Clifton Reserve.

Coastal engineering, landscape, ecological, archaeological and recreation specialists have also been engaged to confirm the layout and prepare the necessary technical assessments required to support the resource consent applications.

- 3.2 Resource consent for the proposed Clifton Revetment was lodged with HB Regional Council and Hastings District Council. Following various requests for information, the application was notified on the request of the Project Manager. Approximately 20 submissions in support and one in opposition were received. This means that the consent will have to progress to a hearing before Commissioners as mediation was attempted but unsuccessful.
- 3.3 During this period Sage Planning were informed by the regulatory section of the Hastings District Council that due to workload pressures and resourcing within the resource consent section, no further progress had been made on the Hastings District Council’s part of the resource consent application for the revetment.
- 3.4 Since 28 March 2018 the consent has been publicly notified and submissions closed on 30 April 2018. It has been agreed that a Joint Hearing will be held

to hear both components of the consent by Independent Commissioners. The hearing has been set down for Wednesday 6th June 2018.

4.0 CURRENT SITUATION

4.1 With the recent delay in getting to a hearing date in early June, concerns have been raised by the CMC, supported by the CRS that by the time the hearing has been completed, a decision issued, the cost implications reported back to Council, a tender let and the wall has been constructed, a further 6-8 months could have lapsed. The CMC and the CRS believe in that time there is a real risk that access to the camp will be lost due to erosion as a result of winter storms.

4.2 These concerns are outlined in an email from Mr Paul Hursthouse appended as **Attachment 1**. When this matter was initially referred to Council as an informal, Council directed that a formal report come back to Council, therefore this report has been prepared.

Council has also received further correspondence from the CMC regarding erosion at the camp and boat ramp and the CMC view of emergency works.



4.3 With the issues raised by the CMC and the CRS, Council's Transportation Engineer undertook a site assessment at Clifton on Wednesday 2 May 2018. At that point in time his recommendation was:

- i) *Confirm the archaeological requirements for protecting the 'hollows'.*
- ii) *Commence building of a new temporary road on the land side of the existing fence, leaving the current fence line in its current position. This activity is to be done in accordance with item i) above requirements*
- iii) *Consider options to minimise future impact of wave action on the existing road.*

Options exist to minimise further deterioration of the road such as placing large limestone rocks (>5t each) into the papa along the beachfront between the two camps. This will reduce the impact of the wave action on the road, but will not eliminate the need to move the road in the interim. The alignment of the large rocks should be designed, as should the sizing and definition of rock type. This is to ensure rock work is not wasted should future protection works necessitate the use of this material. These design elements, the rock sourcing and placement is a lengthy process and can be done in conjunction of emergency works provisions.

Since that first inspection, Council Transportation staff have been undertaking daily checks to monitor the situation in relation to the safety of the access road into Clifton Camp No. 1. The responsibility for closing of the road into Clifton Camp No. 1 rests with the CRS as leasee. Due to the constantly changing nature of coast here related to sea storm conditions, an update of the situation will be provided at the meeting.

- 4.4 The relocation of the Clifton Camp No. 1 access road will require consent from the landowner, Mr Angus Gordon, who is currently overseas and returning 13 May 2018. Mr Gordon has been contacted to seek his consent to move the access road inland of the existing fence. The proposed new road alignment will cross over archaeological sites located on Angus Gordon's land.
- 4.5 Council staff that have been working on this project have considered this situation may arise and had obtained a general authority from Heritage NZ to create a temporary access. The general authority is subject to a number of conditions including consultation with Matahiwi Marae (the general authority is included as **Attachment 2**).
- 4.6 The physical solution to protect the pit sites involves the laying of geotextile matting over the pit sites then filling the ground inundations with road base material as shown in **Attachment 3**.

5.0 SIGNIFICANCE AND ENGAGEMENT

- 5.1 The issues for discussion are not significant in terms of the Council's policy on significance and engagement.

Staff have been in contact with both the CMC and the CRS regarding this issue. Liaison has also occurred with HBRC regulatory staff over the emergency works provision of Section 330 of the Resource Management Act (RMA). As has been mentioned, staff have contacted Mr Gordon to seek his consent on this matter.

The Group Manager Planning & Regulatory will also talk with Matahiwi Marae prior to the meeting regarding the access road relocation and possible emergency rock works. This will be reported back at the meeting.

