

Thursday, 7 September 2023

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council**  
**Council Meeting**

## *Kaupapataka*

# Agenda

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*Te Rā Hui:*  
Meeting date: **Thursday, 7 September 2023**

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*Te Wā:*  
Time: **1.00pm**

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

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*Te Hoapā:*  
Contact: **Democracy and Governance Services  
P: 06 871 5000 | E: [democracy@hdc.govt.nz](mailto:democracy@hdc.govt.nz)**

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*Te Āpiha Matua:*  
Responsible  
Officer: **Chief Executive - Nigel Bickle**

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**HASTINGS DISTRICT COUNCIL**  
207 Lyndon Road East, Hastings 4122 | Private Bag 9002, Hastings 4156  
Phone **06 871 5000** | [www.hastingsdc.govt.nz](http://www.hastingsdc.govt.nz)  
**TE KAUNIHERA Ā-ROHE O HERETAUNGA**



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Thursday, 7 September 2023

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*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council**

**Council Meeting**

*Kaupapataka*

# Agenda

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*Tiamana*

**Chair:** Mayor Sandra Hazlehurst

*Mematanga:*

**Membership:**

*Ngā KaiKaunihera*

**Councillors:** Ana Apatu, Marcus Buddo, Alwyn Corban, Malcolm Dixon, Michael Fowler, Damon Harvey, Henry Heke, Kellie Jessup, Tania Kerr (Deputy Mayor), Eileen Lawson, Renata Nepe, Simon Nixon, Ann Redstone, Wendy Schollum and Kevin Watkins

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*Tokamatua:*

**Quorum:**

8 members

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*Apiha Matua*

**Officer Responsible:**

Chief Executive – Nigel Bickle

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*Te Rōpū Manapori me te*

*Kāwanatanga*

**Democracy and**

**Governance Services:**

Louise Stettner (Extn 5543)



## *Te Rārangi Take*

# Order of Business

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### 1.0 Opening Prayer – *Karakia Whakatūwheratanga*

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### 2.0 Apologies & Leave of Absence – *Ngā Whakapāhatanga me te Wehenga ā-Hui*

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

Leave of Absence had previously been granted to Councillor Jessup

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### 3.0 Conflict of Interest – *He Ngākau Kōnatunatu*

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 General Counsel or the Manager: Democracy and Governance (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.

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### 4.0 Confirmation of Minutes – *Te Whakamana i Ngā Minitī*

Minutes of the Council Meetings held;

Thursday 15 and Friday 16 June 2023

Thursday 20 July 2023

Thursday 3 August 2023

Thursday 10 August 2023

*(Copies of the minutes above have been previously circulated)*

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### 5.0 Mayor's Verbal Update

7

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### 6.0 Hastings District Council - Building Consent Approach Post Cyclone Gabrielle

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<b>7.0</b>	<b>Update from Hawke's Bay Tourism</b>	<b>21</b>
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<b>8.0</b>	<b>Animal Control Annual Report 2022/23</b>	<b>23</b>
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<b>9.0</b>	<b>Application for a Temporary Alcohol Ban</b>	<b>31</b>
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<b>10.0</b>	<b>Appointment to the Heretaunga Takoto Noa Māori Standing Committee</b>	<b>37</b>
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<b>11.0</b>	<b>Minor Items – <i>Ngā Take Iti</i></b>	
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<b>12.0</b>	<b>Urgent Items – <i>Ngā Take Whakahihiri</i></b>	
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Thursday, 7 September 2023

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

**Item 5**

*Te Rārangi Take*

# Report to Council

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*Nā:*  
**From: Sandra Hazlehurst, Mayor**

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*Te Take:*  
**Subject: Mayor's Verbal Update**

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## **1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga***

- 1.1 The purpose of this report is to provide the opportunity for a regular verbal update from the Hastings District Council Mayor regarding current activities and events.

## **2.0 Recommendations - *Ngā Tūtohunga***

That Council receive the report titled Mayor's Verbal Update dated 7 September 2023.

### **Attachments:**

There are no attachments for this report.





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Thursday, 7 September 2023

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Item 6

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

*Te Rārangi Take*

# Report to Council

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**Nā:** John O'Shaughnessy, Group Manager: Planning & Regulatory  
**From:** Services

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**Te Take:** Hastings District Council - Building Consent Approach Post Cyclone  
**Subject:** Gabrielle

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## 1.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is to advise the Council how it will meet its responsibilities under the Building Act 2004 when processing building consents for properties that have been subject to inundation following the Cyclone. It is recommended that the Council endorses the ***Guidance for Building Consent Applications in Te Matau a Māui / Hawke's Bay following Cyclone Gabrielle*** (Guidance Document refer **Attachment 1**), and that it confirms it will waive certain fees to support the community's recovery.
- 1.2 Following the Cyclone, the Government established three different land categories (refer **Attachment 2**). Hawke's Bay Regional Council (HBRC) has then applied that classification system to categorise land. Provisional land categorisations are in the process of being confirmed by HBRC, and they are expected to be finalised shortly.
- 1.3 HBRC has commenced repair and reinstatement of its river flood protection systems, including stopbanks. This has enabled many 2C\* land categorisation areas to be recategorized to Category 1. The owners of these properties have been advised of the change and can make decisions about rebuilding their properties and their lives.
- 1.4 Wherever possible residents have commenced repair and reinstatement of their damaged buildings. Like-for-like repairs generally do not require a building consent. However, where work to construct a new building or major work is undertaken then a building consent is required. Property owners, or their agents, must submit a building consent application for processing by the Council.
- 1.5 Where a property has been subject to inundation the processing of any building consent application must specifically consider s.71-74 of the Building Act 2004 (the Act). To summarise, it means that a council must refuse to issue a building consent if a property has been subject to a natural hazard, which includes inundation. However, it does allow a building consent to be issued if the Council is satisfied that the hazard has been reasonably mitigated.
- 1.6 The decisions the Council can make are to grant or refuse the building consent, or, where the hazard has not been sufficiently mitigated, grant the consent but also issue a s.73 notice which is recorded

on the property title that states that the property is subject to a natural hazard. Such a notice will often impact the ability of the property owner to secure insurance and a mortgage. The Council will consider all relevant matters on a case-by-case basis.

- 1.7 There is not a lot of guidance or case law to assist councils with interpreting sections 71-74 of the Act. To provide greater certainty, and to ensure that a consistent and lawful approach to the consenting of houses and structures that were subject to flooding inundation, a Guidance Document has been developed for use by all Hawke's Bay building consenting authorities. It has been prepared with the support of the Council's specialist legal advisor, Nathan Speir from Rice Speir. It has also been subjected to a peer review by a retired Court of Appeal judge, Hon. Paul Heath KC. The legal advice has confirmed that both the approach is lawful and that it is reasonable for the Council to rely on the specialist advice, knowledge and expertise of the HBRC in terms of the level of protection afforded by its flood protection systems and in the provision of relevant finished floor levels for dwellings.
- 1.8 Importantly for Council, Mr Heath KC has said with confidence that no higher risk will follow the issue of the Guidance Document than existed before Cyclone Gabrielle caused the damage to which it relates. In short, he is of the opinion that the Council is not exposed to additional legal risk if the Guidance Document were issued.
- 1.9 The Guidance Document has been set out to clearly show how the Council will respond when processing building consent applications related to the three Land Categories created following the Cyclone. Essentially, the approach can be summarised as follows:
  - For Category 1 properties, including properties that have been reclassified from other categories (in particular, Category 2C\*) to Category 1, that are protected by an existing or repaired HBRC flood protection systems, the Council has been advised by HBRC that they provide a 1% AEP (one-in-one-hundred-year protection). New building and major work consent applications can be processed as they were prior to the Cyclone.
  - For Category 2 building consents, applications for new buildings or major works will be processed and a more detailed assessment will be required. That may result in the Building Consent application being refused, or granted but issued with an accompanying s.73 notice.
  - For Category 3 building consents, applications for new buildings or major works will be processed, but the application is likely to be refused because the hazards cannot be reasonably mitigated.
- 1.10 By endorsing the Guidance Document and using an external panel of specialists who will review the more challenging building consent applications before issue, it will provide support to building consenting officers, ensure decisions are consistent and that risks to the Council are managed appropriately. There will need to be a good engagement and communication processes with the community and those lodging applications.
- 1.11 As part of previous community engagement, the Council has provided an undertaking to waive certain fees relating to the rebuilding process. It is recommended that the Council resolves to confirm that undertaking, noting that this cost should be borne by the general ratepayer. A budget provision of \$500,000 is recommended to 30 June 2024 and this should be reviewed as part of the Long Term Plan (LTP) deliberations.

