

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

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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.

2.0 Recommendations - Ngā Tūtohunga

- A) That Council receive the report titled Amendment to Category 3 Buy-Out Policy dated 1 February 2024.
- B) That Council resolves to amend the Category 3 Buy-out Policy and inserts replacement clauses for Clauses 4.4 (b), 4.4 (c) (ii), 4.5 (d) and 4.5 (e) (ii), and adds a new definition of Demolition Contribution, as follows (amendments in bold italics):

Clause 4.4(b)

Where the property is not insured, payment for the market value of the Residential Property as at 13 February 2023, less a deduction equivalent to what would otherwise have been payable under the Earthquake Commission Act 1993 for damage to the land had the property been insured, **and less a Demolition Contribution.**

Clause 4.4 (c) (ii)

To retain any Insurance Proceeds related to the Dwelling, in which case payment shall be made for the market value of the land as at 13 February 2023, less

- o any payment under the Earthquake Commission Act 1993 for damage to the land that have not been spent, in good faith, on repairs to the land, **and**
- o **a Demolition Contribution.**

Clause 4.5 (d)

Where the property is not insured, payment under clause 4.5(a)(i) is for the market value of the Dwelling and Residential Improvements as at 13 February 2023, **less a Demolition Contribution.**

Clause 4.5 (e) (ii)

To retain any Insurance Proceeds related to the Dwelling and Residential Improvements, in which case the Owner will be eligible for the Relocation Grant only. **In such cases, the Relocation Grant will be reduced by a Demolition Contribution.**

New Definition - Demolition Contribution

Demolition Contribution means an amount representing the Owner's contribution to demolishing the Dwelling(s) and is calculated at a rate of \$125 per square metre of floor area of the Dwelling(s) including the garage where attached, plus \$500 for asbestos testing. The Demolition Contribution will be limited to a maximum of 10% of the Council offer OR \$50,000, whichever is lower.

- C) That Council resolves to amend the Category 3 Buy-out Policy and inserts replacement clauses for Clause 4.12

Clause 4.12

Offers will include GST, if any, **unless Council determines that a specific Offer should be made plus GST, if any, while considering the Policy objective of affordability for ratepayers.**

- D) That Council resolves to amend the Category 3 Buy-out Policy and inserts replacement clauses for Clauses 5.1(b)(i), 5.1(c)(i), and 5.1(c)(ii)

Clause 5.1(b)(i)

The Council will prepare an Offer **Letter summarising the outcome of the Valuation Process and relevant buy-out options under sections 4.4 and 4.5 of the Policy.**

Clause 5.1(c)(i)

The Council's Representative will present the Owner with **the Offer Letter for the Owner's consideration.**

Clause 5.1(c)(ii)

The offer will remain open for 3 months after the owner receives the Offer **letter and the owner shall advise Council whether they wish to proceed to receiving a formal sale and purchase agreement from Council within that time.** Agreements to an extension of time will not be

unreasonably withheld where, in the Council's reasonable opinion, substantive progress is being made towards an agreement.

- E) That Council resolves that the amended Policy is effective on 1 February 2024 and applies to offers made thereafter.

3.0 Background – Te Horopaki

- 3.1 The Council approved the Category 3 Voluntary Buy-Out Policy (the Policy) at its meeting on 14 September 2023, and the Voluntary Buy-out Office (VBO) has been established to implement the Policy.
- 3.2 It was not until very late in the Crown negotiations that it became clear that the Crown was not going to contribute to the cost of demolishing dwellings and that the full cost would fall to the Council, and ratepayers, which was initially estimated to exceed \$6 million.
- 3.3 Throughout the Policy's development the issue was raised whether property owners should contribute to the demolition costs. Positions changed over time about how that matter should be treated. It was decided that because of the wide range of varying circumstances and complexities that no specific contribution would be sought from property owners towards the cost of demolition, albeit that some demolition costs would be indirectly recovered where Insurance Proceeds that included payment for demolition was deducted off the market value of the property when an offer was calculated.
- 3.4 Implementation of the Policy is proceeding well, with over 100 initial meetings held with property owners and the first offers being made prior to the end of December 2023. One property has settled with another imminent.
- 3.5 Since the Policy's implementation it has come to light, in some cases, that insurance proceeds have far exceeded the market valuation of the residential improvements, in some cases nearly double. In addition to this the property owner is 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 their property.
- 3.6 This raises a question as to whether these property owners, having been well compensated, should make some contribution to the demolition of the dwellings. 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 contribution, yet the cost for demolition falls on the Council and ratepayers. This is considered 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.
- 3.7 In order to be consistent between the insured and the uninsured, officers feel it is appropriate that a similar contribution should be sought and deducted from offers made for uninsured property owners. 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 (Sections 5.2.3 and 6.2.3 of the 'Category 3 Voluntary Buy-out Policy Summary Evaluation Report, 13 September 2023'¹ (Summary Evaluation Report)' refer).
- 3.8 Given the overarching objective of removing risk to life from Category 3 areas, making no offer to uninsured properties would fail to achieve the purpose of the offer. However, policy consideration was given to whether insurance status might be relevant to the content of an offer. The 'Summary