6.0 EMERGENCY WORKS PROVISIONS OF THE RMA – SECTION 330

Determining whether to take action under s330 of the RMA

Exercising s330 powers requires that the authorised persons form an opinion on whether an emergency situation as defined in sections 330(1)(d)-(f) of the RMA exists before undertaking any emergency works. Section 330 does not require that anyone else is first advised, or that approval by anyone else is first obtained. However, there is a requirement to advise the appropriate consent authority after the event.

The brief checklist for action pursuant to s330 provides a good practice example of the steps a local authority should follow, in determining whether to undertake emergency works under s330 of the RMA.

The document 'detailed steps by party invoking s330 ' provides a more comprehensive series of steps for any authorised person to follow to determine whether to undertake emergency works under s330.

There are a number of important matters for authorised persons to consider, when determining whether to take action under s330. Section 330 applies where the authorised person is of the opinion that any matter over which it has jurisdiction is affected or likely to be affected by either:

- an adverse effect on the environment which requires immediate preventative or remedial measures
- any sudden event causing or likely to cause loss of life, injury, or serious damage to property.

The matters to be considered in respect of emergency works apply whether or not the adverse effect or sudden event was foreseeable. For example, removing a growing tree that one day might prove a hazard because it will interfere with power lines, does not meet the test for emergency works. This is because the event is not sudden nor does it require immediate intervention. But it could, if the tree falling onto lines was imminent.

The use of s330(2) also requires a local or consent authority to form a reasonable opinion when entering onto private property, and undertaking such action as is immediately necessary and sufficient to avert the particular issue. This is an important test and any authorised persons should, where possible, consult with the local or consent authority before undertaking any emergency works. Where this is not possible, the authorised person should keep good records of the decision-making process.

Immediate measures

Those relying on Section 330 powers must form an opinion as to whether immediate preventative or remedial measures are required to deal with an adverse effect on the environment; or whether there is a sudden event causing or likely to cause loss of life, injury or serious damage to property.

Preventative measures include for example:

- breaching a stop-bank to release flood waters and avoid overtopping in more vulnerable areas downstream
- removing a scheduled tree that is about to topple and cause a major power outage

- bulldozing a fire break through native bush to prevent the spread of a fire.

Remedial measures include for example:

- clearing and disposing of slip debris from a roadway after an earthquake
- repairing a railway embankment in the coastal marine area following storm surge.

'Measures' can include any physical work or action specifically directed at removing the cause of, or mitigating, any actual or likely adverse effect of the emergency (refer s330(2) of the RMA).

The immediate measures undertaken must only extend to what is necessary and sufficient for dealing with the emergency. The provisions in sections 330 and 330B of the RMA do not extend to any actions that would go beyond either removing the cause of, or mitigating, any actual or likely adverse effect of the emergency. For example, taking extra steps to widen a road following a slip, simply because the equipment is there, would not fall within the scope of the emergency powers under the RMA.

The following two guidelines are useful to apply when determining immediate measures:

1. The relevant body or person should consider:
 - the impact of selected measures on the environment
 - whether, on balance, preventing or remedying the anticipated adverse effects of the emergency outweighs any foreseeable and irreversible adverse effects on the environment resulting from the emergency works
 - whether any less damaging, yet more suitable, alternative measures are available.
2. The relevant body or person should keep sufficient evidence to demonstrate that the situation required an immediate response.

Foreseeability of an emergency

Section 330(1A) of the RMA provides emergency works powers, regardless whether or not an adverse effect or sudden event was foreseeable. This recognises that:

- immediate action may be required whether or not an event was foreseeable
- the emergency does not need to have been unpredictable. It could be the end result of a gradual build-up in effects or change to the environment that may have been predictable or observable (e.g. increasing rates of coastal erosion in an urban area).

A person or body might anticipate that a sudden event could occur sometime in the future and implement measures designed to cope with the contingency. However, they may also decide not to put required measures in place, whether through lack of finance or community support, other practical constraints, or on-going uncertainty as to what can be done. Knowing in advance whether or not a situation exists (or could exist) which may lead to an emergency is not relevant to the decisions made under s330 of the RMA to

act once the emergency occurs. The focus is on what is necessary 'on the day', and not on what has happened beforehand.

However, as noted by the Court in Auckland City Council v Minister for the Environment and Others [1998] A112/98 authorities should endeavour to get their forward planning right under the RMA and avoid using s330 as a fallback provision.

Reasonable opinion

Section 330 of the RMA requires that the opinion formed in deciding whether or not to use the emergency powers, be one a reasonable person would form.

