

AGENDA/KAUPAPA



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MEMBERSHIP: Her Worship the Mayor Rehette Stoltz, Deputy Mayor Josh Wharehinga, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Rawinia Parata, Aubrey Ria, Tony Robinson, Rob Telfer, Teddy Thompson, Rhonda Tibble and Nick Tupara

COUNCIL/TE KAUNIHERA

DATE: Thursday 10 August 2023

TIME: 9:00AM

AT: Rangiwaho Marae, State Highway 2, Muriwai

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Council

Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the number is uneven
Meeting Frequency:	Six weekly (or as required)

Terms of Reference:

The Council's terms of reference include the following powers which have not been delegated to committees, subcommittees, officers or any other subordinate decision-making body, and any other powers that are not legally able to be delegated:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
4. The power to adopt a Long Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement.
7. The power to adopt a remuneration and employment policy.
8. Committee Terms of Reference and Delegations for the 2019–2022 Triennium.
9. The power to approve or amend the Council's Standing Orders.
10. The power to approve or amend the Code of Conduct for elected members.
11. The power to appoint and discharge members of Committees.
12. The power to establish a joint committee with another local authority or other public body.
13. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation.
14. The power to make any resolutions that must be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer.
15. Consider any matters referred to it from any of the Committees.
16. Authorise all expenditure not delegated to staff or other Committees.

Council's terms of reference also includes oversight of the organisation's compliance with health and safety obligations under the Health and Safety at Work Act 2015.

Note: For 1-7 see clause 32(1) Schedule 7 Local Government Act 2002 and for 8-13 see clauses 15, 27, 30 Schedule 7 of Local Government Act 2002

3.1. Confirmation of non-confidential Minutes 28 June 2023

MINUTES

Draft & Unconfirmed



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MINUTES of the GISBORNE DISTRICT COUNCIL/TE KAUNIHERA

Held in Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne on Wednesday 28 June 2023 at 9:00AM.

PRESENT:

Her Worship the Mayor Rehette Stoltz, Deputy Mayor Josh Wharehinga, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Tony Robinson, Rob Telfer, Daniel Thompson, Nick Tupara, Josh Wharehinga.

IN ATTENDANCE:

Chief Executive Nedine Thatcher Swann, Director Lifelines David Wilson, Director Internal Partnerships James Baty, Director Liveable Communities Michele Frey, Director Engagement & Maori Responsiveness Anita Reedy-Holthausen, Chief Financial Officer Pauline Foreman, Chief of Strategy & Science Jo Noble, Democracy & Support Services Manager Heather Kohn and Committee Secretary Jill Simpson.

The meeting commenced with a karakia.

Secretarial Note: Items were heard out of the order described in the agenda. For ease of reference the Minutes have been recorded in agenda order.

1. Apologies

MOVED by Cr Wharehinga, seconded by Cr Cranston

That the apologies from Cr Parata, Cr Ria, Cr Tibble be sustained.

CARRIED

2. Declarations of Interest

Cr Alder declared an interest in discussions on the Te Arai catchment as he has a property affected by the flooding in this area.

Cr Cranston declared a possible perceived interest in Report 23-130 Setting of Rates, Due Dates and Penalties for 2023/24 as his daughter's property is under threat but not stickered.

Cr Foster declared an interest in 23-111 Chief Executives Activity Report in relation to discussions on 'Streets for People 2021-24'.

3. Confirmation of non-confidential Minutes

3.1 Confirmation of non-confidential Minutes 18 May 2023

MOVED by Cr Foster, seconded by Cr Robinson

That the Minutes of 18 May 2023 be accepted.

CARRIED

3.2 Action Sheet

Noted.

4. Leave of Absence

There were no leaves of absence.

5. Acknowledgements and Tributes

Mayor Stoltz acknowledged that our region has been through tough times since January of this year and acknowledged all the volunteers and organisations who have gone out of their way to support Civil Defence during this time. It is heartbreaking to see the devastation around the region and visit whanau who have lost their homes. Our region is standing together. Our region needs all the support we can get. Discussions are being held with Government to see how recovery looks and how we can support our Category 2 and 3 homeowners and help them to rebuild a safe where. From Councillors and Civil Defence thank you to everyone.

Cr Cranston thanked Council staff and said they would have to be put at the top of the list for the effort they have put in and the work they have had to carry out during these events.

6. Public Input and Petitions

6.1 Harley Dibble & Renee Raroa - Topic Exchange Cafe - Regional Conversations for Climate Solutions

Harley Dibble and Renee Raroa attended to discuss "Topic Exchange Cafe - Regional Conversations for Climate Solutions" which is a new opportunity to support regional conversations about climate solutions.

Exchange Cafe is a platform for conversations complimentary to, but different, from the East Coast Exchange.

Questions of clarification included:

- The platform will contain a list of recordings. Important that the platform is as open as possible for people to use. There is a budget available for Comms to support and manage social media.

Comet Swimming Club Petition:

Her Worship the Mayor accepted the Petition presented to Council by Rochelle Somerton and Greg Meade on behalf of the community in support of Comet Swimming Club.

7. Extraordinary Business

MOVED Mayor Stoltz, seconded Cr Gregory

That the Council:

1. Accepts the following Public Excluded Late Item reports for consideration in the Public Excluded Council meeting on 28 June 2023:
 - a. 23-144 Trust Tairāwhiti - Trustee Remuneration 2023.
 - b. 23-147 Recovery Costs and future of Severely Affected Land - Delegations.

CARRIED

Cr Alder requested that his vote against the recommendation be recorded.

8. Notices of Motion

There were no notices of motion.

9. Adjourned Business

There was no adjourned business.

Secretarial Note: The meeting adjourned at 10.25am for morning tea and reconvened at 10:40am.

10. Reports of the Chief Executive and Staff for DECISION

10.1 23-109 2023/24 Annual Plan

Discussion points included:

- The \$26.4m can only be used for the clean-up of woody debris and silt.
- Any reserves not spent when Three Waters is implemented will get paid over to the new entity and deducted off any outstanding loans.
- There was an assumption with the Annual Plan that some of the \$31.4m may have been spent by 30 June so staff provisioned what was expected to be the expenditure at that time.
- There needs to be a review of the Fees and Charges, and this will be an opportunity to address forestry compliance costs. The fees and charges go from 1 July to 30 June.
- Our strategy looks at the total increase in rates over the previous year. Rates increases are not distributed evenly across the whole rateable area as it will depend on available services, capital value etc. Should there be improvements made to a property it is expected to pay more. General rates are based on your property's capital value, land use and whether it receives targeted rates, a rates remission or is non-rateable.

- A Business Case is still being worked on regarding the Taruheru Walking and Cycleway and will be presented to the Operations Committee. Funding has been set aside from the Better off Funding and the money is allocated to the Taruheru Walking and Cycleway.
- Staff are working with waste contracts and tenders' procurement regarding wheelie bins. The \$1.8m set aside will cover the purchase of the wheelie bins, however staff will be providing further direction on this.
- Changes will be made to the Annual Plan to reflect the 1000-year Bridge as a viewing platform.
- The criteria for the establishment of the Advisory Groups regarding the freshwater catchments is that they have a local connection to our place with a preference that they live in Tairāwhiti. Membership is being sought that covers a range of interests, expertise and skill sets so applicants must have an interest and an understanding of freshwater. We are looking for people to represent the farming community, horticulture, forestry, cultural interest, recreational interest, and environmental interest so a diverse range of people to be selected to work across the different aspects. Staff are still in the process of formalising the Advisory Groups.
- Freshwater Environmental Plans still have standing under the Tairāwhiti Resource Management Plan. The Government has brought in new regulations that mean there are now additional requirements for the farm plans so they may need amending or updating to meet the provisions of the National Regulation and our own planning framework.
- Works has been undertaken on the DrainWise programme in the Kaiti catchment however still a lot to do. The latest weather event indicated issues in Te Hapara and Elgin and Whakaupoko. The challenge with DrainWise will always be the length of time it takes to undertake repairs on private property. The volume of water going into the network before there is a response, has improved over the last 5 years. It used to be approximately 25mm of rain before intervention now it is approximately 100mm.
- Across the DrainWise network it has been shown that the first flush is a direct injection of stormwater into the system eg drainpipes. Council has its own replacement programme underway to replace cracked laterals. Issues are being looked at on private property and how they can be resolved, and this is part of the DrainWise Enforcement Programme.
- The funding received from Central Government for the Waipaoa Flood Control Scheme is all but spent. The first injection of cash from the Provincial Growth Fund (Kanoa) was to speed up the works on the city side of the Waipaoa Flood Control Scheme which has now been completed. The funding in the Long Term Plan was to roll out the Waipaoa Flood Control Scheme in the affordable manner set by Council. Presentations have been made through the recovery team, Recovery Plan and to Kanoa to help speed up the Waipaoa Flood Control Scheme and funding is being sought to include upstream of Te Karaka as part of the protection works.

- When looking at a scheme for the Te Arai Catchment the knock-on effect must be considered for the entire catchment and the Waipaoa Catchment given the nature of the terrain. It would be a difficult scheme to implement but one that could be considered as part of the Waipaoa and Te Arai Catchment Plan Review.
- The area of stopbank at the mouth of the river impacted by the severe weather event was a high volume, high velocity area and there were concerns as the work had only been completed recently. It is covered by insurance. A review and an independent assessment were carried out of this area and staff are comfortable for it to remain for the protection of the river mouth and for the protection of the landowners on that side of the river.

