

Tuesday, 20 February 2024

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

Kaupapataka

Agenda

Te Rā Hui:
Meeting date: **Tuesday, 20 February 2024**

Te Wā:
Time: **10.00am**

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

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

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

Tuesday, 20 February 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council

Council Meeting

Kaupapataka

Agenda

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, Wendy Schollum and Kevin Watkins + 1 Vacancy

Tokamatua:

Quorum:

8 members

Apiha Matua

Officer Responsible:

Chief Executive – Nigel Bickle

*Te Rōpū Manapori me te
Kāwanatanga*

Democracy and

Governance Services:

Louise Stettner (Extn 5543)

Te Rārangi Take

Order of Business

1.0 Opening Prayer – *Karakia Whakatūwheratanga*

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

An apology from Councillor Lawson has been received.

Leave of Absence had previously been granted to Councillor Apatu

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.

4.0 Confirmation of Minutes – *Te Whakamana i Ngā Miniti*

There are no Minutes to confirm.

5.0 Amendment to Category 3 Buy-Out Policy

7

6.0 Leave of Absence - Delegation to the Mayor

29

7.0 Minor Items – *Ngā Take Iti*

8.0 Urgent Items – *Ngā Take Whakahihi*

9.0 Recommendation to Exclude the Public from Item 10 **31**

10.0 Commercial Transaction

Tuesday, 20 February 2024

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

Item 5

Te Rārangi Take

Report to Council

Nā:
From: **Craig Cameron, Group Manager: Strategy and Development**

Te Take:
Subject: **Amendment to Category 3 Buy-Out Policy**

1.0 Executive Summary – Te Kaupapa Me Te Whakarāpopototanga

- 1.1 At the Council Meeting held on Thursday 1 February 2024, Council received Agenda Item Five, which was an Officers report titled ‘Amendment to Category 3 Buy-Out Policy’. (This Report is appended as **Attachment 1**)
- 1.2 The purpose of the Report (in 1.1) was to consider amending the ‘Category 3 Buy Out Policy’ (the Policy) to recover a contribution from property owners, in certain cases, towards the cost of demolishing a dwelling (if relocation of that dwelling is not an option), and to enable minor changes to allow for a more efficient offer process. It is appropriate that Officers table this situation before Council, to seek a Council decision and direction.
- 1.3 The Recommendations (as detailed in Section Two of the February 1st report (in 1.1)) were moved by Councillor Schollum and seconded by Councillor Watkins.
- 1.4 The Meeting Chair (Mayor Hazlehurst) announced a break in the Council Meeting at 2.18pm, to allow Council Officers time to consider suitable wording for a foreshadowed amendment to the Substantive Motion.
- 1.5 The Meeting Chair reconvened the Meeting at 2.39pm.
- 1.6 The Meeting Chair spoke to the Meeting and advised that new information had been received by the Meeting which needed to be fully understood and considered by Council.
- 1.7 The Meeting Chair moved a procedural motion, in accordance with 25.2 (d) of the Hastings District Council Standing Orders (adopted by Council on 8 December 2022) ‘That the item of business being discussed should lie on the table and not be further discussed at this meeting’. This procedural motion was seconded by Councillor Nixon and was passed by the majority of Councillors present.
- 1.8 The Meeting Chair has requested the Chief Executive to provide advice for Council on the role of Council Governance in setting policy principles and objectives, and the role of the Council Chief Executive in implementing Council’s decisions and directions.

- 1.9 The Chief Executive's advice is discussed in the body of this Report and reflected in the Recommendations (alternatives) in Section Two, which Council may wish to consider.
- 1.10 Property Owners affected by the Policy (approximately 165) were sent an Email from the Mayor and Councillors asking for feedback to provide further information for the Council decision. (This Email is appended as **Attachment 2**)
- 1.11 23 items of feedback were received by Council. All items of feedback were opposed to amending the Policy per Section 1.2, for various reasons. The Feedback has been summarised in a Matrix. (This Matrix is appended as **Attachment 3**).

2.0 Recommendations - *Ngā Tūtohunga*

Procedural (needs to be addressed at the commencement of the meeting)

- A) That Council receive the report titled Amendment to Category 3 Buy-Out Policy dated 20 February 2024.
- B) That Council uplift Agenda Item 5 from the Council Meeting held on Thursday 1 February 2024 which was 'left to lie on the table and not further discussed at the meeting' per section 25.2 (d) of the Hastings District Council Standing Orders (adopted by Council on 8 December 2022).