The test is an objective one, as to whether the situation is one in which any reasonable person or body would consider that it qualifies for emergency action

In exercising emergency works powers on private property, examples of situations which might meet the test could include:

- insufficient time given the nature and urgency of the risk to use alternative enforcement provisions in Part 12 of the RMA
- where the owner or occupier of a building or place is not responsible for, or is unwilling or incapable of, acting alone to address the emergency.

Reasonableness is as much about the process of forming the opinion, as the opinion which is ultimately reached. The person or body might be expected to:

- gather as much information and relevant facts as possible, given the urgency of the situation (noting that there generally is not time to undertake a full study of the effects of the action required)
- make logical assumptions and assessments of risks and options for managing them
- draw on suitable levels of knowledge and experience in making judgments and decisions.

It is important to document what was done to provide evidence that the opinion formed was reasonable. This information may be critical in establishing a defence to any prosecution which is based on a challenge to the reliance on emergency powers.

Reviewing and discussing previous cases with experienced colleagues and like agencies, and consulting with relevant consent authorities, will assist decision-makers in determining what is likely to be reasonable in different circumstances.

7.0 ASSESSMENT OF OPTIONS

7.1 In this matter I believe Council has three options available, these being:

- a) Do nothing.
- b) Relocate Clifton Camp No. 1 access road behind the fence line (subject to Angus Gordon's consent) and continue to monitor the erosion before undertaking any limestone rock protection work.

- c) Decide to allow the suggested limestone rock protection work to be undertaken as emergency works under s330 of the RMA.

It needs to be noted that only a territorial authority or regional council can undertake emergency works.

- 7.2 The Council has applied for a resource consent to construct a revetment at Clifton Camp. The application is awaiting consideration via a Hearing in early June 2018. While acknowledging the ability for HDC to undertake emergency works, the HB Regional Council has indicated that its preference for dealing with coastal works at Clifton is via a formal application for consent rather than via emergency work provisions.

Two questions before HDC are:

1. Whether emergency conditions exist sufficient to justify emergency works, and
2. What the best form of emergency works are.

As discussed above, emergency provisions under section 330 are likely to apply where an authorised person is of the opinion that a matter under its jurisdiction is affected or likely to be affected by either:

- An adverse effect on the environment which requires immediate preventative or remedial measures; or
- Any sudden event causing or likely to cause loss of life, injury, or serious damage to property.

In this set of circumstances, the land at Clifton is subject to natural coastal processes. It is difficult to see this as an adverse effect on the environment which requires preventative or remedial measures.

Analysis must then turn to whether a sudden event is causing or is likely to cause loss of life, injury or serious damage to property. It is possible to imagine a threat to life if part of the access washed away and appropriate safety and warning measures were not put in place. However such a circumstance seems best measured by road closure or usage restrictions or warning signage and other relevant safety measures (or some combination of the above). The situation is being reviewed regularly to allow decisions to be made on when and if these measures became necessary.

Aside from this consequential danger to life, there is unlikely to be a danger to life or a risk of injury as a result of further damage to the access way. The question then becomes whether there is likely to be serious damage to property.

While there is no doubt that significant wave energy could foreseeably cause further damage to the road access way, officers were not comfortable determining that this constituted a justification for the emergency works in the coastal area proposed by Mr Hursthouse. The damage likely to be caused is not to high value property and the cost of the emergency works might be greater than that of the damage likely to be incurred if nothing were done, or in replacing the access way via the alternative method identified.

Engineering advice received suggests relocation of the access way is the best approach to maintaining road access. Immediate placement of rock ahead of a properly designed revetment is not preferred as immediate measure although is not ruled out in conjunction with the relocation in a properly planned fashion.

7.3 Relocate Camp Access Road

This option involves relocating the Clifton Camp No. 1 access road back behind the front fence of Clifton Station as shown in **Attachment 2**. This option could happen relatively quickly as this work could be considered as emergency works under s330 of the RMA, due to the possible risk that the camp access road is undermined further and a vehicle using the road drives off the road into the sea or beach. This would be considered a situation where “any sudden event causing or likely to cause loss of life, or serious damage to property” (s330 RMA). However in a practical sense the Clifton Marine Society would close the road access in such a situation to avoid this type of situation.

This option would not rule out undertaking the rock work at a future time, but would effectively buy time while the formal resource consent process is completed.

The estimated cost of this work will be provided at the meeting.