MOVED by Cr Foster, seconded by Cr Wharehinga

That the Council/Te Kaunihera amends Recommendation 2.b) to read under 2(a):

1. Adopts the Gisborne District Council 2023/24 Annual Plan (Attachment 1) - subject to any minor changes (including formatting) or external legal changes.
2. Approves the Capital Investment Programme for 2023/24 amounting to \$70.2 million:
 - a) Noting that a total of \$26.4 million has been included within the operational cost for the clean-up of woody debris and silt.
 - b) Agrees that the expenditure noted under 2(a) of \$26.4m, may be used towards capital expenditure once the best use of the funds have been determined.
3. Agrees that it is financially prudent to budget for an accounting surplus in the Annual Plan 2023/24.
4. Agrees while noting the overall accounting surplus as set out in 3 above, that some activities will have an accounting deficit funded by loans or reserves. With having specific regards to:
 - a) Agrees to rate fund the three waters depreciation expense based on the need to meet renewals capital programme, ensuring that the three waters renewals remain fully funded while mitigating the impact of depreciation expense on 2023/24 rates.
 - b) Agrees to rate interest costs based on LTP levels with additional rates collected up to \$250k, and the balance of interest rate costs funded from special reserves and Wastewater (Three Waters) Reserve.
 - c) Notes that most of the higher interest rates arise from meeting Council's significant infrastructure investment in Wastewater.
 - d) Notes that the change approach in funding for depreciation and interest would otherwise result in operating costs exceeding the operating budget.
 - e) Notes that under this approach, Council will have a balanced budget in 2026/27 and considers this approach to be financially prudent for the reasons outlined in this report.

CARRIED

10.2 23-130 Setting of Rates, Due Dates and Penalties for 2023/24

MOVED by Cr Robinson, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Having adopted the 2023/24 Annual Plan (report 23-109) including the 2023/24 Funding Impact Statement, Council resolves under section 23 of the Local Government (Rating) Act 2002 to set the following rates for the year commencing 1 July 2023 and concluding 30 June 2024:

General Rate

- 1.1 A uniform general rate of 0.00049853 (exclusive of GST) per dollar of capital value, set on all rateable land in the district.

Uniform Annual General Charge

- 1.2 A uniform annual general charge of \$795.16 (exclusive of GST) per separately used or inhabited part of a rating unit, set on all rateable land in the district.

Animal Control Targeted Rate

- 1.3 A uniform targeted rate for animal control of \$39.72 (exclusive of GST) per separately used or inhabited part of a rating unit, set on Residential land in areas DRA1 and DRA1A and Residential Rural Townships in areas DRA3, DRA4 and DRA5.

Building Services Targeted Rate

- 1.4 A targeted rate for building services set on all rateable land in the district and differentiated as follows:
 - 1.4.1 Inner Zone: A rate of \$0.00006176 (exclusive of GST) per dollar of capital value on rateable land.
 - 1.4.2 Outer Zone: A rate of \$0.00002538 (exclusive of GST) per dollar of capital value on rateable land.

Noise Control Targeted Rate

- 1.5 A uniform targeted rate for noise control of \$3.47 (exclusive of GST) per separately used or inhabited part of a rating unit, set on Residential land in the Inner Zone.

Resource Consents and Planning Targeted Rate

- 1.6 A uniform targeted rate for resource consents and planning of \$0.00039664 (exclusive of GST) per dollar of land value, set on all rateable land in the district.

Land Drainage (Contributors) Targeted Rate

- 1.7 A uniform targeted rate for land drainage of \$0.56135532 (exclusive of GST) per hectare, set on all rateable land in the following Drainage Scheme Areas as set out in the Annual Plan 2023/24 Funding Impact Statement map:
 - Eastern Hill Catchment 8
 - Western Hill Catchment F

Land Drainage (Beneficiaries) Targeted Rate

1.8 A uniform targeted rate for land drainage of \$28.99515772 (exclusive of GST) per hectare, set on all rateable land in the following Drainage Scheme Areas as set out in the Annual Plan 2023/24 Funding Impact Statement map:

- Ormond
- Eastern Taruheru
- Western Taruheru
- Willows
- Waikanae Creek
- City/Wainui
- Taruheru, Classes A-D
- Waipaoa
- Patutahi
- Ngatapa
- Manutuke
- Muriwai

Te Karaka Flood Control Targeted Rate

1.9 A targeted rate for Te Karaka Flood control set on all rateable land in the Te Karaka Flood Control Non-Residential and Residential Areas as set out in the Annual Plan 2023/24 Funding Impact Statement map, differentiated as follows:

- 1.9.1 Non-residential: A rate of \$0.00045423 (exclusive of GST) per dollar of capital value on rateable land in the Te Karaka Flood Control Non-Residential Area
- 1.9.2 Residential: A rate of \$0.00062562 (exclusive of GST) per dollar of capital value on rateable land in the Te Karaka Flood Control Residential Area

Waipapu River Erosion Protection Scheme Targeted Rate

1.10 A targeted rate for the Waipapu River Protection Scheme set on all rateable land in the Waipapu River Erosion Protection Scheme Area as set out in the Annual Plan 2023/24 Funding Impact Statement map and differentiated as follows:

- 1.10.1 Contributors: A rate of \$0.05421688 (exclusive of GST) per hectare on rateable land in the Contributors Area.
- 1.10.2 Direct Beneficiaries: A rate of \$0.00035635 (exclusive of GST) per dollar of capital value on rateable land in the Direct Beneficiaries Area.
- 1.10.3 Indirect Beneficiaries: A rate of \$0.00001261 (exclusive of GST) per dollar of capital value on rateable land in the Indirect Beneficiaries Area.

Waipaoa River Flood Control Scheme Targeted Rate

1.11 A uniform targeted rate for the Waipaoa River Flood Control Scheme of \$0.00004100 (exclusive of GST) per dollar of capital value, set on all rateable land in the Waipaoa River Flood Control Scheme Area as set out in the Annual Plan 2023/24 Funding Impact Statement map.

Aquatic and Recreation Facilities Targeted Rate

1.12 A targeted rate for aquatic and recreation facilities set on all rateable land in the district and differentiated as follows:

1.12.1 Inner Zone: A rate of \$0.00012772 (exclusive of GST) per dollar of capital value on rateable land.

1.12.2 Outer Zone: A rate of \$0.00003832 (exclusive of GST) per dollar of capital value on rateable land.

Parks and Reserves Targeted Rate

1.13 A targeted rate for parks and reserves set on all rateable land in the district and differentiated as follows:

1.13.1 Inner Zone: A rate of \$350.30000000 (exclusive of GST) per rating unit.

1.13.2 Outer Zone: A rate of \$182.27000000 (exclusive of GST) per rating unit.

Animal and Plant Pests Targeted Rate

1.14 A targeted rate for animal and plant pest control set on all rateable land in the district and differentiated as follows:

1.14.1 Inner Zone: A rate of \$0.00002157 (exclusive of GST) per dollar of land value on rateable land.

1.14.2 Outer Zone: A rate of \$0.00012485 (exclusive of GST) per dollar of land value on rateable land.

Soil Conservation, Advocacy and Land Use Targeted Rate

1.15 A targeted rate for soil conservation, advocacy and land use, set on all rateable land the following differential categories:

1.15.1 Inner Zone: A rate of \$0.00006796 (exclusive of GST) per dollar of land value on rateable land.

1.15.2 DRA3 and 4: A rate of \$0.00018566 (exclusive of GST) per dollar of land value on rateable land.

1.15.3 DRA5: A rate of 0.00119847 (exclusive of GST) per dollar of land value on rateable land.

Theatres Targeted Rate

1.16 A targeted rate for theatres set on all rateable land in the district and differentiated as follows:

1.16.1 Inner Zone: A rate of \$0.00005998 (exclusive of GST) per dollar of capital value on rateable land.

1.16.2 Outer Zone: A rate of \$0.00001799 (exclusive of GST) per dollar of capital value on rateable land.

Water Conservation Targeted Rate

1.17 A targeted rate for water conservation set on all rateable land in the district and differentiated as follows:

1.17.1 Inner Zone: A rate of \$0.00027507 (exclusive of GST) per dollar of land value on rateable land.

1.17.2 Outer Zone: A rate of \$0.00017055 (exclusive of GST) per dollar of land value on rateable land.

Flood Damage and Emergency Reinstatement Targeted Rate

1.18 A targeted rate for flood damage and emergency reinstatement, set on all rateable land in the following differential categories:

1.18.1 Forestry: A rate of \$0.00032618 (exclusive of GST) per dollar of capital value on all Forestry land and on Pastoral properties with 20 hectares or more of forestry.

1.18.2 Horticultural and Pastoral Farming: A rate of \$0.00003914 (exclusive of GST) per dollar of capital value on all Horticulture and Pastoral land over 5 hectares, and on forestry properties with 20 hectares or more of pastoral land.

1.18.3 Industrial and Commercial: A rate of 0.00005219 (exclusive of GST) per dollar of capital value on all Industrial and Commercial land.

1.18.4 Residential and Lifestyle and other: A rate of \$0.00002609 (exclusive of GST) per dollar of capital value on the following:

- Residential, Lifestyle, Arable and other land.
- Horticulture and Pastoral land with land area less than 5 hectares.

Non-subsidised Local Roading Targeted Rate

1.19 A targeted rate for local roading set on all rateable land in the district and differentiated as follows:

1.19.1 Inner Zone: A rate of \$0.00000669 (exclusive of GST) per dollar of capital value on rateable land.

1.19.2 Outer Zone: A rate of 0.00001559 (exclusive of GST) per dollar of capital value on rateable land.

Passenger Transport Targeted Rate

1.20 A targeted rate for passenger transport of \$22.11000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on Residential land in area DRA1.