Substituted Motion or Amendment (for Recommendation B of the Substantive Motion on the Table)

- C) That Council approve an amendment to the 'Category 3 Buyout Policy' (Policy) which allows for a requirement for eligible property owners under the Policy to contribute to demolition costs when their insurance proceeds exceed the market valuation of residential improvements or when the property is uninsured.
- Contributions will be assessed at \$125 per square metre of the floor area of the Dwelling(s) and will be limited to a maximum of 10% of the Council offer or \$50,000, whichever is lower.
- D) That Council directs the Chief Executive to implement the decision in Recommendation C and make any appropriate and necessary changes to the Policy.
- E) That Council notes its reasons for making this decision are to ensure the prudent stewardship and efficient and effective use of its resources in the interests of Hastings District, including planning effectively for the future management of its assets and reasonably foreseeable needs of future generations.

New Motion (To provide direction)

- F) That Council direct the Chief Executive to administer the Policy in its current state regards contributions for demolition, and not seek a contribution to demolition costs from eligible property owners under the Policy when their insurance proceeds exceed the market valuation of residential improvements or when the property is uninsured.

3.0 Background – *Te Horopaki*

- 3.1 The Background for this Report is discussed in the Background of the Council Report appended as **Attachment 1**.

4.0 Discussion – *Te Matapakitanga*

4.1 Role of Council Governance in Setting Policy Principles and Objectives

4.2 Section 10 of The Local Government Act 2002 (LGA) defines the Purpose of Local Government is:

- to enable democratic local decision-making and action by, and on behalf of, communities; and
- to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

4.3 Council has a general power of competence to carry on or undertake any activity or business, do any act, or enter any transaction (section 12 of The Local Government Act 2002 (LGA)). Under subsection 4, this general power of competence must be exercised wholly or principally for the benefit of Hastings District.

4.4 The LGA also places obligations on Council to act in ways that are financially prudent. Section 101(1) of the LGA provides 'Council must manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the community'.

4.5 Council must also act in accordance with the principles in section 14 of the LGA, some of which relate to financial prudence and are relevant to this report:

- Council should give effect to its identified priorities and desired outcomes in an efficient and effective manner.
- Council should undertake any commercial transactions in accordance with sound business practices.
- Council should ensure prudent stewardship and efficient and effective use of its resources in the interests of Hastings District, including planning effectively for the future management of its assets.

4.6 Council in taking a sustainable development approach, should take into account;

- The social, economic, and cultural well-being of people and communities.
- The need to maintain and enhance the quality of the environment.
- The reasonably foreseeable needs of future generations.

4.7 Sections 4.7 - 4.16 'Financial Impacts' of the February 1st Council report appended as **Attachment 1**, discuss matters of fairness and financial consequences for Council.

4.8 Role of the Council Chief Executive in Implementing Council's Decisions and Directions.

4.9 Section 39a of the LGA requires Council to ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community.

4.10 Section 39e of the LGA requires Council to ensure that the relationship between elected members and management is effective and understood.

4.11 Section 42 (1)(2) of the LGA details the responsibilities of the Chief Executive which include;

- implementing the decisions of Council.
- providing advice to members of Council.
- ensuring the effective and efficient management of the activities of Council.

4.12 **The Category 3 Buyout Policy - Council Decision**

4.13 The Objectives and Principles of the Policy are detailed in Section 2 of the Policy, which is appended to the Council Report appended as Attachment 1.

4.14 Objective (b)(i) is 'Long term positive outcomes for the whole community and the environment.

Objective (b) (iii) is 'Affordability for ratepayers.

4.15 The key issue for Council to decide on, is stipulated in the Email from the Mayor and Councillors to affected property owners.

'The nub of the matter is if homeowners have received insurance payouts that are above the assessed market value of the property (as at February 13, 2023) and are receiving a Council offer for land or a relocation grant, then should they contribute part of the cost of demolition? Alternatively, this cost will be funded by ratepayers'.

4.16 **Meeting Procedures (per Council Standing Orders adopted by Council on 8 December 2022)**

4.17 The Chief Executive has prepared Recommendations in Section 2, which reflect the role of Council in setting Policy Principles and Objectives, and the role of the Chief Executive in implementing Council's decisions and directions. Council may wish to use these recommendations (or not).