This option does not immediately increase Council’s commitment in terms of removal of the rock work at a future date.

7.4 Undertake the rock work

This option involves the proposal outlined in **Attachment 1** from Mr Paul Hursthouse of the CMC and shown as an aerial photo under section 4.2 of this report. The CMC and CRS are suggesting as in the previous option, that emergency works could be undertaken on the basis of “any sudden event causing or likely to cause loss of life, or serious damage to property” by the placement of 1,200 tonnes of limestone rock along the area under threat. Again as in the previous option, the sudden or immediate threat would in a practical sense be removed by CMC closing the camp access road.

The CMC and CRS have indicated the work would cost approximately \$96,000 and that the two organisations would be prepared to fund this work.

This option would commit Council to removing the new limestone boulders if consent was not granted to HDC by HBRC to the formal consent. However the limestone boulders would be able to be re-used by Council.

8.0 **PREFERRED OPTION & REASONS**

8.1 The preferred option is the Relocate Camp Access Road (*awaiting costs on relocating Camp Access Road*).

8.2 This report may be significantly amended following further site inspections by Council transportation staff.

9.0 RECOMMENDATIONS AND REASONS

- A) That the report of the Group Manager: Planning & Regulatory titled “Clifton Revetment Emergency Works” dated 10/05/2018 be received.
- B) That Council delegate powers under section 330 of the Resource Management Act (RMA) to the Chief Executive Officer, to authorize emergency works within Hastings District.
- C) That Council Transportation staff monitor the physical condition of the Clifton Camp No. 1 access road to ensure public safety.
- D) That Council supports the relocation of the existing Clifton Camp No. 1 access road back further into Clifton Station.
- E) That Council obtain a letter confirming that Clifton Marine Club and Clifton Reserve Society will fund the relocation of Clifton

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) OR (local public services OR (performance of regulatory functions) in a way that is most cost-effective for households and business by:

Attachments:

- | | | |
|---|--|---------------|
| 1 | Clifton Marine Club - Emergency Works at Clifton | CG-14-4-00061 |
| 2 | Heritage NZ General Authority | PRJ16-16-0104 |
| 3 | Clifton Revetment - Mitigation for Pit Sites | CG-14-4-00062 |

Julia Martin

From: Paul Hursthouse <PHursthouse@eit.ac.nz>
Sent: Tuesday, 17 April 2018 9:06 p.m.
To: John O'Shaughnessy
Subject: HPRM: Clifton Emergency Works

Good evening John

As a follow-up to our brief telephone discussion today, you suggested that I put our "case" in writing so that the Mayor and CEO could consider our request and be more informed when we meet (you indicated that you would arrange a meeting with them, which could also include some councilors).

Background:

The HDC have submitted a consent application for the Revetment Wall at Clifton. I understand that there were approximately 100 submissions in favour and 1 was against – Mr Edward Taylor. Staff from both the HBRC and HDC met with Mr Taylor to see if a solution could be found but without success. Myself as President and Darren Bambry as Secretary of the Clifton Marine Club (and with the blessing of the Clifton Reserve Society) also met with him to explore his concerns but were also unable to obtain a resolution.

Because of this a formal hearing would be required and efforts were made to do this asap. The HBRC were in the process of arranging the hearing for 27 March when it was discovered that the HDC had overlooked the progress of their consent application. Unfortunately, because of this oversight, the decision to postpone the hearing until the end of May was made so that both consents could be heard at the same time. Although this was outlined in your email 9 March, representatives of the CMC and CRS were a little perplexed as to the reason why this had happened so I requested a meeting with you to seek further information. We met on Friday 16th and during this meeting I expressed a concern about how this delay could possibly impact the access road if we had winter storms. I suggested that we should explore some emergency preventative work.

We then had a brief meeting with the Mayor where I also outlined my concerns. The mayor indicated during this meeting that should any further expenditure be required she would most likely need to take it to council for their advice. Nevertheless it was suggested that I should:

- Explore the possibility with the HBRC as to whether an Emergency Consent would be possible
- Meet with Ray Berkett and canvas his ideas as to whether some minimalist form of winter emergency protection would be possible
- Gain an estimate from him as to the likely cost of this emergency protection.

Action since the meeting with yourself and the mayor.

I met with Ray and he feels a single line of substantial rocks in the area identified in black on the picture below would definitely assist. He has estimated the need for 1,200 tonnes of limestone rock and was willing to provide it at the same rate he does for other council work. Ray was passionate about the need to protect the facility and was keen to assist us.