Subsidised Local Roading Targeted Rate

1.21 A targeted rate for local roading, set on all rateable land in the following differential categories:

1.21.1 Forestry: A rate of \$0.00476601 (exclusive of GST) per dollar of capital value on all Forestry Exotic land and on Pastoral land with 20 hectares or more of forestry.

1.21.2 Horticultural and Pastoral Farming: A rate of \$0.00057192 (exclusive of GST) per dollar of capital value on all Horticulture and Pastoral land over 5 hectares, and on forestry properties with 20 hectares or more of pastoral land.

1.21.3 Industrial and Commercial: A rate of \$0.00076256 (exclusive of GST) per dollar of capital value on all Industrial and Commercial land.

1.21.4 Residential and Lifestyle and other: A rate of 0.00038128 (exclusive of GST) per dollar of capital value on the following:

- Residential, Lifestyle, Arable and other land.
- Horticulture and Pastoral land with land area less than 5 hectares.

Commercial Recycling Targeted Rate

1.22 A targeted rate for commercial recycling of \$53.80000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on participating non-residential land.

Uniform Waste Management Targeted Rate

1.23 A uniform targeted rate for waste management for refuse and recycling of \$107.62000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on all rateable land in the district for which the service is provided, Area as defined in the Annual Plan 2023/24 Funding Impact Statement and map.

Rural Transfer Station Targeted Rate

1.24 A uniform targeted rate of \$173.81000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on all rateable land within a defined 15km radius scheme area of a Rural Transfer Station, as identified in the Funding Impact Statement and map.

Stormwater Targeted Rate

1.25 A targeted rate for stormwater, set on all rateable land in the following differential categories:

1.25.1 DRA1 and DRA1A: A rate of \$191.49000000 (exclusive of GST) per separately used or inhabited part of a rating unit on all Residential land.

1.25.2 All Rural Townships, including Manutuke and Patutahi: A rate of \$86.58000000 (exclusive of GST) per separately used or inhabited part of a rating unit.

1.25.3 Commercial and Industrial land in DRA1 and DRA1A: A rate of \$0.00041158 (exclusive of GST) per dollar of capital value.

Wastewater Targeted Rate

1.26 A targeted rate for wastewater, set on all connected rating units in the following differential categories:

1.26.1 Te Karaka: A rate of \$448.34000000 (exclusive of GST) per pan (water closet or urinal) on land in the Te Karaka area connected to the wastewater system.

1.26.2 Gisborne City: A rate of \$582.78000000 (exclusive of GST) per pan (water closet or urinal) on all land in the Gisborne City area connected to the wastewater system.

Water (Availability) Targeted Rate

1.27 A uniform targeted rate for water supply of \$126.29000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on all rateable land that is not connected to the water supply, but for which connection is available. Connection is deemed available where a rating unit is situated within 100 metres of any part of the waterworks.

Water (Connection) Targeted Rate

1.28 A uniform targeted rate for water supply of \$252.56000000 (exclusive of GST) per separately used or inhabited part of a rating unit, set on all rateable land that is connected to the water supply.

Water (Metered) Targeted Rate

1.29 A targeted rate for water supply as defined in the Water Supply Bylaw 2015 for connected rating units and differentiated as follows:

1.29.1 A rate of \$1.64000000 (exclusive of GST) per cubic metre of water supplied for identified extraordinary users.

1.29.2 A rate of \$1.64000000 (exclusive of GST) per cubic metre of water supplied for identified extraordinary domestic users for water supplied above 300 cubic meters.

Business Area Patrol Targeted Rate

1.30 A uniform targeted rate for monitoring the Central Business District Area of \$0.00028760 (exclusive of GST) per dollar of capital value on all commercial land within the Central Business District area and as set out in the Funding Impact Statement map.

Economic Development and Tourism Targeted Rate

1.31 A uniform targeted rate for economic development and tourism of \$0.00029062 (exclusive of GST) per dollar of capital value on all Industrial, Commercial, Retail and Accommodation land.

2. Resolves under section 24 of the Local Government (Rating) Act 2002 that all rates (excluding the Water (Metered) Targeted Rate) be payable in four equal instalments, with each instalment due on the rates due date stated in the Table 1.

3. Resolves under sections 57 and 58 of the Local Government (Rating) Act 2002 to authorise the addition of a penalty of 10% of the amount of any rates (excluding the Water (Metered) Targeted Rate) unpaid after the rates due date, with the penalty to be added on the Penalty Date stated in Table 1 below:

Table 1

Rate Instalment Dates Invoiced Quarterly	Rates Due Date	Date Penalty Added
Instalment 1	21 Aug 2023	25 Aug 2023
Instalment 2	20 Nov 2023	24 Nov 2023
Instalment 3	20 Feb 2024	26 Feb 2024
Instalment 4	20 May 2024	24 May 2024

4. Resolves under sections 24 of the Local Government (Rating) Act 2002 that the Water (Metered) Targeted Rate be payable on the rates due date stated in the Table 2.
5. Resolves under 57 and 58 of the Local Government (Rating) Act 2002 to set the following due dates for the payment of the Water (Metered) Targeted Rate, and to add a penalty of 10% of the amount remaining unpaid after the due date. The penalty will be added on the Penalty Date in Table 2 below.

Table 2

Month of invoice	Due date	Date penalty added
Invoiced six-monthly		
Jun 2023	20 Jul 2023	26 Jul 2023
Dec 2023	22 Jan 2024	26 Jan 2024
June 2024	22 Jul 2024	26 Jul 2024
Invoiced quarterly		
Jun 2023	20 Jul 2023	26 Jul 2023
Sep 2023	20 Oct 2023	26 Oct 2023
Dec 2023	22 Jan 2024	26 Jan 2024
Mar 2024	22 Apr 2024	26 Apr 2024
June 2024	22 Jul 2024	26 Jul 2024
Invoiced monthly		
Jun 2023	20 Jul 2023	26 Jul 2023
Jul 2023	21 Aug 2023	25 Aug 2023
Aug 2023	20 Sep 2023	26 Sep 2023

Sep 2023	20 Oct 2023	26 Oct 2023
Oct 2023	20 Nov 2023	24 Nov 2023
Nov 2023	20 Dec 2023	21 Dec 2023
Dec 2023	22 Jan 2024	26 Jan 2024
Jan 2024	20 Feb 2024	26 Feb 2024
Feb 2024	20 Mar 2024	26 Mar 2024
Mar 2024	22 Apr 2024	26 Apr 2024
Apr 2024	20 May 2024	24 May 2024
May 2024	20 Jun 2024	26 Jun 2024
June 2024	22 Jul 2024	26 Jul 2024

CARRIED

The Chief Executive explained that conversations have been held around properties that have been red stickered and what the full implications are. In the meantime, the team have been remitting the rates. Advice will be bought back to Council around the implications of remitting rates on red stickered properties.

Further questions of clarification included:

- With reference to the revenue increases of 6.5 plus growth, the growth is an actual figure not arbitrary and is based on the ratable units that have increased.

10.3 23-134 Supplementary to Report 22-228 - Committee Structure & Appointments

MOVED by Cr Stoltz, seconded by Cr Robinson

That the Council/Te Kaunihera:

1. Agrees to confirm the appointment of Ani Pahuru-Huriwai and Rob Telfer as a member of the Bylaw Hearing Panel.

CARRIED

10.4 23-137 Local Government New Zealand Annual General Meeting 2023

Questions of clarification included:

- Remit document was sent to the office of the Mayor and gets presented to the Councillor's as part of a report at the next meeting.
- Councillors will be provided with the dollar amount of rate rebates issued.

MOVED by Cr Stoltz, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Instructs the Mayor, as presiding delegate, to vote to support – or oppose – the Local Government New Zealand remits as follows:
 - a. That LGNZ:
 - i. Engage directly with the Minister for Building and Construction to advocate for a change to the current joint and several liability framework, including examination of the MBIE policy position statement Risk, Liability and Insurance in the Building Sector.
 - ii. Make the case for alternatives and changes to joint and several liability through updating policy advice and engaging with industry groups.
 - b. That LGNZ advocate to Central Government to:
 - i. Raise the income threshold for rates rebate eligibility to enable more low and fixed income property owners access to the rebate.
 - ii. Adjust the rebate amount in line with inflation and the cost of living.
 - iii. Investigate options to make rates rebates more accessible for residents by implementing an income data sharing process similar to that of Horowhenua District Council and Levin MSD office. This will enable Councils to obtain benefit income on behalf of the ratepayer and make it easier to apply for the rates rebate.
 - iv. Investigate options for data sharing between Councils, Internal Affairs and Ministry of Social Development to proactively identify households that qualify for a rates rebate rather than waiting for people to apply.
 - c. That LGNZ:
 - i. Publicly lobby all political parties to increase Crown funding for state highway and local road maintenance budgets.
 - ii. Consider and pursue other avenues including the Office of the Auditor General to seek resolution of the issues facing the country in relation to the systemic rundown of our national roading infrastructure.
 - d. That LGNZ ensure Local Government Elections are fully accessible by advocating to central government to make local government candidates eligible for the Election Access Fund.
 - e. That LGNZ explores and promotes options that enable councils to make greater use of co-chair arrangements for standing committees, joint committees and sub committees.
 - f. That LGNZ advocate to central government to enable councils to determine penalties for parking infringements.