## 2.0 Recommendations - Ngā Tūtohunga

- A) That Council receive the report titled Hastings District Council - Building Consent Approach Post Cyclone Gabrielle dated 7 September 2023.
- B) That the Council endorses **Guidance for Building Consent Applications in Te Matau a Māui / Hawke's Bay following Cyclone Gabrielle** (Guidance Document), as contained in **Attachment 1**, for properties that have been subject to inundation following Cyclone Gabrielle.
- C) That the Council notes the legal opinion of Hon. Paul Heath (King's Counsel), as per **Attachment 5**, confirms the Guidance Document gives effect to the Building Act 2004 and assists the Council to lawfully discharge its responsibilities under the Act, that is reasonable for the Council to rely on the knowledge, expertise, and advice of the Hawke's Bay Regional Council in determining the level of protection afforded by its flood protection systems and finished floor levels, and Mr Heath's opinion that the Council is not exposed to additional legal risk if the Guidance Document were issued.
- D) That the Council prepares a communication plan to explain the Guidance Document.
- E) That the Council waives fees for Cyclone recovery building works for residential dwellings that were subject to a red or yellow placard, including:
  - building consent processing fees (time, associated admin costs)
  - applications for building consent exemptions
  - applications for certificates of acceptance
  - building inspections
  - resource consent processing fees for land stabilisation associated with properties with a yellow or red placard
- F) That the Council extends the fee waiver until 30 June 2024 and approves an associated budget provision of up to \$500,000 funded from the General Rate, noting that it will be reviewed as part of the Council's Long Term Plan deliberations.

## 3.0 Background – Te Horopaki

- 3.1 Flooding from Cyclone Gabrielle exceeded all previous known flood events. It resulted in both the overtopping and breaching of the river flood protection systems, as well as the inundation of properties in other low-lying areas. Tragically, eight people lost their lives and, at least, 800 houses in the district had flood water enter them, and about 150 dwellings have been provisionally classified as Category 3 where it is considered the risk to life is too great to contemplate rebuilding those homes.
- 3.2 Following the Cyclone, the Government established three different categories of property. **Attachment 2** describes the categories. Hawke's Bay Regional Council (HBRC) has then applied that classification system to determine how land should be classified. Provisional land categorisations are in the process of being confirmed by HBRC, and they are expected to be finalised shortly.
- 3.3 HBRC has commenced, and in many cases completed, repair and reinstatement of its river flood protection systems, including stopbanks. This has enabled many 2C\* land categorisation areas to be recategorized to Category 1 status. The owners of these properties have been advised of the change and can now make decisions about rebuilding their properties and their lives.
- 3.4 Prior to Cyclone Gabrielle HBRC had advised that its river flood protection systems provided for a 1% Annual Exceedance Probability (1% AEP) design event (ie a one-in-one-hundred-year flood).

- 3.5 HBRC has yet to receive advice about the intensity of the rainfall during Cyclone Gabrielle and the relevant return periods, although the National Institute of Water and Atmospheric Research (NIWA) has been contracted to provide that advice. HBRC has indicated that it will take at least a year to update its flood models and determine the revised levels of protection afforded by its river flood protection systems. In the meantime, HBRC has signalled that where it has reinstated flood protection systems District Councils should be able to rely on the pre-event level of protection as the basis for considering building consent applications protected by those systems.

#### **Council Responsibilities and Response**

- 3.6 Under the Building Act 2004 (the Act) the Council has the responsibility to ensure that any buildings constructed meet the requirements of the Act and the Building Code.
- 3.7 The Council is seeking to facilitate the rebuilding of dwellings and other buildings as quickly as possible to assist people recover from the floods. In doing so, it must meet its responsibilities and obligations under the Act, especially in terms of satisfying itself about how matters under Section 71-74 of the Act are met, and determining the reasonableness of finished floor levels specified in building consents so that the matters related to Section 71-74 have been adequately satisfied.
- 3.8 Because of the different categories, different matters need to be considered when processing building consents for properties within each category.
- 3.9 The decision of HBRC to commence the rebuild of their flood protection systems is very helpful. The advice HBRC has provided the Council (**Attachment 3**) outlines its intention to do so and the impact of this on how the Council considers its responsibilities under the Act.
- 3.10 The statement in the letter that “any building consented at the existing levels should not be required to be altered” assumes that finished floor levels will remain the same as they were prior to the Cyclone.
- 3.11 However, HBRC is awaiting information from NIWA on the return period of rainfall and flood flows. The Council acknowledges the community’s desire to commence rebuilding as soon as possible, and not have to wait for the further modelling results which could be more than a year away. It intends to assist people based on the latest information available.

#### **Building on land subject to natural hazards**

- 3.12 All categorised land that was **flooded** during Cyclone Gabrielle is now subject to a natural hazard (inundation) as defined by s.71 of the Act.
- 3.13 The known impacts of Cyclone Gabrielle, and a common-sense approach, leads to the inevitable conclusion that cyclone-impacted land is subject to a natural hazard (as defined by the Act).
- 3.14 Accordingly, any new building consents must contemplate the natural hazard provisions in the Act, which includes flooding, overland flow, storm surge, tidal effects, and ponding (s.71(3)(d) of the Act).

#### **Sections 71 to 74 of the Building Act 2004 (refer Attachment 4)**

- 3.15 Section 71 of the Act requires councils to refuse to grant building consents for construction of buildings, or major alterations, if the land on which the building work is to be carried out is subject or is likely to be subject to one or more natural hazards (which applies to all categorised land that was flooded during Cyclone Gabrielle).
- 3.16 This general rule however does not apply if councils can be satisfied that adequate provision has been or will be made to protect the relevant land, building work, or other property, from the natural hazard.
- 3.17 HBRC’s 18 July 2023 letter (**Attachment 3**) was sent to give councils confidence that adequate provision has been made to protect the land in Category 1 from inundation. At this time, it is generally acknowledged that the worst impacted areas from Cyclone Gabrielle were subject to a return period greater than one-in-one-hundred.

- 3.18 The Act provides an alternative pathway for councils to grant building consents on land subject to natural hazards. Where the hazard cannot be mitigated to reasonably provide protection there are pathways, via s.72 of the Act, that does allow building to commence, that provides notice of the risk to be given to future purchasers, and protects councils against civil liability.

**Section 72 of the Act: Building consent for building on land subject to natural hazards must be granted in certain cases**

- 3.19 Despite s.71 of the Act, councils must grant building consents in respect of land that is subject to a natural hazard if they consider that:
- The building work to which an application for a building consent relates will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and
  - It is reasonable to grant a waiver or modification of the building code in respect of the natural hazard concerned.
- 3.20 One benefit of granting a building consent under s.72 of the Act is that s.392 exempts the council concerned and its agents from civil liability for doing so (if the building suffers damage arising directly or indirectly from a natural hazard).