I then approached the HBRC to see how best we could undertake this emergency consent. Their response was emailed to you last night which essentially indicated that it would be possible.

Because of apparent concern expressed by the mayor about further expenditure and the need to seek wider council support, representatives of the CMC and CRS met last night to explore whether it would be possible to fund this emergency work ourselves. Although there is obviously further work to determine exact specifications and cost a resolution was passed to support this necessary expenditure.

Proposed Action:

I have briefed representatives of both the CMC and CRS who were surprised to hear the Mayor and CEO's need to put the above before a full council meeting. We do not feel this emergency work will jeopardise the consent application. Time is our enemy and given CMC and CRS have agreed to fund the emergency works we would like to seek an urgent meeting with the Mayor and CEO to explore what their concerns are.

I look forward to hearing from you as to when this meeting can be arranged.

Many thanks

Paul
President – Clifton Marine Club.



HERITAGE NEW ZEALAND
POUHERE TAONGA

AUTHORITY

Heritage New Zealand Pouhere Taonga Act 2014

AUTHORITY NO: 2018/473

FILE REF: 11013-026

DETERMINATION DATE: 22 February 2018

EXPIRY DATE: 22 February 2023

AUTHORITY HOLDER: Hastings District Council

POSTAL ADDRESS: Private Bag 9002 Hastings 4156, Attn. John O'Shaughnessy

ARCHAEOLOGICAL SITES: W21/176, borrow pits

LOCATION: Clifton Road between the Clifton Cafe and Clifton Camp No. 1, Hastings.

SECTION 45 APPROVED PERSON: Gaylynne Carter

LAND OWNER CONSENT: Completed

This authority may not be exercised during the appeal period of 15 working days, plus 3 working days to allow receipt by all parties by post, or until any appeal that has been lodged is resolved.

DETERMINATION

Heritage New Zealand Pouhere Taonga grants an authority pursuant to section 48 of the Heritage New Zealand Pouhere Taonga Act 2014 in respect of the archaeological site described above, within the area specified as land within the property boundary of Section 7 Blk II Kidnapper SD (Hastings District Council), Pt Lot 1 DP6872 (Gordon family and trustees), Lot 7 DP27414 (Gordon family and trustees) to Hastings District Council for the proposal to line the affected pit(s) with geotextile, infilling the pits with a suitable material and creating the new road surface on top, at Clifton Road between the Clifton Cafe and Clifton Camp No. 1, Hastings, subject to the following conditions:

CONDITIONS OF AUTHORITY

1. The authority holder must ensure that all contractors working on the project are briefed by the s45 approved person on the possibility of encountering archaeological evidence, how to identify possible archaeological sites during works, the archaeological work required by the conditions of this authority, and contractors' responsibilities with regard to notification of the discovery of archaeological evidence to ensure that the authority conditions are complied with.

- cc: John O'Shaughnessy, Hastings District Council
via email at johno@hdc.govt.nz
- cc: Gaylynnne Carter, Opus International Consultants
via email at gaylynnne.carter@opus.co.nz
- cc: Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere, Ngāti Hori) representative Tom Mulligan
Matahiwi Marae
Lawn Road
RD2
Hastings 4172
- cc: Te Taiwhenua o Heretaunga
via email taiwhenua.heretaunga@ttoh.iwi.nz
- cc: Angus Gordon, Landowner
via email ajgordon@xtra.co.nz
- cc: Planning Manager
Hastings District Council
via email at johno@hdc.govt.nz

Pursuant to Section 51 Heritage New Zealand Pouhere Taonga Act 2014 Heritage New Zealand Pouhere Taonga must notify TLAs of any decision made on an application to modify or destroy an archaeological site. We recommend that this advice is placed on the appropriate property file for future reference.