¹<https://www.hastingsdc.govt.nz/assets/Document-Library/Cyclone-Land-Categorisation-Documents/Category-3-Voluntary-Buy-out-Policy-Summary-evaluation-report.pdf>

Evaluation Report notes that “where there is no insurance recovery, there is no EQC payment that can pass to the Council. In the interests of equity between owners, we consider an assessment should be made as to the amount that would have been recoverable from EQC if the property had been insured, and that amount should be deducted from the price to be paid.” Seeking a deduction for demolition from uninsured property owners would be consistent with this principle and approach. 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. Revised VBO estimates suggest the number of uninsured properties at around 6 (around 3 in Hastings District and potentially around 3 in Napier).

- 3.9 Two other minor policy changes are also proposed for consideration at this time: 1) a change to better support the Council offer process with the Offer letter marking the commencement of the 3-month period in which property owners can consider the offer options; and 2) a change to the language on GST which would provide flexibility for Council to consider whether a specific offer should be made plus GST, if any, in very specific situations.

4.0 Discussion – *Te Matapakitanga*

- 4.1 It is proposed that the Policy is amended, as follows:

- Where a property owner elects to retain the insurance proceeds relating to the residential improvements and accept an offer from the Council for their land or the residential use rights relating to their land then the Council’s will deduct from its offer an amount that equates to a contribution towards demolition. This will likely be in the order of \$20,000 - \$30,000 per dwelling.
- For uninsured properties, the contribution will be deducted from the market value offer the Council makes to the property owner.
- The provision of the Offer letter, rather than the full sale and purchase agreement, mark the commencement of the 3-month period in which property owners can consider the offer options.
- That the language relating to GST be amended to provide flexibility for Council to consider whether a specific offer should be made plus GST, if any, in very specific situations.

Impacts for Property Owners

- 4.2 If changes are made it will see both uninsured property owners and those fully insured contributing towards demolition costs. This would see the offer to these owners being slightly reduced from what they could expect under the current Policy. This would reflect that insurance proceeds are expected to include a contribution for demolition, but the Council is effectively undertaking that demolition on their behalf. In other words, the proposal is to prevent the owner being paid for demolition but the Council undertaking the demolition at no cost to the owner.
- 4.3 There would be no additional contribution sought from property owners that are either underinsured or where there was little damage to the residential improvements. These owners are expected to elect the “market value less insurance” option where any insurance received, including any demolition component, is essentially paid over to Council. In this scenario:
- For those underinsured, where the dwelling is a write-off, they will most likely accept an offer based on the market value offers for their property, less any insurance proceeds they have received. If a demolition allowance was included in the insurance settlement, then effectively that benefit will be passed to Council to cover the costs of carrying out the demolition;
 - Where a property has had little damage, insurance will not include a contribution for demolition. In these circumstances the owner has not received payment for something the Council carries out, so there is no reason for a demolition contribution to be deducted.

- 4.4 There will be no real impact for property owners if the Policy is amended to reflect that the Offer letter, rather than provision of the full sale and purchase agreement, marks 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.
- 4.5 In terms of the proposed change to the language relating to GST, we sought GST advice from PWC. This followed questions raised around GST practice for valuations. The PWC advice noted the following:
- “We are satisfied with the Policy stating that the offer will include GST. This reflects that Council will be wanting to cap the price being paid. It will not alter the approach taken for the valuations, nor does it determine or have any bearing on the final GST treatment.”*
- 4.6 The PWC advice, however, noted that they would anticipate that the current clause 4.12 of the Policy could create challenges in the situations outlined below. The proposed amendment to the GST language in the Policy would provide the VBO the flexibility to deal with these specific situations:
- *“Where the property owner was GST registered and used the property for making taxable supplies. In this case, the property is likely to have been valued as “\$ plus GST if any” and it would be up to Council to consider uplifting this or using the valuation provided, i.e. whether it is, say, \$100k or \$115k inclusive of GST, as the transaction will be subject to Compulsory Zero-rating (CZR).*
 - *Where the property is mixed use or requires the deemed separate supply rule to apply. In these cases, we recommend that specific advice is sought.”*