- g. That LGNZ:
 - i. Acknowledges the Government stated support for a major uplift in all urban bus networks nationwide under New Zealand's first emission reduction plan.
 - ii. Calls on the Government and opposition parties to commit to increasing investment in public transport for rural and regional communities to support access to essential services and amenities, vibrant rural communities and just transition to a low emission transport system.
 - h. That LGNZ:
 - i. Investigates the creation of an LGNZ independent, national process to handle complaints or concerns, ensuring fairness, protection, and accountability in local government.
 - ii. Works with the Local Government Commission to implement findings from its September 2021 report – Local Government Codes of Conduct.
 - i. That LGNZ investigate and report to members on ways to help councils and communities that are struggling with the timeframes in the Earthquake Prone Building (EPB) sections of the Building Act and council policies pertaining to Priority Thoroughfares.
 - j. That LGNZ ask the Government to amend the law to enable councils to make contributions to an elected members' KiwiSaver scheme.
 - k. That LGNZ calls on central government to take action to reduce council audit fees by:
 - i. Revisiting the scope and requirements of reporting and auditing on councils.
 - ii. Conducting a review on the practice of audit in councils and work on best practice guidance to streamline this process.
 - iii. This review should examine whether the reporting and audit requirements of councils are consistent with the level of reporting and audit that is required of other public entities.
2. Appoints Councillor Ria as the alternate voting delegate.

CARRIED

10.5 23-141 Water Services Entities Amendment Bill - Submission

Special Projects Manager Yvette Kinsella attended and presented on 'Water Services Entities Amendment Bill – Recommended Submission Points':

Questions of clarification included:

- Initial costings have been shared however they were done a very long time ago. While assumptions were made on the very streamlined version of Scenario 2, since then there have been several amendments and some costings may not have been pulled into this model.

- Government have allowed debt to be spread over a long period of time so the cost to communities has been bought down slightly.
- There has been engagement with mana whenua and there is a separately established Iwi Reference Group Entity.
- Part of the submission should be around Council's concern with the rushed process and the short timeframes for something that is a massive piece of work which will impact Council significantly.
- It was suggested that the submission state that the community priority statements should not be allowed to undermine or overwrite what is in a Te Mana o Te Wai Statement or what is in a Regional Representatives Group's Statement of Strategic Performance Expectation.
- The Regional Representatives Group (RRG) sets strategic direction for the Board and prepare a Statement of Strategic Performance Expectations. The RRG is a co-governed body of community interests.
- The Water Services Entities will be represented by highly professional people ie Mayors, Chief Executives and highly regarded mana whenua.
- No-one has explained the haste other than to say that Cyclone Gabrielle has put more urgency on it.

The Chief Executive explained that initial discussions have been held with the Chief Executive of Hawkes Bay Regional Council and they are in a similar situation ie losing key staff members, so the sooner we can move the better because of the potential risk of further attrition of staff. They also saw it as an opportunity to align with the recovery effort ie a build back better approach.

- It was pointed out that nothing changed for Auckland and Northland when they changed from the 4 entities to 10 so the work they have been completing over the last 2 years is carrying on.
- Suggestion that we should continue as the legislation will not be repealed. Waiting will put more pressure on staff. Conversation should be around aiming for Option 2 as it aligns with our recovery timeframes and funding and building back better.
- It is important to acknowledge that mana whenua, maori and iwi may also face significant challenges during this time. It is crucial for us to establish connections and engage in discussions with them while simultaneously addressing the concerns of our neighbouring authorities.

Yvette outlined the following points to be included in the submission:

- Support All Territorial Authorities to be represented on RRG.
- Support continued co-governance.
- Support ten entities with the proviso that Shared Services forms a core part and that there is Ministerial direction as much as possible where those services are unlikely to vary across the country and where there are massive efficiencies and cost reductions possible eg billing customers, debt collection, customer complaints and requests for service.

- Supports Water Services Funding Agency because it allows funding at scale and Government security and additional funding from Government.
- In terms of the mergers question what will happen to the relationship agreements and service level agreements for Councils.
- Support the transfer of obligations to Maori/iwi.
- Ensure community priority statements cannot overlap or overwrite a Te Mana o Te Wai or RRG's Statement.
- Ensure that they work with the Councils and mana whenua on transition timing as it is critical that the Minister listens. More information is required before timelines can be committed to.
- The costs will be questioned and how the figures were arrived at.
- Outline the impact of the rushed process.
- Outline the muddy waters and how will the community understand this on the ground and at a hapu level.
- Outline that time is needed for Council and Mana whenua to come together to discuss what is best for our region including outlining the disproportionate impact on mana whenua resourcing in our current environment.

MOVED by Cr Robinson, seconded by Cr Gregory

That the Council/Te Kaunihera amends the recommendation as follows:

1. Endorses the key points to include in a Gisborne District Council submission on the Water Services Entities Amendment Bill.
2. Instructs the Chief Executive to make a submission to the Governance and Administration Select Committee on the matters agreed at the hui, and any other matters consistent with Council's position, by July 2023.
3. Notes that the Chief Executive will continue to lead the Council's transition work and to update the Council on the transition effort as key milestones are reached.

CARRIED

11. Reports of the Chief Executive and Staff for INFORMATION

11.1 23-111 Chief Executive Activity Report June 2023

Central Government Updates

- Further conversations will be had regarding the recommendations from the Review into the Future for Local Government.
- Feedback regarding key changes in relation to the Resource Management Reforms will be circulated to Councillors.

Civil Defence Updates

- Sand bags were in hot demand over the recent weather event and some were sent up the east coast during the last event.

Focus Projects

- The agreement was that Council would strengthen the Peel Street Toilet block based on an agreed budget. A full refurbishment of the inside of the toilet block is reliant on future funding.
- Regarding Panuku Tu/Titirangi Summit Project, conversations with submitters was in place pre-cyclone, however was placed on hold during this event. It is hopeful to progress the resource consent process before the end of the year.
- The team have been working incredibly hard on the complex topic of woody debris on beaches. A report will be submitted to Council once it has been discussed by the Central Organising Roopu. A lot of work has been done since the Workshop with Councillors.
- The definition for a township to qualify for an upgrade will be provided to Councillors. In relation to the Ormond township, it is considered to be within the city boundary so will be covered through Liveable Communities.

Biodiversity

- There are a number of factors to consider around replanting sites damaged during weather events eg land subsidence and also the Emission Trading Scheme (ETS) liabilities. It is about planting the best tree in the right location. The priority will be natives however in some locations poplars are an option. The team are thinking outside the square in terms of the areas more prone to slipping including drone hydroseeding.

Grant Funding

- Consideration can be given to being proactive in relation to applications to The Creative Communities Fund.
- The 'Streets for People Programme 2021-24' is for ideas and concepts.

Regional Roding Activities

- The Linear Park concept is included in Tairāwhiti 2050 the Regional Spatial Plan. In terms of the work underway regarding 'Streets for People Programme' funded by Waka Kotahi, it is an opportunity to test ideas. The thinking and reaction from Tairāwhiti Adventure Trust working with Waka Kotahi and staff will feed into the Long Term Planning. This is the stage it would come back to Councillors for consideration. The more detailed master planning urban design concepts would come into play as well should Council consider it worth pursuing. Councillors have the opportunity to reach out to the Tairāwhiti Adventure Trust and become part of the Linear Park Concept.

Director Lifelines David Wilson presented and updated Councillors on the work happening on the roading network which included:

- Gisborne District Council's website is the one source of truth when it comes to local roads information including the condition of the roads.
- Roads are still moving, and Waka Kotahi are having the same issue with state highways and there is a real danger having contractors on the site to repair the roads.
- The large slips around the district are not short-term fixes.
- Welfare and mental health checks are being conducted where appropriate and Welfare work closely with Te Whatu Ora and other providers where psychosocial support is needed. Close contact is also kept with the Rural Support Trust particularly for our farming communities.
- The key aspect through the Recovery process is the collective impact approach which is a wrap-around service for whanau, and this includes psychosocial support.

David thanked the crews and the teams that are out in our district carrying out the work in very trying conditions.

Questions of clarification included:

- Inland of the 18km mark on Tauwhareparae Road there are approximately 50 people without access. The team are looking at using a Unimog for supply drop off. In some places there is cross farm access but more importantly is reinstating access for them to come and go and for goods and services to be bought into the area.
- In each of the affected areas the maintenance contractor has the bulk of the work when it comes to emergency response. Staff work closely with the contractors around which resource goes into which area.

Her Worship the Mayor extended her gratitude to the contractors that are doing the mahi on the ground along with the people who are continually giving updates regarding the roads. We encourage the public to follow the rules and drive to the conditions.

MOVED by Cr Gregory, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Notes the contents of this report.

CARRIED

Secretarial Note: Cr Tupara left the meeting at 12:35pm.

11.2 23-142 Submission on Emergency Management Bill

Special Projects Manager Yvette Kinsella attended and advised that the Prime Minister has indicated that the Select Committee is to take their time regarding this Bill as it is not dependent on pre-election sign-off.

MOVED by Cr Wharehinga, seconded by Cr Robinson

That the Council/Te Kaunihera:

1. Notes the contents of this report.

CARRIED

Secretarial Note: The meeting adjourned at 12.40pm for lunch and reconvened at 1.10pm for the Public Excluded Section of the Agenda.

12. Public Excluded Business

Secretarial Note: These Minutes include a public excluded section. They have been separated for receipt in Section 12 Public Excluded Business of Council.

13. READMITTANCE OF THE PUBLIC

MOVED by Cr Gregory, seconded by Cr Robinson

That the Council:

1. Re-admits the public.

CARRIED

14. Close of Meeting

There being no further business, the meeting concluded at 3.45pm.