- cc: Ministry for Culture and Heritage
via email at protected-objects@mch.govt.nz

Pursuant to Section 51 Heritage New Zealand Pouhere Taonga Act 2014

- cc: NZAA Central Filekeeper
c/o DOC, WELLINGTON
Attn: Nicola Molloy
via email at nmolloy@doc.govt.nz
- cc: Heritage New Zealand Pouhere Taonga Archaeologist, Christine Barnett
- cc: Heritage New Zealand Pouhere Taonga Area Director Central, James Jacobs
- cc: Heritage New Zealand Pouhere Taonga Pouarahi, Brian Ruawai-Hamilton

If you have any queries please direct your response in the first instance to:

Christine Barnett
Central Region Archaeologist
Heritage New Zealand Pouhere Taonga
PO Box 2629
WELLINGTON 6140

(04) 494 8323
cbarnett@heritage.org.nz

Yours sincerely



Frank van der Heijden
Manager Archaeology



HERITAGE NEW ZEALAND
POUHERE TAONGA

S:\Archaeology\Archaeological Authorities

22 February 2018

File ref: 2018/473
11013-026

John O'Shaughnessy
Hastings District Council
Private Bag 9002
Hastings 4156

Tena koe John

**APPLICATION FOR ARCHAEOLOGICAL AUTHORITY UNDER HERITAGE NEW ZEALAND
POUHERE TAONGA ACT 2014: Authority no. 2018/473: W21/176, borrow pits, Clifton Road
between the Clifton Cafe and Clifton Camp No. 1, Hastings.**

Thank you for your application for an archaeological authority which has been granted and is attached.

In considering this application, Heritage New Zealand Pouhere Taonga (HNZPT) notes that you wish to undertake urgent temporary road repairs to Clifton Road between the Clifton Cafe and Clifton Camp No. 1, by means of moving the fence inland and infilling pits to create temporary road access to the Clifton Motor Camp. This activity will affect a recorded archaeological site. W21/176, borrow pits.

We are aware that a Archaeological Assessment of Effects that has already been prepared for Hastings District Council is in support of further proposed work in this area – that being a beach revetment and the permanent re-location of the road in-land and that the wider proposal is currently going through the Resource Consenting process and it was, and remains, anticipated that a further General Authority will be applied for in advance of that work. However you have indicated that prior to the completion of the Resource Consent process it has become apparent that the Clifton Road has become dangerously unstable due to weather and coastal erosion. HNZPT understands that there is a need for more immediate remediation. In consultation with HNZPT it was decided to apply for an initial general authority to allow Hastings District Council to undertake temporary repairs to the road by means of moving the fence inland, into Mr Angus Gordon's paddock when required, and the covering borrow pit features.

Although the archaeological site have been damaged in the past, it still possesses archaeological values. The site is of significance to Ngāti Hāwea, Ngāti Kautere, Ngāti Hori, and Te Taiwhenua o Heretaunga, and we appreciate the consultation you have undertaken.

Please inform Ngāti Hāwea, Ngāti Kautere, Ngāti Hori, and Te Taiwhenua o Heretaunga, the s45 approved person and Heritage New Zealand Pouhere Taonga of start and finish dates for the work.

An appeal period from receipt of decision by all parties applies. Therefore this authority may not be exercised during the appeal period of 15 working days, plus 3 working days to allow receipt by all parties by post, or until any appeal that has been lodged is resolved.

☎ (64 4) 472 4343

🏢 National Office, Antrim House, 63 Boulcott Street

📮 PO Box 2629, Wellington 6140

🌐 heritage.org.nz

2. All earthworks that may affect any archaeological sites must be monitored by the s45 approved person.
3. Any archaeological evidence encountered during the exercise of this authority must be investigated, recorded and analysed in accordance with current archaeological practice.
4. As no protocols between the authority holder and Ngāti Hāwea, Ngāti Kautere, Ngāti Hori, and Te Taiwhenua o Heretaunga were provided with the authority application, the following shall apply:
 - a) Access for Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere, Ngāti Hori), and Te Taiwhenua o Heretaunga shall be enabled in order to undertake tikanga Maori protocols consistent with any requirements of site safety.
 - b) Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere, Ngāti Hori), and Te Taiwhenua o Heretaunga shall be informed 48 hours before the start and finish of the archaeological work.
 - c) If any koiwi tangata (human remains) are encountered, all work should cease within 5 metres of the discovery. The Heritage New Zealand Pouhere Taonga Archaeologist, New Zealand Police and Ngāti Hāwea, Ngāti Kautere, Ngāti Hori, and Te Taiwhenua o Heretaunga must be advised immediately in accordance with Guidelines for Koiwi Tangata/Human Remains (Archaeological Guideline Series No.8) and no further work in the area may take place until future actions have been agreed by all parties.
 - d) Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere, Ngāti Hori), and Te Taiwhenua o Heretaunga shall be informed if any possible taonga or Maori artefacts are identified to enable appropriate tikanga protocols to be undertaken, so long as all statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014 and the Protected Objects Act 1975 are met.
 - e) Matahiwi Marae (Ngāti Hāwea, Ngāti Kautere, Ngāti Hori), and Te Taiwhenua o Heretaunga shall be provided with a copy of any reports completed as a result of the archaeological work associated with this authority and be given an opportunity to discuss it with the s45 approved person if required.