***Is it reasonable to grant a waiver of the building code in respect of the natural hazard?***

- 3.21 There is little precedent regarding what is 'reasonable' in relation to granting a waiver under s.72(c). However, a waiver or modification must not be granted without careful consideration of all the circumstances of the case concerned, considering the purposes and principles of the Act.
- 3.22 MBIE's Determination 2015/0110 developed a framework of factors for councils to consider that have been cited with approval in later determinations including 2016/034. These factors include:
- The purposes and principles of the Act, including the life safety risk to the building occupants;
  - The extent of the waiver or modification in relation to the objectives and performance criteria of the relevant building code clauses; and
  - Mitigating factors that will reduce the elevated risk for the proposed buildings.

***Conditions on building consents granted under section 72***

- 3.23 One of the consequences of granting a building consent under s.72 of the Act is that councils must notify the consent to the Registrar-General of Land and the notification must identify the natural hazard concerned. The natural hazard is then noted on the property's title.
- 3.24 By doing so it sufficiently informs a potential purchaser of the natural hazard the land is subject to, although it may create difficulties with obtaining funding and insurance and/or potentially impact property values.
- 3.25 Section 73 certificates can and should be removed from a property's title if the building is no longer subject to a natural hazard. If, for instance, stopbanks are subsequently built or upgraded to provide sufficient protection, then affected property owners would see the s.73 certificates issued during this period of uncertainty removed from their titles.

## **4.0 Discussion – Te Matapakitanga**

### **Co-ordinated and Consistent Approach Across Hawkes Bay**

- 4.1 Hawke's Bay communities expect consistency in consenting decision making from their local authorities. The Council has been working with Napier City Council, Central Hawkes Bay District Council and Hawkes Bay Regional Council to develop a consistent approach to how they discharge their statutory responsibilities. Meetings among the Council along with their legal representatives have developed the proposed approach that they believe best balances the need for communities to move forward while meeting their responsibilities under legislation.

### Proposed Building Consent Approach - Residential Dwellings

- 4.2 The councils, with the support of specialist legal advice from Nathan Speir of Rice Speir, have developed the Guidance Document that considers buildings in each Category and have created the Guidance Document that ensures consistency across the region in processing residential building consents. The councils have engaged with Ministry of Business, Innovation and Employment (MBIE) and their insurers to ensure they appreciate the approach the councils have taken and has sought their feedback. Neither MBIE nor the Council's insurers have, as at the date of this report, provided any significant concerns with the proposed approach.
- 4.3 The Guidance Document (**Attachment 1**) acknowledges that the processing of building consent applications must consider all aspects of the Act and the Building Code. While acknowledging this, the Guidance Document recognises that applications relating to properties that were subject to inundation require specific consideration. Because of the widely differing effects of the Cyclone, each application will need to be considered on its merits, with different categories having different matters and risks that need to be considered. Effectively, the approach reflected in the Guidance Document is as follows:
- For Category 1 properties, including properties that have been reclassified from other categories (in particular, Category 2C\*) to Category 1, that are protected by an existing or repaired HBRC flood protection systems, the Council has been advised by HBRC that they provide a 1% AEP (one-in-one-hundred-year protection). New building and major work consent applications can be processed as they were prior to the Cyclone.
  - For Category 2 building consents, applications for new buildings or major works will be processed and a more detailed assessment will be required. That may result in the Building Consent application being refused, or granted but with an accompanying s.73 notice.
  - For Category 3 building consents, applications for new buildings or major works will be processed, but the application is likely to be declined because the hazards cannot be reasonably mitigated.

### Consistency in consenting decisions

- 4.4 The benefit of having the Guidance Document in place is that it assists consistent and lawful consideration and processing of applications. Without it, the Council could be exposed to risk. The Guidance Document promotes the use of an external panel to provide quality assurance and support to the building consent processor.
- 4.5 For residential building consent applications for new buildings or major works in Category 1 areas that have been subject to inundation, the Council will have a dedicated internal team to process the consent and ensure critical issues have been addressed.
- 4.6 For more challenging applications where further evaluation is required and for those in categories 2C, 2A, 2P, and 3 the applications would be considered by an independent panel consisting of three experts (an engineer, a legal advisor, and a building surveyor) that all councils may decide to subscribe to. That panel would provide a recommendation to the relevant Building Control Authority (BCA) on the issue of waiver and thus provide a robust but also consistent approach. The decision on any building consent application ultimately rests with the Council.

### Legal Review

- 4.7 Hawke's Bay councils have been greatly assisted and led by Nathan Speir of Rice Speir in the development of the Guidance Document. The Council has also obtained an independent peer legal review by Hon. Paul Heath KC to ensure the Guidance Document is both lawful in terms of the Building Act and will withstand future legal challenge, and whether it is reasonable for the Council to rely on the assurances of HBRC. Hon. Paul Heath is a retired High Court and Court of Appeal judge and is very qualified to consider the matter. His opinion is contained in **Attachment 5**.

4.8 In respect of the question of lawfulness of the Guidance Document he states:

*"I consider that the Guidance Document represents an elegant solution to a difficult problem. It acknowledges that the District Council is bound to follow procedures for the grant or refusal of building consents, either under the orthodox route or the natural hazard provisions of the Building Act 2004. It avoids any risk of the District Council being seen to have fettered its discretion or pre-determined how any particular category of land will be considered; namely, under the orthodox route or the natural hazard route. It explains to ratepayers and those involved in the consent process that the question whether the natural hazard provisions apply will necessarily need to be considered before the District Council can revert to the orthodox building consent process. I am satisfied that the Guidance Document is lawful. While there will always be risks of civil claims (including judicial review) arising out of the grant or refusal of a building consent (or, in respect of the District Council's subsequent inspection and certification functions), I consider that the risks are mitigated sufficiently to say confidently that no higher risk will follow the issue of the Guidance Document than existed before Cyclone Gabrielle caused the damage to which it relates. In short, I am of opinion that the District Council is not exposed to additional legal risk if the Guidance Document were issued."*

4.9 In regards to relying on the advice, expertise and knowledge of HBRC he says:

*"The District Council's obligation is to be satisfied that "adequate provision" of the type to which s 71(2) refers has been made in respect of a natural hazard to which a building consent application relates. It must form its own judgment on that. The District Council is entitled to rely on evidence of the type contained in the Regional Council's letter but, if it were aware of updated information or something that put it on further inquiry, it would not be appropriate to base a view about "adequate provision" solely on the basis of what the Regional Council has previously stated. In my opinion, while in each case the Council must consider all relevant evidence before reaching a conclusion that "adequate provision" has been made, statements of the Regional Council of the type to which you have referred me, constitute compelling evidence to support a conclusion that "adequate provision" has been made, in the absence of evidence to the contrary or the need to make further inquiry."*

### Risks

4.10 Key risks the Council faces include:

- Future risk of legal challenge including whether the Council exercised its statutory responsibilities reasonably in allowing new dwellings to be built in areas that had previously been subject to inundation. If a future major flood occurs, and properties are re-flooded that risk may crystallise. The mitigation to this is that the Council has thoroughly considered the relevant Building Act provisions and developed a robust Guidance Document that demonstrates how the Council has met the legislative requirements and responsibilities. This has been reviewed and supported by the opinion of Hon. Paul Heath. The Council has also relied on HBRC in terms of the level of service its flood protection systems afford. Again, Paul Heath has confirmed that it is reasonable for the Council to do so. In the event of a future challenge, the Council does have professional indemnity insurance should that be required and by granting building consents via s.72 of the Act, the Council is protected from civil liability for damage related directly or indirectly to the natural hazard (see s.392 of the Act). Mr Heath has said specifically that the Council is not exposed to additional legal risk if the Guidance Document were issued.
- The issuing of s.73 notices on property titles causing individuals to be exposed to financing and insurance risks. While not the Council's role to provide advice, this will be discussed with applicants at all stages of the application process to ensure property owners are aware of all relevant matters and potential consequences.