Rehette Stoltz

MAYOR

3.2. Action Sheet

Meeting Date	Item No.	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
02/03/23	9.3	23-37 Health and Safety Governance Charter	In progress	Consideration to be given to cultural safety along with a connection linking back to tikanga and values.	Gene Takurua, Heather Kohn	<p>03/05/2023 Heather Kohn Research underway on how other Councils address safety at Governance level.</p> <p>26/07/2023 Heather Kohn Discussing with Cr Pahuru-Huriwai regarding her thinking in requesting this as there is no information available externally on specific cultural safety in a Governance Charter.</p>	31/08/23
30/03/23	13.2	Additional Action Items	In progress	<p>Report 23-11 Chief Executive's Activity Report</p> <p>Staff to prepare a report to Council regarding reprioritising projects relating to the Better Off Funding.</p>	Kelly Scott-Haenga	<p>18/07/2023 Kelly Scott-Haenga</p> <p>This action is still ongoing. Report will be prepared once potential substitution projects have been identified/confirmed.</p>	19/09/23
28/06/23	10.2	23-130 Setting of Rates, Due Dates and Penalties for 2023/24	In progress	Councillors to be advised of the implications of remitting rates on red stickered properties.	Jade Lister-Baty, Pauline Foreman		19/09/23
28/06/23	10.4	23-137 Local Government New Zealand Annual General Meeting 2023	In progress	The Local Government New Zealand Remit document to be placed on the 'Councillor Only' site as soon as it is received by the Mayor's office.	Annie Cousins		25/10/23
28/06/23	11.1	23-111 Chief Executive Activity Report June 2023	In progress	Circulate to Councillors the feedback regarding key changes in relation to the Resource Management Reforms.	Jade Lister-Baty		19/09/23

Meeting Date	Item No.	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
28/06/23	15.1	Additional Action Items	Completed	Report 23-137 Local Government New Zealand Annual General Meeting 2023 Councillors to be provided with the dollar amount of rates rebates.	Ally Campbell, Fiona Scragg, Pauline Foreman	12/07/2023 Fiona Scragg Information emailed to Councillors on 14 July 2023.	18/07/23
28/06/23	15.2	Additional Action Items	Completed	Report 23-111 - Chief Executive's Activity Report Councillors to be provided with the definition for a township to qualify for an upgrade.	Anita Reedy-Holthausen	13/07/2023 Anita Reedy-Holthausen Decision made by previous Chief Executive to develop a list of townships needing upgrades. This was based on those that had plans in place and historically had been promised funding to support an increased level of service, i.e., amenity and/or maintenance. This was a nominal amount and funding has progressively increased.	18/07/23

10. Reports of the Chief Executive and Staff for DECISION



Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

23-128

Title: 23-128 Bylaw Submissions Panel - Adoption Report - Dog Control Bylaw and Policy

Section: Strategy

Prepared by: Makarand Rodge - Policy Advisor

Meeting Date: Thursday 10 August 2023

Legal: No

Financial: No

Significance: **Medium**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to provide recommendations to Council for adopting the revised Draft Dog Control Bylaw 2023 and Draft Dog Control Policy.

SUMMARY - HE WHAKARĀPOPOTOTANGA

The Dog Control Policy and Bylaw 2010 (the current policy) aims to protect and regulate the health and wellbeing of dogs, dog owners and the public. The overriding objective of the current policy is to encourage responsible dog ownership and community awareness to promote an environment where dogs and people happily co-exist. The Dog Control Policy and Bylaw 2010 have been attached to this report as **Attachment 1** and **Attachment 2**.

Council approved the review of the current policy at its Sustainable Tairāwhiti Committee meeting on 28 October 2021 ([Report 21-165](#)). After that, Council adopted the Statement of Proposal (SOP), the draft Dog Control Policy 2023 and the draft Dog Control Bylaw (the draft policy and bylaw) for consultation at its Council meeting on 15 December 2022 ([Report 22-205](#)). Consultation on the SOP and the draft policy and bylaw commenced on 25 January 2023 and ended on 16 March 2023. During this time Council received 300 written submissions, two oral submissions through drop-in sessions, and several comments via Facebook. On 26 April 2023 the Bylaw Hearings Panel (the Panel) received all submissions ([Report 23-13](#)) and heard 13 submitters who spoke to their submissions.

The majority of concerns raised by submitters have been in relation to:

- Proposal 1 (Requiring dogs to be on a leash in all public places unless specified otherwise in the Policy).
- Proposal 2 (Prohibition of dogs from Kaiti Beach).
- Proposal 5 (Prohibition of dogs from the sports grounds at Nelson Park and Waikirikiri Reserve).

Some notable suggestions from the feedback have been to:

- a) avoid being over-restrictive especially in terms of Kaiti beach and Nelson Park which are most popular spots frequented by dog owners and allow for more off-leash areas.
- b) allow dogs off leash at Whataupoko Reserve (Fox Street Reserve)
- c) define the exact urban boundaries to which the proposed default on-leash rule would apply and
- d) provide for more signage and rubbish bins / dispensers around popular dog walk areas.

The Panel also received a Deliberations Report ([Report 23-92](#)) and deliberated on the matters raised in the submissions on 23 May 2023.

Based on the submitters feedback, current information, rationale included in the SOP and further deliberations between the Panel members, the Panel recommends:

- i. Allowing dogs on-leash in the following areas which are designated as prohibited areas under the current policy:
 - a) Botanical Gardens (excluding play areas) (Map 9 attached in Schedule 3 of the amended draft Dog Control Policy 2023).
 - b) Alfred Cox Park (pump track area) (**Attachment 3**).
 - c) Anzac Park (**Attachment 4**).
 - d) Midway beach (flagged area).
 - e) Wainui beach (flagged area).
- ii. Amending the proposed designations at Waikanae and Midway beach to allow more accessibility for dog owners.
- iii. Including additional maps in the draft policy for sports fields and other popular areas to ensure there is clarity on the intended designation of the prohibited/on-leash/off-leash areas.
- iv. That the Chief Executive reviews the standard operating procedure to respond to barking dog complaints and the tools available to Animal Control Officers to monitor and record nuisance.
- v. That Council adopts the amended draft policy and bylaw (**Attachment 5** and **Attachment 6**).

The decisions or matters in this report are considered to be of **Medium** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. Adopts Panel's recommendations to:
 - a. Allow dogs on-leash in the following areas which are designated as prohibited areas under the current policy:
 - i. Botanical Gardens (excluding play areas).
 - ii. Midway beach (flagged area).
 - iii. Waikanae beach (flagged area).
 - iv. Wainui beach (flagged area).
 - v. Anzac Park.
 - vi. Alfred Cox Park (pump track area).
 - b. Adds Whataupoko Reserve (Fox Street Reserve) in the draft policy as an off-leash zone.
 - c. Amends the draft bylaw to include the definition of Reticulated Boundary Services for the purpose of setting a boundary within which the default on-leash rule would apply.
 - d. Amends the draft bylaw to include Wahirere and Tīfirangi Domain.
 - e. Amends the designation at all beaches to allow more accessibility for dog owners by extending the off-leash area at Waikanae beach from Pacific Street to Stanley Street and making the prohibited areas between the flags at all beaches on-leash (except Kaiti beach).
 - f. Includes additional maps in the draft policy to ensure public are aware of the dog access areas.
2. Adopts the special consultative procedure under Section 83 of the Local Government Act 2002 and further directs the Chief Executive to prepare a Statement of Proposal and a Summary of Information in relation to the following:
 - a. Panel's recommended changes to the proposed designation at Botanical Gardens.
 - b. Panel's recommended changes to the proposed designation at Alfred Cox Park (pump track area).
 - c. Panel's recommended changes to the proposed designation at Anzac Park.
3. Adopts the attached Dog Control Policy 2023 and Dog Control Bylaw 2023 (Attachment 5 & 6), and delegates the Chief Executive to make any minor amendments required, including to reflect Council decisions.
4. Specifies that the Dog Control Policy 2023 and the Dog Control Bylaw 2023 would come into effect no later than one month from the date of adoption.
5. Publicly notifies the adopted Dog Control Policy 2023 and Dog Control Bylaw 2023.
6. Directs the Chief Executive to review the standard operating procedure in relation to barking dog complaints and the tools available to Animal Control Officers to monitor and record nuisance.

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Dogs, Dog control, Dog access areas, on-leash, off-leash.

BACKGROUND – HE WHAKAMĀRAMA

1. The current policy and bylaw aim to ensure the health and wellbeing of dogs through responsible dog ownership by requiring every dog to be registered and microchipped, ensuring there are designated areas where dogs can be exercised both on and off leash, investigating and resolving dog complaints, as well as educating owners.
2. The current policy and bylaw also aim to ensure the wellbeing and safety of the general public through regulations. To achieve this the current policy and bylaw sets out areas in which dogs are prohibited or need to be on a leash, enables infringement notices to be issued and further action taken when dogs are disruptive or threatening public safety.
3. Council approved the review of the current policy and bylaw at its Sustainable Tairāwhiti Committee meeting on 28 October 2021 ([Report 21-165](#)). The SOP, the draft policy and bylaw were adopted for formal consultation at Council's 15 December 2022 meeting ([Report 22-205](#)).
4. The SOP included eight proposed changes to the current policy. The proposals included:
 - i. Requiring that dogs be on a leash in public places unless specified otherwise in the policy.
 - ii. Prohibiting dogs from Kaiti Beach.
 - iii. Allowing dogs on-leash in some neighbourhood reserves where dogs are currently prohibited.
 - iv. Allowing dogs to be off-leash in the part of Waiteata Park north of the stream.
 - v. Prohibiting dogs from sports grounds (limited to the central sports fields at Waikirikiri and Nelson Park, surrounding areas remain on-leash) to protect children from dog faeces.
 - vi. Removing time-of-day and holiday restrictions on beaches.
 - vii. Increasing the number of dogs that can be kept on premises without a permit.
 - viii. Reducing the number of times, a dog can be found not under control before Council may require it to be neutered – from three incidents to two within a 12-month period.
5. Consultation on the SOP, the draft policy and bylaw began on 25 January 2023 and ended on 16 March 2023. The consultation period was initially planned to be concluded by 2 March 2023, however, as Cyclone Gabrielle caused region-wide disruptions in communication channels, the consultation period was extended to 16 March 2023.
6. Over the seven-week consultation period, Council sought feedback on the eight proposals detailed in the SOP asking if submitters agreed/disagreed with the proposals, and if they had any comment(s) on each of them.
7. During the consultation phase, as a requirement under Section 10(2) of the Dog Control Act 1996 (DCA), staff sent out letters to 6,089 registered dog owners (5,285 via post and 804 via emails) inviting them to participate in the consultation process. Apart from this, staff also reached out to various organisations (including tangata whenua and iwi/hapū) via email, phone call or by delivering flyers, inviting them to participate in the consultation process.