This is not a statement of mana whenua status.

5. Within 20 working days of the completion of the on-site archaeological work associated with this authority, NZAA Site Record Form W21/176 borrow pits, must be updated based on current archaeological practice (condition 3), and submitted to the Heritage New Zealand Pouhere Taonga Archaeologist and the NZAA Site Recording Scheme.
6. If any archaeological remains other than W21/176 borrow pits, require any archaeological investigation, recording and analysis, the authority holder must ensure that within 12 months of the completion of the on-site archaeological work a final report, completed to the satisfaction of the Heritage New Zealand Pouhere Taonga is submitted to the Heritage New Zealand Pouhere Taonga Archaeologist.

Signed for and on behalf of Heritage New Zealand.



Claire Craig
Deputy Chief Executive Policy, Strategy and Corporate Services
Heritage New Zealand Pouhere Taonga
PO Box 2629
WELLINGTON 6140

Date: 22 February 2018

ADVICE NOTES**Contact details for Heritage New Zealand Archaeologist**

Christine Barnett
Central Region Archaeologist
Heritage New Zealand Pouhere Taonga
PO Box 2629
WELLINGTON 6140

(04) 494 8323, cbarnett@heritage.org.nz

Current Archaeological Practice

Current archaeological practice may include, but is not limited to, the production of maps/ plans/ measured drawings of site location and extent; excavation, section and artefact drawings; sampling, identification and analysis of faunal and floral remains and modified soils; radiocarbon dating of samples; the management of taonga tuturu and archaeological material; the completion of a final report and the updating of existing (or creation of new) site record forms to submit to the NZAA Site Recording Scheme. The final report shall include, but need not be limited to, site plans, section drawings, photographs, inventory of material recovered, including a catalogue of artefacts, location of where the material is currently held, and analysis of recovered material.

Please note that where one is required, an interim report should contain a written summary outlining the archaeological work undertaken, the preliminary results, and the approximate percentage of archaeological material remaining *in-situ* and a plan showing areas subject to earthworks, areas monitored and the location and extent of any archaeological sites affected or avoided.

Rights of Appeal

An appeal to the Environment Court may be made by any directly affected person against any decision or condition. The notice of appeal should state the reasons for the appeal and the relief sought and any matters referred to in section 58 of the Heritage New Zealand Pouhere Taonga Act 2014. The notice of appeal must be lodged with the Environment Court and served on Heritage New Zealand Pouhere Taonga within 15 working days of receiving the determination, and served on the applicant or owner within five working days of lodging the appeal.

Review of Conditions

The holder of an authority may apply to Heritage New Zealand Pouhere Taonga for the change or cancellation of any condition of the authority. Heritage New Zealand Pouhere Taonga may also initiate a review of all or any conditions of an authority.

Non-compliance with conditions

Note that failure to comply with any of the conditions of this authority is a criminal offence and is liable to a penalty of up to \$120,000 (Heritage New Zealand Pouhere Taonga Act 2014, section 88).

Costs

The authority holder shall meet all costs incurred during the exercise of this authority. This includes all on-site work, post fieldwork analysis, radiocarbon dates, specialist analysis and preparation of interim and final reports.

Assessment and Interim Report Templates

Assessment and interim report templates are available on the Heritage New Zealand Pouhere Taonga website: archaeology.nz

Guideline Series

Guidelines referred to in this document are available on the Heritage New Zealand Pouhere Taonga website: archaeology.nz

The Protected Objects Act 1975

The Ministry for Culture and Heritage ("the Ministry") administers the Protected Objects Act 1975 which regulates the sale, trade and ownership of taonga tūturu.

If a taonga tūturu is found during the course of an archaeological authority, the Ministry or the nearest public museum must be notified of the find within 28 days of the completion of the field work.

Breaches of this requirement are an offence and may result in a fine of up to \$10,000 for each taonga tūturu for an individual, and of up to \$20,000 for a body corporate.

For further information please visit the Ministry's website at <http://www.mch.govt.nz/nz-identity-heritage/protected-objects>.