4.18 **Recommendations A & B** are procedural and need to be resolved at the start of the Meeting.

4.19 **Recommendations C-E** may be moved as a **Substituted Motion** for Recommendation B of the Substantive Motion on the table. (Standing Order 23.4) Where a motion is subject to an amendment, the Meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. All members may speak to the substituted motion.

Recommendations C-E may be moved as an **Amendment**. (Standing Order 23.5) An amendment must be relevant to the motion under discussion and cannot be a direct negative to the motion on the table. Council deals with the Amendment first. If the Amendment is carried it becomes the new substantive motion which can be put to the vote.

4.20 **Recommendation F. Where a Motion is Lost** (Standing Order 23.9). In a situation where a motion that recommends a course of action is lost, a new motion, with the consent of the Chair may be proposed to provide direction.

4.21 In deciding on the issue discussed in 4.15, it is recommended that Councillors apply their responsibilities (discussed in 4.1 - 4.7) against the objectives and principles of The Policy which is adopted by Council.

4.22 The Chief Executive will implement the Council decision.

5.0 Options – Ngā Kōwhiringa

5.1 The Council Options are discussed in Section Five of the February 1st Council report appended as **Attachment 1**.

Attachments:

- 1↓ Amendment to Category 3 Buy-Out Policy Item 5 CG-17-1-00729
Council Meeting 1/2/24 - Attachment 1

- | | | | |
|---|---|--|---------------|
| 2 | ↓ | Cyclone Gabrielle Category 3 Voluntary Buy-out Policy – further information before decision - Attachment 2 | CG-17-1-00732 |
| 3 | ↓ | Demolition Policy Change - Key Themes from Engagement - Attachment 3 | CG-17-1-00733 |



Thursday, 1 February 2024

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

Te Rārangi Take

Report to Council

Nā: Gus Charteris, Manager - Recovery & Special Projects
From: David Elliott, Operations Manager - Category 3 Voluntary Buyout Office

Te Take: Amendment to Category 3 Buy-Out Policy
Subject:

1.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopototanga*

The purpose of this report is to consider amending the Category 3 Buy-out Policy (the Policy) to enable the Council to recover a contribution from property owners, in certain cases, towards the cost of demolishing a dwelling (if relocation is not an option), and to enable minor changes to allow for a more efficient offer process.

- 1.2 The cost of demolishing dwellings and other residential improvements falls on the Council, as the Government decided not to contribute to these costs as part of the Cost Share Agreement. In total, demolition costs are likely to exceed \$6 million.
- 1.3 In the development of the Policy the issue of whether to seek a contribution from property owners towards demolition costs became a vexed issue because of the wide range of circumstances that applied and matters of equity, and it was decided, at that time, that no specific contribution would be sought.
- 1.4 Since the Policy's implementation it has come to light that, in some cases, the insurance proceeds a property owner has received have far exceeded the market valuation of the residential improvements, sometimes nearly double. In addition to this, these property owners are also eligible to receive an offer from the Council for the market value for their land (for properties under 2ha), or a Relocation Grant (for properties over 2 ha) which compensates property owners for the residential-use rights associated with the property.
- 1.5 This raises a question as to whether these property owners, having been well compensated, should make some contribution to the demolition of the dwelling(s). Currently, where property owners are fully insured, the insurance proceeds are likely to include an allowance for demolition. Under the current Policy, the property owner retains that allowance, yet the cost for demolition falls on the Council and ratepayers. This is considered to be inconsistent with the Policy's objective of affordability to ratepayers and with the principle of acting in good faith as between all parties, including those funding offers made under the Policy.