8. Radio ads, social media content, public sign boards about the bylaw consultation process were aired/published/installed by 10 February 2022 with the intention of reaching out to a wide audience. A 10@10 session sharing information about the draft policy and bylaw consultation process was held on 26 January 2023 with Council staff. Additionally, staff organised drop-in sessions for the public during the consultation period to answer any public queries around the SOP, the draft policy and bylaw.
9. Council received three hundred (300) online written submissions via Participate, two (2) oral submissions during drop-in sessions organised by staff, and several comments via Council's Facebook page dedicated for feedback on the proposed changes.
10. The Panel received the Hearings report that included all the submissions from the consultation process ([Report 23-13](#)). Further, the Bylaw Hearings were conducted on 26 April 2023 during which the Regulatory Hearings Panel heard 13 submitters who spoke to their submissions.
11. The feedback received mainly raised concerns around:
 - the proposal to adopt a blanket on-leash rule in all urban areas (Proposal 1)
 - the proposal to prohibit Kaiti Beach to protect the Kororā population (Proposal 2)
 - the proposal to prohibit sports fields at Nelson Park and Waikirikiri Park (Proposal 5).
12. The Panel received the Deliberations Report prepared by staff ([Report 23-92](#)) and deliberated on the matters raised in the submission on 23 May 2023.
13. Post deliberations, the Panel made the following recommendations on the final proposed form of the policy and bylaw:
 - i. Allow dogs on-leash in the following areas which are designated as prohibited areas under the current policy:
 - a) Botanical Gardens (excluding play areas)
 - b) Midway beach (flagged area)
 - c) Waikanae beach (flagged area)
 - d) Wainui beach (flagged area)
 - e) Anzac Park
 - f) Alfred Cox Park (pump track area)
 - ii. Amend the proposed designation at all beaches to allow more accessibility for dog owners by extending the off-leash area at Waikanae beach from Pacific Street to Stanley Street and designating the prohibited areas between the flags at all beaches as on-leash (except Kaiti beach).
 - iii. Include additional maps in the draft policy to ensure public are aware of the dog access areas.
 - iv. Amend the draft policy and bylaw where necessary in accordance with the above recommendations.
 - v. The Chief Executive reviews the standard operating procedure to respond to barking dog complaints and the tools available to Animal Control Officers to monitor and record nuisance.

14. The Panel notes that the recommendations (listed below) would require the special consultative procedure to be followed before these changes can be finalised and adopted:
- i. Recommended changes to the designation at Botanical Gardens.
 - ii. Recommended changes to the designation at Alfred Cox Park (pump track area).
 - iii. Recommended changes to the designation at Anzac Park.

DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

15. The submissions received during the Consultation reveal majority of the concerns raised have been around Proposal 1, 2 and 5:

Table 1: Proposal wise response received from submitters during Consultation:

Proposal	Agree (%)	Disagree (%)	Partially Agree (%)	No response (%)
Proposal 1	56%	38%	2%	4%
Proposal 2	52%	40%	0.5%	7.5%
Proposal 3	80%	10%	4%	6%
Proposal 4	72%	16%	1%	11%
Proposal 5	41%	48%	5%	6%
Proposal 6	64%	23%	3%	10%
Proposal 7	54%	34%	3%	9%
Proposal 8	81%	9%	1%	9%

16. A detailed analysis of the proposals and additional information has been included in the Deliberations report prepared by staff ([Report 23-92](#)).
17. The Panel's recommendations for each proposal and their rationale are outlined below.

Proposal 1: Dogs are on a Leash in Public Places Unless Specified Otherwise in the Policy

18. The rationale for the preferred option of Proposal 1 in the SOP was:

The current Policy specifies certain areas as on-leash, off-leash or prohibited to dogs. In other areas not specified under the Bylaw, dog owners must carry a leash and ensure that the dog is kept under control at all times.

Requiring that dog owners keep the dog on-leash by default in public places (unless specified as an off-leash or prohibited area in the Policy) reduces confusion around what qualifies as "under control" and is clear for dog owners and Council to apply.

Discussion

19. A blanket rule such as this would reduce confusion amongst the public about where dogs can and can't be off leash thereby easing compliance for dog owners and potentially reducing unnecessary enforcement actions for Animal Control Officers.

20. The Panel note and acknowledge that the preferred option of a default on-leash has been seen by number of submitters as being too restrictive, unclear, and unnecessary and one that would affect law abiding dog owners. Moreso, the dog related RFS data available for previous years show declining numbers in dog related incidents ([Report 22-205](#)). To address the above concerns raised by submitters, the Panel propose increasing dog access by removing prohibited areas and making them on-leash (as the default) as below:

i. Allow dogs on-leash in the following areas which are designated as prohibited areas under the current policy. The Panel notes that the following recommendations will require additional consultation as these are a change from the current policy as well as the proposals enlisted under the SOP:

a) **Botanical Gardens (excluding play areas)**

Botanical Gardens is a prohibited area under the current policy as well as the draft policy and bylaw. However, the garden is a popular spot frequented by many dog owners for dog walks. The Panel are of the view that any dog related risks can be managed by having dogs on leash. The Panel further recommend prohibiting dogs from the playground areas, in line with the approach taken at other reserves, to protect children from dog related risks. For better clarity, the Panel further recommend including a separate map of Botanical Gardens in the Draft Dog Control Policy 2023 to clearly highlight the prohibited area.

b) **Alfred Cox Park**

Under the current policy and the draft policy and bylaw, the pump track area at Alfred Cox Park is prohibited while the rest of the park is on-leash. Like the Botanical Gardens, the park is also a popular spot frequented by many dog owners for dog walks. The Panel are of the opinion that any risk to the pump track area can be managed by having dogs kept on leash. And so, the Panel propose designating Alfred Cox Park as on-leash including the pump track area.

c) **Anzac Park**

Anzac Park is currently designated as a prohibited area under the current policy as well as the draft policy and bylaw. However, the Park is a casually used sports ground which is used mostly for sports training activities. It is rarely used for sporting activities and is mostly clear of pedestrian traffic. The Panel are of the view that any potential to risks / danger from dogs can be easily managed by having dogs on-leash and therefore, propose designating the park as an on-leash area.

21. To address the issue raised around the rule being too broad, unclear and open ended, the Panel recommend defining urban boundaries by amending clause 6 (*Dogs must be on a leash in public places*) in Part 2 (*Regulation and Control of Dogs*) of the Draft Dog Control Bylaw 2023 to say:

“6. *Dogs must be on a leash in public places:*

1) *This clause applies in the following areas:*

A) *any area within the Reticulated Services Boundary;*

B) *Waihīrere Domain; and*

C) *Tītīrangī Domain.*

2) *The owner of a dog must ensure...*”

22. Waihīrere Domain and Tītīrangī Domain are not included in the Reticulated Services Boundary, and so there is a need to explicitly state them to ensure the rule applies to these areas. Although they are not included in the current Reticulated Services Boundary, they are considered to be part of the urban area.

This amendment would also be “future proof” for any growth in the urban area footprint by defining the Reticulated Services Boundary in Clause 4(1) (*Interpretation*), Part 1 (*Preliminary Provisions*) of the Draft Dog Control Bylaw 2023 as:

“Reticulated Services Boundary: has the same meaning as in the Tairāwhiti Resource Management Plan.

Related Information Box

Link to [Reticulated Services Boundary](#) map..”.

23. The Panel further recommend including separate maps that demonstrate the exact prohibited areas at Gladstone Road and Heath Johnstone Park (Wainui Road end) in the Draft Dog Control Policy 2023. This is so that it is very clear for the public about the exact dog access areas that are designated/prohibited. These additions are being recommended as the maps included in the Draft Dog Control Policy 2023 for the referred areas are not entirely clear.

Whataupoko Reserve (Fox Street Reserve):

24. The Panel further take note of the submissions made during the Hearings in favour of Whataupoko Reserve (Fox Street Reserve) being designated as an off-leash area. RFS data for the Whataupoko suburb shows very low incidences of dog attacks (4) while the feedback received from submitters at the Hearings also suggest that the area has been shared by dog owners and other users without any complaints from either side. The reserve is not included in the current policy and is not an off-leash area under the current default designation. Similarly, the draft policy & bylaw does not specify a designation for the reserve and so the proposed designation under the SOP would be that of on-leash.
25. To avoid any ambiguity and to allow more dog access, the Panel are of the view that status quo be maintained at Whataupoko Reserve and the reserve be added as an off-leash area in the Draft Dog Control Policy and Bylaw 2023.