- There is a risk of inconsistency in the approach across the region. The development of a Guidance Document will help ensure consistency. The use of an independent panel that is available to consider challenging consent applications should also aid consistency and a well-supported decision.

### **Non-Residential Buildings and Structures**

- 4.11 The building of non-residential buildings and structures is equally subject to s.71-74 considerations, but may generally present a lower risk to life. Accordingly, all applications will be processed on their merits and potentially it may see a more enabling approach to the processing of non-residential consents than is the case for residential applications. For residential applications the approach depends on the land category they fall within.
- 4.12 Each building consent application will be subject to a s.71-74 assessment. In situations where matters relating to inundation, as defined in s.71 of the Act, have not been mitigated to the satisfaction of the Council, it is likely the Council will process the consent via s 72 and, if issued, will be accompanied by a s.73 notice.

### **Implications for Home Owners**

- 4.13 The proposed Guidance Document enables residential property owners to commence rebuilding. However, in some circumstances, that is not without them bearing some risk. Property owners, applicants and their agents will need to understand the issues thoroughly and be aware of any resultant risks.
- 4.14 Should a building consent application relate to a site that has been inundated as a result of Cyclone Gabrielle and, at the time of processing the consent, the Council decides it will issue an accompanying s.73 notice, then the homeowner and applicant/agent needs to be aware of the risks and potential consequences before proceeding. If a s.73 notice is issued the certificate remains on the property title and can only be removed by the Council initiating that action. It may present challenges in terms of securing funding, insurance, and probably property values, as well as the potential for increased risk-to-life.

### **Waiving of Building Consent Fees**

- 4.15 The Council in its June 6 newsletter stated that it intended to support those impacted by waiving a range of fees. The newsletter stated that:

*“To support the next steps Council is waiving the following fees in most cyclone-related repair/re-build situations:*

- *building consent processing fees (time, associated admin costs)*
- *applications for building consent exemptions*
- *applications for certificates of acceptance*
- *building inspections*
- *resource consent processing fees.*

*The waiver applies to those with red and yellow stickered (placarded) properties who meet the criteria and are located in Category 1 areas”*

*Recommendation E, is not constrained to Category 1 areas as officers foresee the potential that some residential consents may be granted in Category 2 areas. Declining the waiver of consent fees in Category 2 areas would not seem in the spirit of the intent of the waiver.*

- 4.16 With properties having been reclassified from 2C\* to Category 1 this means that there may be a significant cost that will need to be borne by the general ratepayer – possibly in excess of \$1 million over the next couple of years. The amount is uncertain, but it would be prudent to make a budget provision of \$500,000 for the remainder of this financial year funded from the General Rate. It should be noted that statutory fees, such as building order levy and building research levy paid to BRANZ, would still be collected and passed on, as is currently the case.



- 4.17 It is recommended that the waiver be available until 30 June 2024 and extend it to yellow and red placard properties. There should be a budget provision of \$500,000 funded from the General Rate and should be reconsidered as part of next year's LTP review.

## 5.0 Options – Ngā Kōwhiringa

Option One - Recommended Option - Te Kōwhiringa Tuatahi – Te Kōwhiringa Tūtohunga

- 5.1 Endorse the Building Consent Approach proposed:

Advantages

- Enables the community to recover within a known clear framework
- Demonstrates Council has consistently and reasonably addressed matters related to s71-74 of the Act
- Ensures a consistent approach across Hawkes Bay if adopted by the BCAs
- Mitigates Council's risk

Disadvantages

- Property owners that decide to proceed with their applications where a s.73 notice would be issued are subject to risks with insurance and/or funding.

Option Two – Forgo Issuing s73 notices

- 5.2 Forgo issuing s.73 notices where risks of inundation have not been sufficiently mitigated.

Advantages

- Simplifies the process and streamlines processing and reduces risk to property owners

Disadvantages

- Council fails to reasonably meet its statutory obligations under the Act, and that could result in statutory interventions and Council losing its BCA status.
- Council assumes significant risk where a future flood events damages rebuilt dwellings, or if a class action claims that property values have been undermined through failing to ensure risk-to-life has been adequately assessed, or ensuring appropriate mitigation measures including specifying inappropriate finished floor levels.

Option Three – Not Issue Building Consents until information on future Flood Protection levels are known

- 5.3 Councils decides not to issue Building Consents until further modelling and/or additional flood protection measures are taken that ensure a 1% AEP is achieved before building work commences.

Advantages

- Provides a high degree of certainty and reduces risk to the property owners/applicants and the Council.
- Simplifies building consent processing

Disadvantages

- Prevents communities recovering as quickly as possible and impacts economic recovery as well.
- Council may be criticised for failing to support communities and families rebuild their homes and recover their lives.

- 5.4 Determining the most appropriate approach is a balancing act – enabling recovery and rebuilding as soon as possible, yet not unduly exposing the Council to a significant level of regulatory and fiscal risk. Officers, based on expert advice, consider that the recommended option best achieves that balance.

## 6.0 Next steps – *Te Anga Whakamua*

6.1 If the Council endorses the Guidance Document the next steps will be:

- Communicate its decision clearly to the community, especially to impacted property owners and building consent agents. Prepare communications plan.
- Establish panels to support building consent processors to ensure consistent consideration of s.71-74 issues.
- Consider and process applications in accordance with the proposed approach.

### Attachments:

1⇒	Guidance for Building Consent Applications following Cyclone Gabrielle	CG-17-1-00426	Under Separate Cover
2⇒	Land Categories	CG-17-1-00427	Under Separate Cover
3⇒	HBRC Letter to TLAs - Categories	CG-17-1-00430	Under Separate Cover
4⇒	Extracts of Building Act 2004 -s71-74	CG-17-1-00429	Under Separate Cover
5⇒	Opinion of Hon Paul Heath - 25 August 2023	CG-17-1-00428	Under Separate Cover

## Summary of Considerations - *He Whakarāpopoto Whakaarohanga*

### Fit with purpose of Local Government - *E noho hāngai pū ai ki te Rangatōpū-ā-Rohe*

The Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

### Link to the Council's Community Outcomes – *Ngā Hononga ki Ngā Putanga ā-Hapori*

The Heretaunga Locality Plan for recovery outlines how the Council will give effect to recovery and it is summarised under six pou.

Pou	Key Tasks
Key tasks Recovery Transition	Continued supply of basics to isolated communities, maintenance of support in the community, decommissioning of response resources, reescalation planning

Community and Whānau	Wellbeing connectedness, welfare, marae, housing demand, cultural impacts, accommodation, safety & wellbeing, health
Resilient Infrastructure	Flood protection, lifeline utilities, water services, transport, housing supply, emergency resilience
Primary Sector	Land use recovery, horticulture, agriculture, viticulture, forestry
Economic Growth	Pou Individuals, businesses, sectors, future industry development, tourism, workforce resilience
Environmental Resilience	Resource management & land use, indigenous ecosystems & biodiversity, climate change, waste, water security

The development of the Guidance Document and its implementation will ensure a consistent and appropriate response in regards to the Council's statutory obligations under the Building Act 2004 and the Building Code. By doing so, in a timely manner, it is directly contributing towards and supporting all recovery pou, and aiding the community to recover and build a more resilient community as well.