Financial Impacts

Demolition Contribution

- 4.7 The VBO has engaged with Council’s Solid Waste team and demolition contractors to obtain a range of demolition estimates for the cost to demolish a dwelling in Category 3 areas. Given the wide range of circumstances experienced it is likely to result in a wide range of potential costs.
- 4.8 It is recommended that a square metre rate be used rather than a fixed dollar value contribution. This better reflects the size of dwelling, and therefore the likely relative cost of demolition. Those with large dwellings would make a larger absolute contribution to demolition costs than smaller dwellings.
- 4.9 Demolition cost data has been collected from a range of sources (e.g. local demolition contractors, quotes for demolition work undertaken or considered, and reputable online insurance calculators). This information has been used to establish a broad mid-point of square metre costs. We have additionally discounted this mid-point by 10% to allow for potential lower cost contractors and to provide confidence to property owners that the square metre demolition contribution is fair and reasonable.
- 4.10 The rate recommended as reasonable by the VBO is \$125 per square metre. This rate would see demolition costs per property likely falling between \$20,000 and \$30,000. We feel this rate strikes the right balance between being fair and reasonable to both impacted property owners and ratepayers. We want impacted property owners to have the ability to move on with their lives and establish themselves in safer areas. We also need to be fair to ratepayers who are helping to fund this important work.
- 4.11 Two related matters have been identified.
- 1) Testing for asbestos is mandatory for properties constructed before 1 January 2000. The VBO has identified that approximately 84% of homes fall in this category. Further, contractors advise that asbestos may still be present in homes constructed after that date and there is a need to test all properties to ascertain the presence of asbestos. The VBO advises that a flat rate \$500 fee per property to cover the cost of asbestos inspections for each property is reasonable. This

is at the lower end of price ranges advised by each of the three demolition contractors and is considered equitable to cover this cost.

- 2) In a small number of cases (around 10-15) it is possible that the value of the demolition contribution could represent a large portion of the voluntary buy-out offer (for example, a split category or a property with low land values), or an unreasonable figure that has resulted from specific factors (for example multiple dwellings or large sheds). In these situations, we are recommending that the demolition contribution be the maximum of 10% of the Council offer OR \$50,000, whichever is lower.

Overall Financial Impact

- 4.12 There are over 120 properties that will be subject to an offer that have dwellings on them. If all dwellings and residential improvements are demolished, it is estimated that demolition costs will exceed \$6 million. All costs fall on the Council as the Crown has resolved not to contribute to this element of the voluntary buy-out on the basis the Council will benefit from future sales of vacant properties it has acquired as a result of the voluntary buy-out programme.
- 4.13 It is estimated that approximately 80-90 properties will be impacted by the Amended Policy, this could see Council’s costs reduced by an estimated \$1,800,000 – \$2,000,000.

Risks and Benefits

- 4.14 The key risks relating to giving effect to the proposed amended Policy are:
 - Some confusion about the amended Policy and the need for any change – the amendment and the reasons for it will need to be communicated well.
 - Perception of unfairness regarding the insurance status of different property owners. It could be seen as penalising the well insured and uninsured, and letting those who are underinsured to get off lightly. It is a matter for Council’s judgment as to relative fairness of the Policy amendment.
 - Perception of unfairness in that those who have had offers made already have not had to make a demolition contribution. There is one property that has had an offer under the current Policy to which these circumstances would have applied.
- 4.15 The main benefit of amending the Policy is that it will strike a better balance between being fair and reasonable to both impacted property owners and ratepayers. We want impacted property owners to have the ability to move on with their lives and establish themselves in safer areas. We also need to be fair to ratepayers who are helping to fund this important work.
- 4.16 The main benefit of implementing the amended Policy will be a lower cost to the Council and ratepayers. This is reflected in the objectives of the Policy where affordability to ratepayers is a matter that the Council should take account of when setting its Policy.