Land Owner Requirements

If you are the owner of the land to which this authority relates, you are required to advise any successor in title that this authority applies in relation to the land. This will ensure that any new owner is made aware of their responsibility in regard to the Heritage New Zealand Pouhere Taonga Act 2014.



HERITAGE NEW ZEALAND
POUHERE TAONGA

SECTION 45 APPROVED PERSON

Heritage New Zealand Pouhere Taonga Act 2014

AUTHORITY NO: 2018/473

FILE REF: 11013-026

APPROVAL DATE: 22 February 2018

This approval may not be exercised during the appeal period of 15 working days, plus 3 working days to allow receipt by all parties by post, or until any appeal that has been lodged is resolved.

APPROVAL

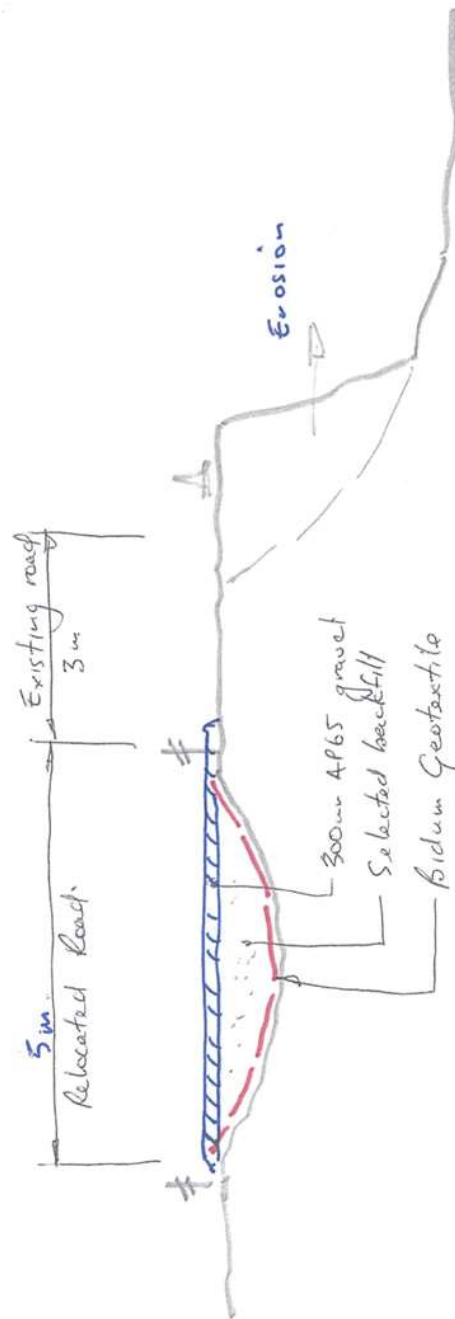
Pursuant to section 45 of the Act, Gaylynne Carter, is approved by Heritage New Zealand Pouhere Taonga to carry out any archaeological work required as a condition of authority 2018/473, and to compile and submit a report on the work done. Gaylynne Carter will hold responsibility for the current archaeological practice in respect of the archaeological authority for which this approval is given.

Signed for and on behalf of Heritage New Zealand.

A handwritten signature in black ink, appearing to read 'Craig', written over a horizontal line.

Claire Craig
Deputy Chief Executive Policy, Strategy and Corporate Services
Heritage New Zealand Pouhere Taonga
PO Box 2629
WELLINGTON 6140

Date: 22 February 2018



OPTION 2:

HASTINGS DISTRICT COUNCIL

PLANNING AND REGULATORY COMMITTEE MEETING

THURSDAY, 10 MAY 2018

RECOMMENDATION TO EXCLUDE THE PUBLIC

SECTION 48, LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

THAT the public now be excluded from the following part of the meeting, namely:

10. Designation in Howard St Urban Development Area

11. Development of Tarbet Street Subdivision

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>GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED</i>	<i>REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER, AND PARTICULAR INTERESTS PROTECTED</i>	<i>GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF EACH RESOLUTION</i>
10. Designation in Howard St Urban Development Area	Section 7 (2) (i) 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). To enable Council to undertake negotiations.	Section 48(1)(a)(i) 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.
11. Development of Tarbet Street Subdivision	Section 7 (2) (h) The withholding of the information is necessary to enable the local authority to carry out, without prejudice or disadvantage, commercial activities. to protect the Council's position to commercially negotiate for both contracts for service and potential section sales..	Section 48(1)(a)(i) 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.