### **Māori Impact Statement - *Te Tauākī Kaupapa Māori***

There are a number of Whenua Māori that have been severely impacted, including the Petane Marae in the Esk Valley and the marae and Māori Freehold Land at Tangoio. There are many others that have damage due to flooding as well. In respect of Category 3 Whenua Māori the Crown, Council and Iwi are working together to find solutions that achieve positive outcomes for all. Building consenting matters are being discussed with applicants and the Council will work through location specific issues, as it would for any other application.

### **Sustainability - *Te Toitūtanga***

The potential for future significant events and increasingly recurrence means that care will be taken to ensure future building activity is carried out in a responsible manner that takes account of these risks and ensures buildings most likely to meet or exceed their design life. Working closely with HBRC ensures that building platform levels are set at appropriate levels.

### **Financial considerations - *Ngā Whakaarohanga Ahumoni***

As discussed in the report, the waiver of consent fees over the next 2-3 years could exceed \$1 million. This will need to be funded by general rates. While the impact will need to be determined as part of the next LTP review, it could equate to about 0.5% increase in rates to offset the loss in fees. In respect of this matter, rates would then reduce once 'normal' business consenting activity resumes and the fee regime is reinstated fully. The waiver is recommended to be in place to 30 June 2024 with a \$500,000 budget provision made, which is subject to review as part of next year's LTP.

### **Significance and Engagement - *Te Hiranga me te Tūhonotanga***

This decision/report has been assessed under the Council's Significance and Engagement Policy as being not significant. The decision to endorse the Guidance Document reflects what is required to give effect to the Council's existing statutory responsibilities. It is not creating any new policy, nor looking to reinterpret the existing law. Therefore, in making the decision, it does not require the Council to undertake any specific consultation with the community. The opinion of Hon. Paul Heath KC supports this view. However, when making a decision, the Council must be aware of the views of significantly affected persons. Since the Cyclone there have been many community engagements, public meetings

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and feedback opportunities provided by those severely impacted by the flooding. The clear views provided to the Council include the desire to recover as quickly as possible, including getting land categorisations decisions made quickly, settling insurance issues promptly, clarifying residential property purchase decisions, and allowing affected people to get on and rebuild their homes and recover their lives as quickly as possible. These views have been reflected in the establishment of the Guidance Document, especially in terms of expediting processes as quickly as possible without compromising the requirements contained in the Building Act and Building Code, and ensuring a consistent methodology is applied. As noted in the body of the report, the Council has worked closely with other councils and it has also engaged with the Insurance industry, MBIE and the Council's insurers to ascertain their views.

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#### **Consultation – internal and/or external - *Whakawhiti Whakaaro-ā-roto / ā-waho***

As noted above no specific community engagement has been undertaken, however views of the community have shaped the Guidance Document. Internally, engineering teams especially related to managing flood and storm water have provided views on the critical issues.

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Risks have been discussed in the body of the report.

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#### **Rural Community Board – *Te Poari Tuawhenua-ā-Hapori***

The Rural Community Board have been briefed about the Guidance Document at a workshop on 29 August.

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Thursday, 7 September 2023

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Item 7

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

*Te Rārangi Take*

# Report to Council

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**Nā:**  
**From:** **Naomi Fergusson, Group Manager: Marketing & Communications**

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**Te Take:**  
**Subject:** **Update from Hawke's Bay Tourism**

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## **1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga***

- 1.1 This report provides an update from Hawke's Bay Tourism in the wake of Cyclone Gabrielle, supported by a presentation from Chief Executive Hamish Saxton. Mr Saxton will provide an update on the impact of the cyclone on the sector, the organisation's work to support tourism operators immediately post-cyclone, and their plans to encourage tourism in the coming season.
- 1.2 The tourism sector, which is the third-biggest earner for the Hawke's Bay economy at around \$374m per annum, has faced a challenging number of years due to COVID travel restrictions reducing visitation and the available hospitality workforce, which has relied on working holiday visa holders to meet staffing requirements.
- 1.3 Despite the drop in international visitors due to COVID border closures, Hawke's Bay Tourism's efforts to promote the region to domestic visitor markets helped to soften the impact by driving a steady increase in Hawke's Bay's share of the domestic tourism market (3.49% Jun 2019 to 3.64% Jun 2022).
- 1.4 Cyclone Gabrielle's devastating impact on February 14, 2023, occurred during the peak of the tourism season which was still recovering to pre-COVID levels. Figures from the Ministry of Business, Innovation and Employment show the region's market share was reduced by 11% due to the February cyclone and flooding.
- 1.5 Events are a key driver of visitation along with the region's world-class reputation for food and wine built on the accolades of a successful wine industry. Data compiled by Hawke's Bay Regional Council in its May 2023 Regional Water Assessment estimates the economic impact from cancelled events alone is \$30m, including Horse of the Year and the Napier Art Deco Festival. Recent industry estimates have extended this to \$48m from lost tourism activity.

- 1.6 While visitor numbers remained strong post-cyclone (Q4) based on airport and accommodation statistics, these were primarily business visitors supporting cyclone recovery, which had limited benefit to tourism operators.
- 1.7 Hawke's Bay Tourism has highlighted that the key challenge to a rebound in visitation post-cyclone is visitor perceptions, which still linger due to the ongoing media coverage of the land categorisation and buy-out process.
- 1.8 The organisation continues actively supporting the tourism sector after the cyclone, monitoring forward bookings and sector confidence through operator surveys. Surveys have shown sector confidence was low in the short term, but with greater confidence for later in the year as forward bookings and enquiries continue to flow in.
- 1.9 They are also working to address perceptions of the region through media famils, advertising and promotion to show the region is 'open for business' with most visitor attractions and destinations unaffected and ready to welcome domestic and international visitors.
- 1.10 The announcement of Hawke's Bay as the 14<sup>th</sup> Wine Capital of the World will offer the opportunity to attract international visitors to our region. The average wine tourist spends 27% more than others while on holiday in New Zealand, which HB Tourism strives to attract through this affiliation. This will benefit Hastings District due to the significant number of wine growers with a visitor offering (restaurant/cellar doors).
- 1.11 Council staff continue to explore opportunities to support Hawke's Bay Tourism's work through developing and leveraging upcoming events for visitor attraction, actively facilitating and supporting media famils, joint venture initiatives (when appropriate), shared resources and supporting activations under the regional marketing and communications plan for Great Wine Capitals.

## **2.0 Recommendations - Ngā Tūtohunga**

That Council receive the report titled Update from Hawke's Bay Tourism dated 7 September 2023.

### **Attachments:**

There are no attachments for this report.

Thursday, 7 September 2023

Item 8

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

*Te Rārangi Take*

# Report to Council

*Nā:*  
**From: John Payne, Regulatory Solutions Manager**

*Te Take:*  
**Subject: Animal Control Annual Report 2022/23**

## **1.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopototanga***

- 1.1 The purpose of this report is to update Council on the dog control statistics for the annual Dog Control Report for the year 1 July 2022 to 30 June 2023.
- 1.2 Section 10A of the Dog Control Act 1996 requires Council to adopt and publish an annual report on the administration of Council's Dog Control Policy and Practices.
- 1.3 This report contributes to the purpose of local government by primarily promoting regulatory performance and more specifically through Council's strategic objective of community safety.

## **2.0 Recommendations - *Ngā Tūtohunga***

That Council receive the report titled Animal Control Annual Report 2022/23 dated 7 September 2023.