5.0 Options – Ngā Kōwhiringa

5.1 The options available to the Council include:

Option	Description	Advantages	Disadvantages
1 Status Quo -Council retains the current Policy.	No specific contribution for demolition is sought from property owners.	No change and implementation unaffected.	Council and ratepayers pay all demolition costs. Somewhat inconsistent with the objective of affordability to ratepayers, and principle of acting in good faith (in that

			owners are receiving and retaining the insurance payment for demolition, while Council /ratepayers bear the full costs of demolition).
2 Amend the Policy (as is recommended)	Demolition contributions would be specifically sought from fully insured and uninsured property owners reducing the direct cost to the Council and ratepayers.	Lower overall cost to the Council and ratepayers Consistent with the Policy Objective related to Ratepayer Affordability	Some property owners receive less than they would under the current policy. Some under insured may not contribute as much as to demolition as the fully insured or uninsured.
3 Amend the Policy so it only applies to those fully insured and not uninsured.	Only fully insured property owners make a contribution, and uninsured owners are not required to make a contribution. (Note: option included for the sake of completeness)	Increases an uninsured property owner’s recovery compared to the recommended option.	Would seem inconsistent where those fully and prudently insured are ‘penalised’ for their position compared to uninsured.
4 Amend the Policy so all property owners make a demolition contribution, whether fully insured, underinsured or uninsured.	All property owners irrespective of their circumstances are required to make a demolition contribution.	Sees equal treatment of all property owners. Probably generates the highest level of contributions to the Council / best achieves the objective of affordability to ratepayers.	For those underinsured and where little damage was caused to the dwellings it may seem inequitable. Does not address the underlying issue which is that owners retaining insurance for the Dwelling are effectively retaining a payment for demolition which is then carried out at ratepayer cost – that issue does not arise where insurance is deducted. Administratively difficult to determine the extent to which contributions should be altered by any demolition allowance already contained in under insured insurance proceeds.

6.0 Next steps – *Te Anga Whakamua*

- 6.1 If the Policy Amendment is adopted it will have effect immediately and all offers made after 1 February 2024 (for HDC) would reflect the new Policy, although it would not be retrospectively applied.
- 6.2 All Category 3 Property Owners will be written to informing them of the Policy amendment. There will be a media release prepared as well. The rationale for the change will be clearly explained.
- 6.3 The VBO will need to amend its practices to ensure the amended Policy is implemented correctly. This change will be subject to review by the Independent Advisory Panel (IAP).

Attachments:

- 1 Proposed Amended Category 3 Residential Property Purchase Policy as at 16012024 CG-17-1-00702

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 Council has, following its LTP Amendment deliberations, decided to create a new activity to make offers for Residential Properties in Category 3. The matters considered in this report give further effect to those decisions.

Māori Impact Statement - *Te Tauākī Kaupapa Māori*

There is a separate Kaupapa Māori pathway that the Government is leading for the resolution of 33 Whenua Māori properties that are within Category 3. The Council's Policy does not apply to Whenua Māori.

Sustainability - *Te Toitūtanga*

The intention of the Policy's implementation is to remove residential use within Category 3 which provides better long-term outcomes for the community and helps remove people from high-risk areas, given that climate change is likely to see the recurrence of extreme weather events. Future land management practices should ensure Council's waste minimisation objectives are being given effect to, and that the future use of land is put to productive use and is undertaken in the most cost-effective way possible.

Financial considerations - *Ngā Whakaarohanga Ahumoni*

Addressed in the report.

Significance and Engagement - *Te Hiranga me te Tūhonotanga*

The decisions contained in this report have been assessed under the Council's Significance and Engagement Policy as not being significant.

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

No specific consultation has occurred in respect of the decisions in this report. However, the matter has also been discussed with NCC staff and NCC will consider the matter at its next Council meeting in March 2024 (exact date to be confirmed).

Risks

This has been addressed in the report.

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

The matter has not been discussed with Board.

[View this email in your browser](#)

CYCLONE GABRIELLE

Message from Mayor Sandra Hazlehurst and councillors

Cyclone Gabrielle Category 3 Voluntary Buy-out Policy – further information before decision

Good afternoon,

From emails sent to you over the past few weeks, you will be aware that Council has been provided with information on which to decide whether a change should be made to the Cyclone Gabrielle Category 3 Voluntary Buy-out Policy. We have considered that matter at one Council meeting, leaving it to lie on the table for further information and consideration later this month.

The Voluntary Buy-out Policy was set up to enable eligible Category 3 property owners to move on with their lives by resettling in safer areas. The policy also seeks to be fair to ratepayers who are helping to fund this important work.