26. Although submitters at the Hearing were in favour of having different restrictions depending on the time of day and year at Whataupoko Reserve, these rules have been known to cause confusion for dog owners. This has been evidenced through an increasing number of dog-related callouts at beaches (where we currently have specific off-leash and on-leash timings). Council could consider time-of-day restrictions however, increased signage would be needed to help ensure compliance and fostering awareness with all users of the reserve. The Council may wish to consider whether budget for specific signage or other implementation measures should be requested.

Panel recommendations

27. Retain preferred option recommended to Council for adoption with the following changes to the draft policy and bylaw:
- i. Amend clause 6(1) in Part 2 of the Draft Dog Control Bylaw 2023 to include Reticulated Services Boundary, Waihīrere Domain and Tīfīrangi Domain.
 - ii. Amend Clause 4(1), Part 1 of the Draft Dog Control Bylaw 2023 to define the Reticulated Services Boundary.
 - iii. Replace "6. Botanical Gardens" in "Schedule 1 – Prohibited Areas" of the Draft Dog Control Policy 2023 with "6. Botanical Gardens (playground areas only)". Further, amend prohibited area in "Map 4: Gisborne Map B" in "Schedule 3" in relation to Botanical Gardens and add a separate map – "Map 9 – Botanical Gardens" in "Schedule 3" showing the exact prohibited areas at the Garden.
 - iv. Remove "3. Alfred Cox Park – Pump Track" and "24. Anzac Park" from "Schedule 1" of the Draft Dog Control Policy 2023 and further remove the corresponding prohibited areas under "Map 4" in "Schedule 3".
 - v. Add separate maps – "Map 10 – Gladstone Road" and "Map 11 – Heath Johnston Park" in Schedule 3 of the Draft Dog Control Policy 2023 showing the prohibited areas.
 - vi. Add "8. Whataupoko Reserve" after "7. Ayton Park" in "Schedule 2 – Off Leash areas" of the Draft Dog Control Policy 2023, further amend "Map 4: Gisborne City B" in "Schedule 3" of the Draft Dog Control Policy 2023 and add a separate map – "Map 8 – Whataupoko Reserve" showing the Whataupoko Reserve area.
28. This would:
- a) Reduce confusion amongst the public about where dogs can and can't be off leash.
 - b) Remove any confusion around what the boundaries to which the blanket on-leash rule would apply.
 - c) Allow additional suitable areas (Alfred Cox Park, Botanical Gardens, Anzac Park, Whataupoko Reserve) to be used as dog access areas.
29. **Note:** The proposed changes to Botanical Gardens, Alfred Cox Park (pump track area), Anzac Park will require a separate consultation procedure to be followed as the proposed designation of these areas differs to the designation as detailed under current policy and the SOP.

30. The remaining proposed amendments to the draft policy and bylaw may be considered as “minor changes” as referred to under Section 156 of the Local Government Act 2002 and do not require additional consultation.

Proposal 2: Prohibit Dogs from Kaiti Beach

31. The rationale for the preferred option of proposal 2 in the SOP was:

Kaiti Beach is popular with dog walkers. However, the surrounding area is a well-established nesting site for native kororā (little blue penguin) to which dogs present a significant threat.

The Department of Conservation has collected several dead penguins from Kaiti Beach, whose injuries are consistent with a dog attack. At least three autopsies concluded the penguin was killed by a dog.

Additionally, the New Zealand Coastal Policy Statement 2010 directs Councils to avoid adverse effects of activities on 'at risk' indigenous species, of which kororā are one.

In discussions with Ngāti Oneone it was noted the current approach (a mix of on-leash and off-leash) has proved ineffective and they support initiatives, such as prohibiting dogs from the area, that further protect the kororā colony.

The kororā population is unknown in Midway, Wainui and Okitu Beaches, but thought to be low. Council's ability to protect kororā and other birds from dogs in these areas is also more limited due to the proximity of residential areas. Due to its layout, distance from residential development and established nesting colony, Kaiti beach presents a unique opportunity for Council and the community to protect an at-risk native species from dog attacks by prohibiting dogs from the beach.

To be effective, Council staff, DOC and Ngāti Oneone agree the prohibition should include the entire beach and dune area. Kororā nests can be found along the full length of the beach and northwards towards the rock and beyond. It is recommended dogs are still permitted on-leash within the road corridor up to the northern turnaround area.

Discussion

32. Under the current policy, Kaiti Beach is designated as an on-leash area with an off-leash exemption between 6am to 7am (excluding school and public holidays). The beach is a popular area for dog walkers. However, the surrounding dunes area are a well-established nesting site for native kororā.
33. Although there have been suggestions from submitters to allow access for dogs during the daytime, there is no substantial evidence to suggest that kororā will not be found at the beach during the day.
34. Making Kaiti Beach on-leash or prohibiting the area between the Port and Yacht club only, may reduce the chances of any dog related incidents involving kororā. However, the success of such a rule would depend on the compliance levels of dog owners and 24/7 enforcement will not be possible given limited staff resources.

35. On the other hand, if the preferred option is adopted, older individuals or persons with mobility issues may face difficulties accessing off-leash environments for exercising their dogs. The closest off-leash area from Kaiti beach is Heath Johnstone Park which is approximately 3.9km - 4km or Midway Beach which is around 4.2km-4.5km. The accessibility from the Midway Beach carpark to the off-leash area is not as easy as it is at Kaiti Beach which poses a potential access barrier for people with mobility issues. To address this issue, the Panel have recommended minor changes under Proposal 6 which would allow additional dog access areas at the other city beaches.
36. The option for cats and other pets to be kept off Kaiti Beach to protect the kororā was raised by some submitters. Animals other than dogs are beyond the scope of the Dog Control Act, 1996 and the scope of the current policy and bylaw. Additional restrictions cannot be added to the draft bylaw or policy. There is a recommendation in the Keeping of Animals Deliberation paper ([Report 23-101](#)) for Council to “Direct staff to investigate options for the management of cats in Tairāwhiti”, considered of how cats are managed at Kaiti Beach could be considered as part of that investigation if it goes ahead.

Panel Recommendations

37. Retain preferred option - Prohibit dogs on the entirety of Kaiti Beach and the dunes up to but not including the adjacent road corridor. Reason being that Kaiti Beach presents a unique opportunity for Council and the community to protect an at-risk native kororā species by prohibiting dogs at the beach.
38. Add a separate with a further zoomed in map of Kaiti beach “Map 7: Kaiti beach (road corridor)” in “Schedule 3” of the Draft Dog Control Policy 2023, so that it is clear for the public to understand exactly what areas on the beach have been prohibited.
39. **Note:** The above referred addition to the draft policy and bylaw is considered a “minor change” as referred to under Section 156 of the Local Government Act 2002 and will not require additional consultation using the special consultative procedure.

Proposal 3: Allow Dogs On-Leash in Some Neighbourhood Parks where Dogs are Currently Prohibited

40. The rationale for the preferred option of proposal 3 in the SOP was:

Council's current dog control bylaw takes a conservative approach to dog access, prohibiting dogs from all public areas with an unfenced playground.

This restricts opportunity for exercising dogs while doing little to increase public safety as dogs are currently permitted off-leash on the surrounding footpaths, often less than 10 metres from the playground.

The risk to users of amenities in these parks (children on unfenced playgrounds, users of skate ramps) are not increased and can be sufficiently managed by requiring dogs within the areas to be kept on leash. This approach is in line with more recent bylaws adopted in several regions including Wairoa and Auckland.

Discussion

41. The current policy takes a conservative approach to dog access, prohibiting dogs from almost all public areas with an unfenced playground. This restricts the areas available to exercise dogs, while doing little to increase public safety as dogs are currently permitted off-leash on the surrounding footpaths, often less than 10 meters from the playground.
42. The risk to users of amenities in these reserves (children on unfenced playgrounds, users of skate ramps) can be sufficiently managed by requiring dogs within these areas to be kept on a leash. This approach is in line with more recent bylaws adopted in several areas including Wairoa and Auckland.
43. Submitters have suggested more signage and waste bins in the area to encourage dog owners to pick up after their dogs. However, considering the limited budget available to cover the expenses for additional signage and rubbish bins the Panel is unable to make any recommendations around this issue currently.
44. There have been suggestions by submitters to introduce a live reporting app where users could share images of wrongdoers. The [GDC Fix it App](#) includes the option of sharing images while lodging complaints around essential services such as reporting to animal control. However, Animal Control staff note that due to technical difficulties with the App, there is a gap of minimum 24 hours until an animal control related complaint/report is received by Animal Control staff from the time of reporting.
45. The Panel note that there is no budget to cover costs for introducing and further managing a new dedicated live app that would allow reporting and sharing images of non-complying dog owners at such parks.

Panel recommendations

46. Retain preferred option - Allow dogs on leash in 11 neighbourhood reserves where dogs are currently prohibited to increase local on-leash areas for exercising dogs for the reasons stated in the SOP.

Proposal 4: Allow Dogs to be Off Leash in Waiteata Park North of the Waterway

47. The rationale for the preferred option of proposal 4 in the SOP was:

Waiteata park provides an opportunity for Council to provide an off-leash exercise area in an area with limited off-leash options. The waterway serves as a natural demarcation of the park allowing between the proposed off-leash area and the playground area (currently prohibited, proposed on leash – see proposal 3).

Discussion

48. Having dogs off-leash north of the stream would allow dog owners to have an additional space to exercise their dogs and participate in other social activities. While the natural demarcation provided by the waterway would allow the remaining space (southern end) to be used by other users including children without any risk of dog related incidents.
49. For the sake of clarity, the Panel recommend including an additional zoomed in map of Waiteata Park in the draft policy showing the exact boundaries of the proposed designated areas.
50. The Panel have taken note of the interest from public groups (and relevant submitters) in carrying out further development work at Waiteata Park for it to turn into a dog park. In implementing an off-leash area, Council staff could work with relevant submitter/s who have shown interest in this regard to take this forward as a community led and Council supported initiative.