## **3.0 Background – *Te Horopaki***

- 3.1 Annually Council adopts the animal control statistics Report. The report includes information relating to:
  - The number of registered dogs
  - The number and type of dog and dog owner classifications
  - The number of infringements
  - The number and nature of dog related complaints.

#### 4.0 Discussion – *Te Matapakitanga*

- 4.1 The complaint numbers have remained reasonably static, however there has been a significant decrease in reported dog attacks on people. The TVNZ Sunday News programme 25<sup>th</sup> June 2023 reported an issue around rising dog attacks in New Zealand. Hastings District Council have experienced a significant decrease, as shown in the following table. We attribute the favourable results in Hastings to our strategic mix of education versus enforcement.

**Table 1**

Year	Number of Attacks on People
2019/2020	67
2020/2021	61
2021/2022	58
2022/2023	48

- 4.2 There has been a small increase in the dog numbers population. This could change as a result of the increased costs of living and the financial impacts of cyclone Gabrielle.
- 4.3 Social media continues to cause issues with roaming dogs being reunited with their owners without any sanction from Council.

#### 5.0 Options – *Ngā Kōwhiringa*

- 5.1 There are no options with regard to this report as it is information only.

#### 6.0 Next steps – *Te Anga Whakamua*

- 6.1 Once this report is received it will be publicly notified in the newspaper and Council website.

#### Attachments:

1 [Download](#) 2022 2023 Annual Report

REG-1-14-23-234

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### Summary of Considerations - *He Whakarāpopoto Whakaarohanga*

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#### Fit with purpose of Local Government - *E noho hāngai pū ai ki te Rangatōpū-ā-Rohe*

Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

#### Link to the Council's Community Outcomes – *Ngā Hononga ki Ngā Putanga ā-Hapori*

This proposal promotes regulatory compliance and wellbeing of communities in the present and for the future by reducing public nuisance and threats to public health and safety.

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#### Māori Impact Statement - *Te Tauākī Kaupapa Māori*

N/A

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**Sustainability - *Te Toitūtanga***

N/A

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**Financial considerations - *Ngā Whakaarohanga Ahumoni***

Nil

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**Significance and Engagement - *Te Hiranga me te Tūhonotanga***

This report has been assessed and does not trigger the threshold of Council's Significance and Engagement Policy.

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**Consultation – internal and/or external - *Whakawhiti Whakaaro-ā-roto / ā-waho***

Not required as the report is information only.

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10A Report 2022/2023

**Report on the Administration of**  
**Hastings District Council's**  
**Policy and Practices in Relation to the**  
**Control of Dogs for the year**  
**1 July 2022 to 30 June 2023**

Pursuant to:  
(Section 10A of the Dog Control Act 1996)



## 1. Background

This policy is made under section 10 of the Dog Control Act 1996.

Council adopted the "Dog Control" Policy 6 August 2009. The policy underwent a review and public consultation in conjunction with the Dog Control Bylaw, August 2016 and again August 2021.

The purpose of the policy is to provide a framework for the care and control of dogs throughout Hastings district with regard to:

- a) *"the need to minimise danger, distress and nuisance to the community generally; and*
- b) *the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and*
- c) *the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and*
- d) *the exercise and recreational needs of dogs and their owners"*

### **The anticipated outcomes of the policy are:**

- 1. Minimising the potential for danger, distress and nuisance to the community from dogs;
- 2. Promoting responsible dog ownership;
- 3. Promoting effective dog control, particularly in public places where children or families are present;
- 4. Minimising the risk of intimidation and attacks by dogs;
- 5. Promoting positive interaction between dog owners and members of the community;
- 6. Providing for the exercise and recreational needs of dogs and their owners.

Section 10A of the Dog Control Act 1996 requires territorial authorities to publicly report each financial year on the administration of their dog control policy and practices.

## 2. Dog Prohibited Areas

Dogs are prohibited from the following public areas:

1. Hastings District Council Civic Building
2. Public libraries
3. Swimming pools and paddling pools
4. Children's playing areas
5. Sports fields. NB: Sports field means – *any part of a public place which is laid or set aside for playing organised games or sports and includes an area used for practising a sport or game but, for the avoidance of doubt, does not include an area beside a sports field used by spectators.*
6. Rangaiika Beach at Ocean Beach / Cape Kidnappers.

Prohibited areas are established to prevent conflict with other users, or areas with sensitive ecological value. Very few complaints are received regarding non-compliance as the majority of dog owners are responsible people and comply with the requirements.

## 3 Dog Exercise and Leash Control

There are currently areas where dogs are required to be leashed and areas where they may free run off-leash (under control of the owner).

Council has the philosophy that dogs which have easy access to open spaces and are exercised regularly are less likely to display anti-social behaviour such as aggression and excessive barking. To achieve this, there is a limited number of dog prohibited areas and leash control areas other than areas of high public usage or biodiversity significance.

## 4 Dog Aggression

A focus is on encouraging dog owners to understand the true nature of dogs, to recognise the potential that all dogs have and to comply with their obligations under the Dog Control legislation, in particular Section 5(f) –

*to take all reasonable steps to ensure that the dog does not injure, endanger, intimidate, or otherwise cause distress to any person.*

All complaints of aggression reported to Council are given priority and are thoroughly investigated. Action ranges from written warning, infringements, menacing dog classification, dangerous dog classification or prosecution.

## 5 Dog Control Statistics

Year	Registered	Impound	Claimed
22/23	13,415	781	78.87%
21/22	13,394	802	79.30%

NB: Impounded does not include dogs relinquished (51)

The increase in the number of dogs registered is simply a result of minor growth (0.3%).

The claim rate is a reflection of the number of dogs suitable for adoption.

Complaints	21/22	22/23
Person Attacked	58	48
Person Rushed	116	142
Animal Attacked	97	118
Roaming	1,319	1,365
Barking	380	478
Fouling	1	6
Stock Roaming	113	123
Other	154	164
Total	2,238	2,444

Complaint numbers are reasonably static.

Generally, when barking dog complaints increase, this is an indication dogs being restrained.

**Other** complaints are made up of several miscellaneous topics like unleashed dogs in leash control areas, reported unregistered dogs, dangerous dogs, unmuzzled etc.

Owner Classification	21/22	22/23
Probationary owners s21	0	0
Disqualified owners s25	18	19
Menacing s33A 1b(i) – (Behaviour)	30	19
Menacing s33A 1b(ii) – (Breed Characteristics)	0	0
Menacing s33C – (Government listed breeds)	197	149
Dangerous s31 (1)(a) – (Conviction under s57)	1	0
Dangerous s31 (1)(b) – (Sworn evidence)	10	5
Dangerous s31 (1)(c) – (Owner admits in writing)	22	27

	Infringements	Prosecutions
22/23	629	4
21/22	628	14

The four prosecutions involved two dogs and two people. Both prosecutions were successful, with fines, reparation and legal costs being awarded.

Offence	Attack Dog	Attack Person	Failing to Control
Number	1	2	1

### Registration categories

Category	21/22	22/23
Urban	7,128	7,312
Rural	6,362	6,342
Other	14	18
Total	13,504	13,672

## **6       Fees**

Dog registration fees are set by Council resolution.

Dog registration fees, fines and impound fees are used to fund dog control.

A reduced dog registration fee is offered to those who register their dogs before 1 August and a reduced fee is offered to those owners on the Selected Owner Scheme.

27% of the dog control activity is funded from the general fund in recognition of the public good benefit.

## **7       Education**

Education is offered to all dog owners by way of one-on-one consultation and a series of educational brochures are available.

Dog bite prevention and responsible dog ownership addresses are undertaken free of charge to schools, kindergartens and any other community groups. This training is also offered internally to HDC staff.

A copy of Council's dog control policy is available on our website together with other educational material.