Currently, the Policy states that Council (therefore ratepayers) will pay for the cost of demolition of bought-out homes. The proposed change could see some Category 3 homeowners contribute towards the cost of demolition.

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.

A separate decision needs to be made for the uninsured. Currently, payments to the uninsured are being funded solely by ratepayers and taxpayers. The proposal suggests these owners also contribute to the cost of demolition.

As your mayor and councillors, we will make the final decision on the over-arching policy. To do that, we want to be sure we have input of those most affected.

We will be holding a closed Council workshop on February 13, at which time councillors will go over all the available information, including from residents who have shared their views. The workshop will be closed to protect this personal information. There will be no decisions made at this meeting.

It is of note that this process is completely separate from the confidential conversations you are

having with the buy-out office.

On February 20, a Council meeting will be held for further discussion and a final decision.

To enable us to fully consider this matter, we are asking those who wish to, to provide us with any information or opinions they have on this matter by Sunday, February 11.

I understand that this is a short timeframe, however we are very aware of the need to have the information in front of us at the workshop, and not prolonging this decision and therefore holding up people's ability to get on with a buy-out.

This is a difficult decision, with councillors having to weigh up the impact on both those immediately affected and the wider ratepayers who are funding this work.

I do thank you for your patience as we carefully navigate through this matter.

You can find the current policy [here](#) and the paper on the proposed amendment [here](#).

Further information and examples of how people may be affected, depending on their situation, has been provided by Council officers (see below); acknowledging that every property owner's situation will be different.

We look forward to hearing from you.

Ngā mihi

Mayor Sandra Hazlehurst and Hastings District councillors

Examples for typical groups should the proposed change be approved by Council:

(Please note this is a simplified summary of the process for explanatory purposes and does not include all components)

Fully insured

The valuation process establishes the market value for the property as at 13 February 2023 (following valuations on behalf of the Council and property owner).

Property owner is fully insured with the proceeds exceeding the independent market valuation.

Under the policy, the homeowner chooses the option that allows them to keep insurance payout and receive an offer for the land (under 2ha.) or residential rights of the property (over 2ha).

That means the property owner keeps all insurance proceeds and is receiving more than the property's assessed market value as at 13 February 2023 and the ratepayer is also paying for the demolition.

Council works out the cost of demolition based on a rate per m2. Amount deducted from the payment under the Policy is a small proportion of payout (capped at 10%).

Simplified calculation:

Assessed market value of property as at 13 February 2023 Made up of:	
<ul style="list-style-type: none"> • Improvements valued at \$720,000 • Land valued at \$640,000 	\$1,360,000
Insurance proceeds received for improvements	\$1,230,000
Offer from Council for Land (Land value less EQC if applicable)	\$640,000
TOTAL funds received by Property Owner	\$1,870,000
Potential demolition contribution + asbestos test (Average size of dwelling 207m ² x \$125/m ² + 500)	\$26,375
Total funds received by Property Owner with demolition contribution	\$1,843,625

Underinsured or insurance not exceeding valuation

The valuation process establishes the market value for the property as at 13 February 2023 (following valuations on behalf of the Council and property owner).

Property owner is insured however the proceeds are below, or at the same level as, the market valuation.

Under the policy, the homeowner chooses the option that allows them to 'sell' the property (or the dwellings and residential rights) to Council at the agreed price, less the insurance payment.

Council 'tops up' the difference between the insurance payout and the market value. In this scenario Council has had the benefit of any 'demolition component' that may have been included within the insurance payment, as it has lowered the amount paid to the owner, so does not claim further demolition costs.

Simplified calculation:

Assessed market value of property as at 13 February 2023 Made up of:	
<ul style="list-style-type: none"> • Improvements valued at \$605,000 • Land valued at \$500,000 	\$1,105,000
Insurance proceeds received for improvements	\$470,000
Offer from Council to make up for insurance shortfall on value of improvements	\$135,000
Offer from Council for Land	\$620,000
TOTAL funds received by Property Owner	\$1,105,000
Potential demolition contribution + asbestos test (Average size of dwelling 207m ² x \$125/m ² + \$500)	\$0
Total funds received by Property Owner (no demolition contribution as Council has had benefit of any demolition contribution)	\$1,105,000

Uninsured

The valuation process establishes the market value for the property as at 13 February 2023 (following valuations on behalf of the Council and property owner).