- 1.6 There are two situations where the Voluntary Buy-out Office (VBO) believe it would be fair and equitable for the Council to seek a contribution from property owners, being:
- Where a property owner's insurance proceeds exceed the market valuation of the residential improvements. It seems fair that since property owners are likely being compensated for the cost of demolition (which they will not incur the costs for) that some of this benefit should pass to the Council. This would be achieved by seeking a contribution from those property owners to demolition costs, and thereby reducing the Council's offer by that amount.
 - Where property owners are uninsured. In the interests of equity between property owners, the Council's offer should be reduced by a contribution towards demolition. This would be consistent with the approach taken under the Policy to deduct an amount that would have been recoverable from EQC if the property had been insured. This approach was well-considered in the policy design process and officers believe this would still be consistent with the intent of the Policy to provide pathways for people living on Category 3 land, enabling them to move to areas that have lower risk of flooding associated with them i.e. it would still allow uninsured property owners with enough money to resettle elsewhere.
- 1.7 Because of the widely varying circumstances that exist it is proposed that a contribution is sought rather than the amount of the insurance proceeds received relating to demolition (which aren't always clearly identifiable), or by way of seeking quotes for demolition. It is proposed that the contribution is set based on square metre rate of the dwelling (including attached garages). That will probably see most contributions in the order of \$20,000-\$30,000 per property depending on the size of the dwelling.
- 1.8 It is estimated that approximately 80-90 properties will be impacted by an Amended Policy, this could see Council's costs reduced by \$1,800,000 – \$2,000,000. This would help to reduce the financial burden on the Council and ratepayers. Affordability to ratepayers is one of the Policy's objectives. Through the policy design process it was estimated that around 10-12 properties could be uninsured. Revised VBO estimates suggest the number of uninsured properties at around 6.
- 1.9 Should the amendment to the Policy be adopted it would be effective immediately from date of adoption and would apply to all offers made after 1 February 2024 (for Hastings District Council), with no retrospective application. All affected property owners will be advised of the amendment and the amended Policy will be circulated.
- 1.10 The current Policy applies to Hastings District Council (HDC) and Napier City Council (NCC). It is recommended that both Councils adopt the Amended Policy. NCC will consider the recommendation at its next Council meeting in March 2024 (at time of writing the exact date was to be confirmed). The VBO will continue to progress NCC offers over this period but would flag the demolition contribution remains subject to the policy change being adopted by NCC.
- 1.11 Two other minor policy changes are also proposed for consideration at this time:
- 1) A change to better support the Council offer process. Once the valuation part of the process is complete an offer letter is constructed that includes - the outcome of the valuation/s; any considerations worth noting from the initial meeting with property owners; and the calculated offer options that are available to the property owner. This letter, rather than a full sale and purchase agreement (as noted in the Policy), is presented to the owners at this point and we are recommending that this mark the commencement of the 3-month period in which property owners can consider the offer options. This minor policy change would facilitate a more efficient offer process.
 - 2) A change to the language on GST. This would provide flexibility for Council to consider whether a specific offer should be made plus GST, if any, in very specific situations, while considering the policy objective of affordability for ratepayers.

Tuesday, 20 February 2024

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

Item 6

Te Rārangi Take

Report to Council

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

Te Take:
Subject: **Leave of Absence - Delegation to the Mayor**

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

- 1.1 The purpose of this report is for Council to formally delegate the power to grant a leave of absence to the mayor.
- 1.2 Hastings District Council Standing Order 13.3 outlines processes relating to Leave of Absence as follows:
- 1.3 *'The council may grant a member leave of absence following an application from an elected member. The council may delegate the power to grant a leave of absence to the mayor in order to protect members' privacy and the Council may approve an application from the mayor. The mayor will advise all members of the council whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.'*
- 1.4 The usual process for leave of absence is that elected members seek a Leave of Absence from the Council during a duly constituted council meeting. However, there are circumstances where seeking a Leave of Absence from the Council may not be practicable or appropriate for a member. For e.g., in instances where there is a need for urgent leave to be considered and it cannot wait until the next council meeting and there may be instances where seeking a leave of absence from the mayor is appropriate to protect the members' privacy.

2.0 Recommendations - *Ngā Tūtohunga*

- A) That the Council receive the report titled Leave of Absence - Delegation to the Mayor dated 20 February 2024.
- B) That the Council delegate the power to grant a leave of absence to the mayor in accordance with Hastings District Council Standing Order 13.3. This delegation will remain in effect until September 2025.

Attachments:

There are no attachments for this report.

HASTINGS DISTRICT COUNCIL

COUNCIL MEETING

TUESDAY, 20 FEBRUARY 2024

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 Commercial Transaction

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 Commercial Transaction	<p>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.</p> <p>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). Commercial Negotiations.</p>	<p>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.</p>

Item ERROR! REFERENCE SOURCE NOT FOUND.