Thursday, 7 September 2023

Item 9

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

*Te Rārangi Take*

# Report to Council

*Nā:*  
**From: Mala Bishop, Licensing Inspector**

*Te Take:*  
**Subject: Application for a Temporary Alcohol Ban**

## 1.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is to obtain a decision from the Council on putting in place a temporary alcohol ban in relation to the Spring Racing Carnival on 14 October 2023 between 9.00am and 11.59pm.
- 1.2 This issue arises from a request from the New Zealand Police that a temporary alcohol ban be created. The request is supported by the Hawke's Bay Racing Centre.

## 2.0 Recommendations - *Ngā Tūtohunga*

- A) That Council receive the report titled Application for a Temporary Alcohol Ban dated 7 September 2023.
- B) In accordance with clause 4.3.2 of the Hastings District Council Consolidated Bylaw, Chapter 4 Alcohol Bans, the Council declares that alcohol may not be consumed, brought into or possessed in the following areas including streets, roads and footpaths (as shown in the map titled "Spring Carnival Alcohol Ban Area 2023" in Attachment 1 of this report) on 14 October 2021, between 9.00am and 11.59pm:
  - The entire lengths of Knight Street and Prospect Road.
  - Market Street South from Southampton Street to the Racecourse entrance.
  - King Street South from Southampton Street to Prospect Road.
  - Nelson Street South from Southampton Street to Knight Street.
  - Southland Road between Southampton Street and Gordon Road
  - Henry Street between Charles Street and Southland Road

### 3.0 Background – Te Horopaki

- 3.1 An application has been received from the New Zealand Police for a temporary alcohol ban in relation the Spring Racing Carnival on 14 October 2023. (**Attachment 1**).
- 3.2 The following hours, and area are requested for the ban:
- Between the hours of 9.00am and 11.59pm
- Area
- The entire lengths of Knight Street and Prospect Road.
  - Market Street South from Southampton Street to the Racecourse entrance.
  - King Street South from Southampton Street to Prospect Road.
  - Nelson Street South from Southampton Street to Knight Street.
  - Southland Road between Southampton Street and Gordon Road.
  - Henry Street between Charles Street and Southland Road
- 3.3 The request arises from Police concerns about preloading (i.e. the consumption of alcohol prior to entering the venue) and the general consumption of alcohol by some patrons in the vicinity of the racecourse, leading to alcohol related disorder issues.
- 3.4 The purpose of the request is to help minimise alcohol related disorder issues.
- 3.5 The ban would only apply to public places i.e. the road and footpath (up to the boundary of private properties) within the proposed alcohol ban area.

### 4.0 Current Situation

- 4.1 Normally this event would be covered by a temporary alcohol ban under schedule E of Chapter 4 of the Hastings District Council Bylaws. This schedule prohibits the consumption, bringing into, or possession of alcohol within the ban area on the first Saturday in October between 7.00am and 11.00pm. However, this year just like last year, the event is occurring on the third Saturday in October and is not covered under the schedule.

### 5.0 Discussion – Te Matapakitanga

- 5.1 The Spring Racing Carnival is a large annual one-day event which typically attracts over 5000 patrons.
- 5.2 The event normally operates under a special licence. This allows for additional bar areas to be set up within the racecourse.
- 5.3 An alcohol management plan has been submitted as part of this year's special licence application. The plan sets out a number of measures designed to help ensure a safe environment exists for patrons at the racecourse. Actions outlined in the management plan include:
- Bag searches and intoxication checks at the gate.
  - Security staff to help prevent patrons bringing alcohol into the venue.
  - I/D checkpoints at the entrances points to each licensed area.
  - Limits on the amounts of alcoholic drinks that can be purchased at any one time.
- 5.4 The above measures together with the proposed temporary alcohol ban are aimed at reducing alcohol disorder issues associated with the event.
- 5.5 The application for the temporary alcohol ban is supported by the Hawke's Bay Racing Centre.



## 6.0 Options – Ngā Kōwhiringa

### Option One - Recommended Option - Te Kōwhiringa Tuatahi – Te Kōwhiringa Tūtohunga

- 6.1 Adopt the Police request for a temporary alcohol ban either wholly (i.e. agree to all the roads and times applied for) or in part (i.e. agree to some of the roads and/ or times applied for).

#### Advantages

- The locality of the proposed ban is within the environs of the racecourse. It abuts the existing Hastings permanent alcohol ban zone and is an area where patrons can park and easily walk to the event from. The proposed ban will provide an additional tool to assist Police in dealing with alcohol related disorder issues.

#### Disadvantages

- The Council may feel that the hours and/ or roads applied for are too extensive. Should the Council decide this, it will also need to consider what hours and/ or roads are appropriate should it decide to partially adopt the Police request.

### Option Two – Status Quo - Te Kōwhiringa Tuarua – Te Āhuetanga o nāiane

#### Advantages

- There would be a cost saving to Council of about \$500 associated with advertising the ban.

#### Disadvantages

- The Police have previously advised that a number of arrests made at earlier Spring Carnival events were attributed to people preloading in the vicinity of the racecourse and those areas not covered by the existing Hastings alcohol ban. Denying the request may result in an increase in issues associated with preloading.

## 7.0 Next steps – Te Anga Whakamua

- 7.1 Should the Council grant the request for the temporary alcohol ban the following actions will be taken:

- The Council resolution will be publicly notified
- Temporary signage will be installed in the area covered by the alcohol ban.

### Attachments:

- 1↓ Regulatory Operations - Liquor Licensing - Liquor REG-14-2-23-220  
Ban - Livamol Classic Alcohol Ban request 2023

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## Summary of Considerations - He Whakarāpopoto Whakaarohanga

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### Fit with purpose of Local Government - E noho hāngai pū ai ki te Rangatōpū-ā-Rohe

The Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

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Link to the Council's Community Outcomes – Ngā Hononga ki Ngā Putanga ā-Hapori

Reducing public nuisance and threats to public health and safety.

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**Māori Impact Statement - Te Tauākī Kaupapa Māori**

N/A

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**Sustainability - Te Toitūtanga**

N/A

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**Financial considerations - Ngā Whakaarohanga Ahumoni**

It is estimated that the cost of implementation for the recommendation is about \$500. This will be funded from existing budgets.

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**Significance and Engagement - Te Hiranga me te Tūhonotanga**

This proposal is not of significance that would trigger Council's thresholds under its Significance & Engagement Policy.

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**Consultation – internal and/or external - Whakawhiti Whakaaro-ā-roto / ā-waho**

The proposed alcohol ban area is normally covered by the Hastings District Council Consolidated Bylaw. The bylaw went through an extensive public consultation prior to being adopted.

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**Risks**

Opportunity: To help minimise alcohol related disorder issues.

REWARD – <i>Te Utu</i>	RISK – <i>Te Tūraru</i>
A reduction of preloading and the general consumption of alcohol by some patrons in the vicinity of the racecourse.	Care must be taken when exercising the power in 4.3.2 of the bylaw to by resolution impose a temporary alcohol ban, as the standard bylaw making process involves carrying out public consultation. However, as the proposed alcohol ban area is normally covered by the Hastings District Council Consolidated Bylaw (that went through an extensive public consultation prior to being adopted) and is of limited duration, this risk should be mitigated.

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**Rural Community Board – Te Poari Tuawhenua-ā-Hapori**

N/A

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**Request for Temporary Alcohol Ban: Livamol Classic – Hawkes Bay Racecourse 14<sup>th</sup> October 2023**

Police would like to apply for a temporary liquor (alcohol) ban in the streets surrounding the Hawkes Bay Racecourse for the Livamol Classic race day being held at the Hawkes Bay Racing Centre on 14 October 2023.