Property owner has no insurance.

Under the policy, the homeowner chooses to have Council buy the property at the market value.

Council works out the cost of demolition based on a rate per m2. Amount deducted from the payment under the Policy is a small proportion of payout (capped at 10%).

Simplified calculation:

Assessed market value of property as at 13 February 2023 Made up of:	
<ul style="list-style-type: none"> • Improvements valued at \$605,000 • Land valued at \$500,000 	\$1,105,000
Insurance proceeds received for improvements	\$0
Offer from Council (improvements + land value)	\$1,105,000
TOTAL funds received by Property Owner	\$1,105,000
Potential demolition contribution + asbestos test (Average size of dwelling 207m ² x \$125/m ² + \$500)	\$26,375
Total funds received by Property Owner with demolition contribution	\$1,078,625



TE KAUNIHERA Ā-ROHE O HERETAUNGA
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Analysis of submission data	
Number of submissions	22
% of eligible Category 3 properties (165)	13%
Area submitter has property/interest in	
Tangoio	0
Pakowhai	10
Esk Valley	8
Dartmoor	1
Rissington	3
Total	22
Likely multiple submitters for a single property	
Esk Valley	3 cases

Demolition Policy Change - Engagement Key Themes						
All disagree with change for the following reasons:						
Initial Engagement and Subsequent Cat 3 Buy Out Policy made no reference to property owners contributing to cost of demolition	Council is breaching the objectives and principles of the Policy by not acting in good faith, treating people with respect, working to timely outcomes, communicating clearly and providing clear pathways and certainty about the offer by:	Council has already committed to completing demo work at Council's cost	People are being treated differently depending on insurance status	The amount being recouped from Cat 3 property owners for demolition (approx. \$2M) is insubstantial when spread out over all ratepayers	Category 3 property owners cannot afford the contribution	Council is inaccurately comparing market value with replacement value
Agreements have already been signed to proceed with the Buy-Out based on the initial Policy	Changing the Policy/rules part way through during the process	Category 3 property owners are ratepayers and taxpayers as well	proposed change discriminates people based on their insurance status	Amounts to less than \$5 more in rates per household per year in Hastings	Significant financial burden on them since the cyclone not being taken into account	Insurance packages in rural areas include infrastructure such as water bores, pumps, storage tanks and septic tanks which are included in settlements and can increase insurance payouts over and above the value of the house itself
Financial decisions have been made based on initial policy	The lack of communication and engagement with affected property owners about the policy change	Use donated money tagged for Cyclone Affected Properties but unspent yet	It is for property owners to determine how their insurance payouts are to be spent, not Council		Credit needs to be given for those property owners who have already incurred demolition costs	This proposed change is reflecting houses being over capitalised
Council has a signed agreement with the Crown saying Council would cover the costs of demolition	Stating the proposed change is insignificant and does not requires full engagement	Renegotiate with Central Government for further funding to cover demolition	People have been paying very high premiums for full insurance cover over many years		The proposed change is only going to increase settlement timeframes and cause more distress and hardship	The reason fully insured receive more than the property value is because building costs are extremely high - the rebuild costs far exceeds insurance payouts
	Creating uncertainty that the Policy will keep changing as Council sees fit	It was promised at community meetings that the buy-out process would be 'cost neutral' to ratepayers Property owners were told by Council not to demolish their homes but are now being charged for it				
Council officer view/response						
This is correct. Officers are seeking to provide full information to the Council to monitor whether the Policy is operating in a way that achieves the objectives adopted. HDC has the authority/right to amend the Policy (Clause 9).	Officers understand and acknowledge the perspective. In monitoring whether the Policy operates in accordance with objectives we are applying the 'good faith' principle to ratepayers as well as property owners.	We have an unfunded cost. We are also seeking to strike the right balance between being fair and reasonable to both impacted property owners and ratepayers.	This is correct as it impacts on the overall position of the Property Owner and the extent to which a contribution could be considered fair.	This cost must still be covered by ratepayers. Every \$1m equates to a 1% rates rise.	Proposed amendment has been very cognisant of Property Owner's ability to pay	Council is fully aware of the difference between these two values. However, the aim of the voluntary buy-out is not necessarily to make owners fully whole and not to compensate for the level of build quality and fittings desired by individual owners. The payments they receive will provide for a pathway to move elsewhere, by ensuring they receive, at a minimum, the value of their property as it was assessed on the day before the Cyclone.

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.