- The following hours, and area are requested for the ban:
  - Between the hours of 9am and 11.59pm on Saturday 14th of October 2023.
- Area (See attached map)
  - The entire lengths of Knight Street and Prospect Road.
  - Market Street South from Southampton Street to the Racecourse entrance.
  - King Street South from Southampton Street to Prospect Road.
  - Nelson Street South from Southampton Street to Knight Street.
  - Southland Road between Southampton Street and Gordon Road.
  - Henry Street between Charles Street and Southland Road
- The area requested is the same area as previously implemented for Livamol Classic events which in turn has repeatedly proved to be beneficial in reducing disorder and harm.
- Police have concerns based on experience of witnessing preloading (the consumption of alcohol prior to entering the venue) and the general consumption of alcohol by some patrons in the vicinity of the racecourse in previous events, leading to alcohol related disorder issues.
- The purpose of the request is to help minimise alcohol related disorder issues that lead to harm and breaches of the peace in the residential area surrounding the venue.
- Alcohol bans have been used for previous Spring Carnival events at this location and at many other events around the country. They have been very successful in reducing disorder and breaches of the peace by providing police with an additional tool for helping to prevent and deal with issues related to these matters.
- Having a ban in place affords police the ability to take a preventative approach and set the tone for the event going forward.

For your consideration please.

Regards,

**Raymond (Ray) WYLIE**

Sergeant G919

Alcohol Harm Prevention and Rural Supervisor

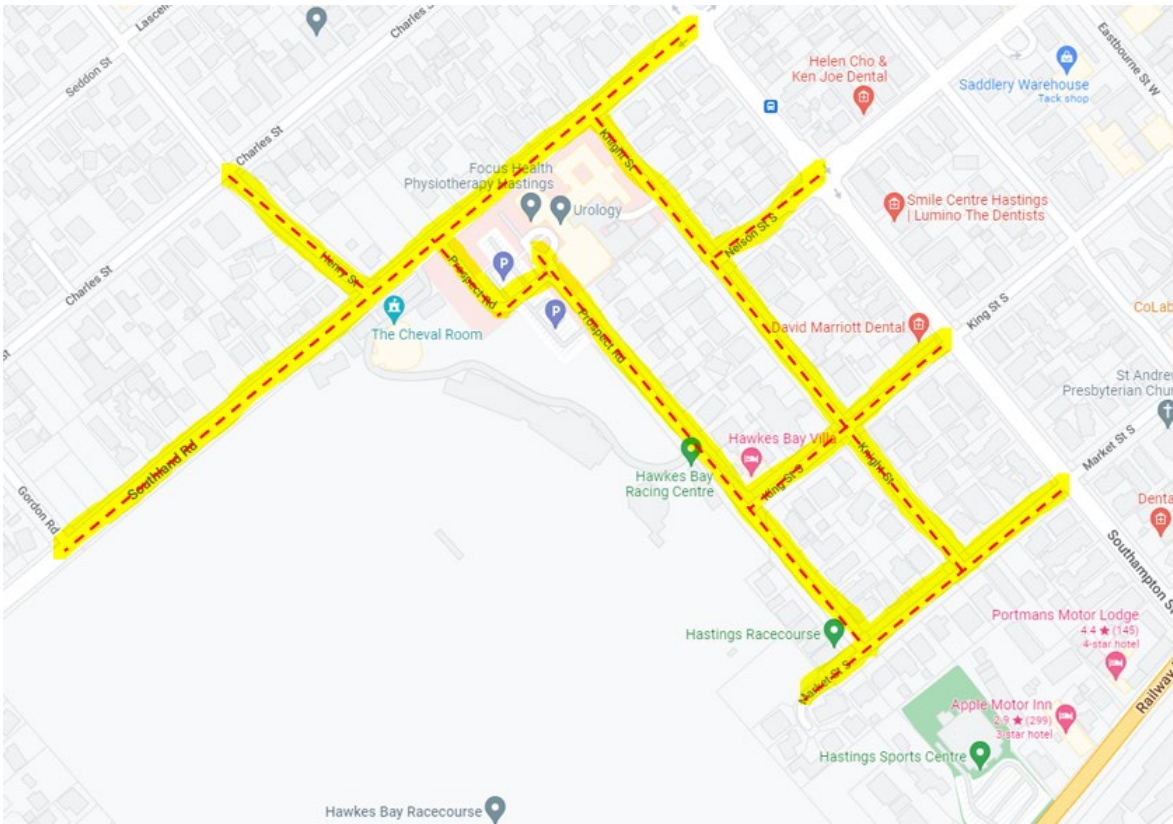
Hawkes Bay

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Alcohol Ban Area sought – 14<sup>th</sup> October 2023



Sergeant Ray Wylie

Thursday, 7 September 2023

Item 10

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council: Council Meeting**

## *Te Rārangi Take*

# Report to Council

**Nā:**  
**From:** Louise Stettner, Manager, Democracy & Governance Services

**Te Take:** Appointment to the Heretaunga Takoto Noa Māori Standing  
**Subject:** Committee

### 1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is for Council to appoint a Mana Whenua member to the Heretaunga Takoto Noa Māori Standing Committee (HTNMSC) in accordance with the nomination provided by Maungaharuru Tangitū Trust.
- 1.2 Membership of the HTNMSC comprises of the Mayor, 6 Councillors including the 3 Takitimu Māori Ward Councillors and up to 8 members from Mana Whenua to be appointed by the Council, taking into account the “*post settlement environment*” and Mataawaka.
- 1.3 On 2 March 2023, Council appointed 6 Mana Whenua members to the HTNMSC who had been nominated by the following Māori entities: Mana Ahuriri Trust; Ngāti Kahungunu Iwi Incorporated; Ngāti Pāhauwera Development Trust; Hineuru Iwi Trust; Te Taiwhenua o Heretaunga Trust and Heretaunga Tamatea Settlement Trust. At this time, nominees for Maungaharuru Tangitū Trust and Te Whanganui o Te Whanganui- ā- Orotū had not been received.
- 1.4 The current make-up of the mana whenua members on the HTNMSC are as follows:

Organisation	Nominees
Mana Ahuriri Trust	Mr Tipene Cottrell
Ngāti Kahungunu Iwi Incorporated	Mr Ngaio Tuika
Ngāti Pāhauwera Development Trust	Mr Tom Keefe
Hineuru Iwi Trust	Ms Elizabeth Waiwiri-Hunt
Te Taiwhenua o Heretaunga Trust	Mr Mike Paku

Te Taiwhenua o Te Whanganui- ā- Orotū	Awaiting nominee
Heretaunga Tamatea Settlement Trust	Dr Darryn Russell
Maungaharuru-Tangitū Trust	Awaiting nominee

- 1.5 On 18 August 2023, the Chief Executive of Maungaharuru Tangitū Trust advised officers that their trust had agreed to nominate Charmaine Butler to the HTNMSC. Ms Butler is a trustee of Maungaharuru Tangitū Trust.
- 1.6 This report recommends that Council appoint Charmaine Butler as a mana whenua member of the HTNMSC in accordance with the nomination received from Maungaharuru Tangitū. Following the appointment being made updates will be made to the list of Appointments to Committees, Joint Committee and External Organisations for the 2022-2025 triennium.

## 2.0 Recommendations - Ngā Tūtohunga

- A) That Council receive the report titled Appointment to the Heretaunga Takoto Noa Māori Standing Committee dated 7 September 2023.
- B) That Council appoint Ms Charmaine Butler as a Mana Whenua member of the Heretaunga Takoto Noa Māori Standing Committee.

### Attachments:

There are no attachments for this report.