Panel recommendations

51. Retain preferred option - Allow dogs off-leash in Waiteata park north of the stream for the reasons stated in the SOP.
52. Add a zoomed in map of Waiteata Park "Map 12: Waiteata Park" in "Schedule 3" of the Draft Dog Control Policy 2023, so that it is clear for the public to understand exactly what areas have been prohibited.
53. **Note:** The above referred addition to the draft policy and bylaw is considered a "minor change" as referred to under Section 156 of the Local Government Act 2002 and will not require additional consultation using the special consultative procedure.

Proposal 5: Prohibit Dogs from the Sports Grounds at Waikirikiri Reserve and Nelson Park (where they are currently allowed on leash)

54. The rationale for the preferred option of proposal 5 in the SOP was:

Dog faeces is a health hazard and a nuisance at sports grounds. This risk is not sufficiently managed by dogs being on-leash due to non-compliance with the requirement to pick up faeces. This prohibition would apply only to the sports field areas and not the surrounding environment (as shown in Schedule 1 of the Draft Dog Control Policy 2023), as these are popular areas for walking dogs.

Discussion

55. Currently, Waikirikiri Reserve and Nelson Park are designated on-leash areas with parts of Nelson Park designated as off-leash (adjacent to footbridge). Dog faeces is a health risk and a nuisance at the sports grounds. This risk is not sufficiently managed by dogs being on-leash due to continued non-compliance by dog owners not removing dog faeces.

56. Waikirikiri Reserve is more important for sporting events such as junior Rugby with around 600 young children frequenting the sports grounds at the reserve between April and July. During summer (November to March) the reserve is used mostly for sports activities such as softball and cricket. Therefore, the sports grounds at Waikirikiri Reserve are in high use throughout the year.
57. Nelson Park is a very popular space for dog owners; however, several upgrades have been planned for the sports fields at the park.
58. The Panel recommend adding a separate zoomed in map for Nelson Park and Waikirikiri Reserve showing the prohibited sports field areas. When a sports ground is in use, depending on the respective sporting activities, it is marked by Council staff in advance. This may be a good indication for dog owners to keep away from marked fields in anticipation of any sporting events taking place. However, there may be some events, such as school events, that may not require marking of sports fields. Adding separate maps for the sports fields would reduce confusion around the designated areas in and around the sports fields.
59. The Panel see this as an opportunity to include zoomed in maps for other such parks / sports fields that are heavily used for sporting events. The Panel recommend adding these additional maps in the draft policy so that the public are aware of exactly what areas are prohibited at these parks. These parks have been listed below:
 - i. Watson Park
 - ii. Barry Park
 - iii. Childers Road Reserve
 - iv. Harry Barkers Reserve
 - v. The Oval
 - vi. Rugby Park
60. Submitters' suggestions for additional signage, rubbish bag dispensers and waste bins at Nelson Park and Waikirikiri Reserve is an implementation issue and not a policy issue. However, there is limited budget to cover these amenities and any decisions/direction to add more bins and signage will require additional operational budget.

Panel recommendations

61. Retain preferred option - Prohibit dogs from the sports grounds in Waikirikiri Reserve and Nelson Park.
62. Add separate maps – “Map 13 – Nelson Park” and “Map 14 – Waikirikiri Reserve” in “Schedule 3” of the Draft Dog Control Policy 2023 that shows the extent of the prohibited areas.
63. Add separate maps – “Map 15-20” in “Schedule 3” of the Draft Dog Control Policy 2023 that show the extent of prohibited area (sports fields) at Watson Park, Barry Park, Childers Road Reserve, Harry Barkers Reserve, The Oval and Rugby Park.
64. **Note:** The above referred addition to the Draft Dog Control Policy 2023 is considered as “minor change” as referred to under Section 156 of the Local Government Act 2002 and will not require additional consultation using the special consultative procedure.

Proposal 6: Remove Time-of-Day, Public and School Holiday Conditions on all Beaches

65. The rationale for the preferred option of proposal 6 in the SOP was:

Different restrictions depending on the time of day and year causes confusion for dog owners. Recent "Request for Service" data shows that there has been an increasing number of dog-related callouts at our beaches due to confusion amongst dog owners.

Discussion

66. The preferred option to remove time-of-day, public and school holiday restrictions on all beaches would remove confusion and make it easier to comply with rules for dog owners. Kaiti Beach is covered by a different proposal (Proposal 2) and is not subject to this proposal.
67. The different restrictions depending on the time of day and year have known to cause confusion for dog owners. This is reflected in an increasing number of dog-related callouts at beaches (where we currently have specific off-leash and on-leash timings) due to confusion around the rules. Submitters in their response to this proposal acknowledged they were either unaware of the specific timing rules or were unclear about the current rules at our beaches.
68. Any area where the time of the day and year provision is proposed would need adequate signage to ensure people are fully aware of the requirements at the time they are walking their dog/s. Some sites may be suitable for this sort of approach where there is a single entry/exit point where a prominent sign could be placed. Sites with multiple entry/exit points would require more signage and there is limited budget for new/additional dog control signage.
69. To provide for more suitable areas for dog walks and activities and to further address difficulties that older individuals or persons with mobility may face, the Panel recommends minor changes to the designated areas at Waikanae / Midway and Wainui / Okitu Beaches in the following manner:

Table 2: Recommended changes to beach designations along with rationale

Area	Proposed designation as per SOP	Recommended designation	Rationale
Waikanae Beach to Midway Beach – cut to Roberts Road	Prohibited	Prohibited	Panel recommends adopting the preferred option that prohibits dogs in the area from the cut to Roberts Road to ensure public safety and to allow families with young children a free space without any fear of dogs.
Waikanae Beach to Midway Beach - Roberts Road to Stanley	Always on-leash and prohibited between the flagged area at all times.	Always on-leash	Panel recommends adopting the preferred option along with a minor change. The Panel recommends allowing dogs on-leash between the flags. The Panel are of the view that any dog-related threats / risks can be managed by having dogs on-leash even within the area between the flags.
Waikanae Beach to Midway Beach – Stanley Road to Pacific Street	Always on-leash	Always off-leash	Given the low RFS callouts, the Panel recommend extending the off-leash area from Stanley Road to Pacific Street. This would enable access to the elderly and people requiring support (via Roberts Road Car Parking (wheelchair accessible) to Oneroa Walkway.
Wainui and Okitu Beach	Off-leash at all times and prohibited between the flagged areas.	On-leash between the flagged areas Always off-leash in other areas	Panel recommend removing the prohibited area between the flags and designating this area as on-leash. The Panel are of the view that any dog-related threats / risks can be managed by having dogs on-leash.

Panel recommendations

70. Retain preferred option - Remove time-of-day, public and school holiday restrictions on all beaches for the reasons stated in the SOP with minor changes as below.
71. Under the current policy, the area between the flags at Waikanae beach is designated as on-leash (time of the day restrictions), while the area between the flags at Wainui beach is designated as off-leash (except school and public holidays). Under the SOP (Proposal 6), the area between the flags at all beaches (excluding Kaiti beach) is proposed to be prohibited. The Panel recommend designating the area between the flags at Waikanae and Wainui Beaches as on-leash. Considering the small extent of the flagged areas, the proposed change from the current policy and SOP is considered to be “minor”.

72. The Panel further recommend extending the off-leash area at Midway and Waikanae Beach from Pacific Street to Stanley Road.
73. The Panel further recommend amending "Map 1: Waikanae to Waipoa River Mouth" and "Map 4: Gisborne City C" in "Schedule 3" of the Draft Dog Control Policy 2023.
74. **Note:** The above referred amendments to the Draft Dog Control Policy 2023 is considered as "minor changes" as referred to under Section 156 of the Local Government Act 2002 and will not require additional consultation using the special consultative procedure under that section.

Proposal 7: Increase the Number of Dogs Allowed per Premises Without a Permit from One to Two

75. The rationale for the preferred option of proposal 7 in the SOP was:

Under the current Bylaw, dog owners need a permit to keep more than one dog on premises within the urban area (including in rural townships). This is to ensure that Council can identify the person responsible for the care and control of each dog.

There is no cost for the permit, which requires consent of the surrounding neighbours. In cases where a neighbour refuses to give consent, Council officers assess the situation and issue a decision.

Many dog owners choose to keep two dogs, and this rarely causes safety or nuisance issues. Increasing the number of dogs that can be kept on premises before a permit is required reduces the administrative burden required by dog owners and Council.

Discussion:

76. The current policy sets the maximum number of dogs which may be owned per premise in Gisborne's urban area (including in rural townships) without a permit at one. A permit is required from Council for two or more dogs.
77. There is no cost for the permit, and it requires consent of the surrounding neighbours. In cases where a neighbour refuses to give consent, Council officers assess the application and issue a decision.
78. Many dog owners choose to keep two dogs, and staff consider the permit to be an unnecessary step due to the administrative burden it generates, suggesting that the number should be raised to two dogs per premises before a permit is required. This would not only reduce the administrative burden on dog owners and Council.
79. There have been suggestions from submitters to arrange site visits to assess the surroundings in which dogs are being kept. It would be impractical with current resourcing to conduct site visits on each of the of such dog owner's property to assess individual circumstances as However, non-compliant animals and owners will still come to the attention of Council staff via complaints and RFS callouts.

Panel recommendations

80. Retain preferred option - Increase the number of dogs that can be kept on premises without a permit to two for the reasons stated in the SOP.

Proposal 8: Reducing the number of times a dog can be found not under control before Council may require it to be neutered, from three incidents to two within a 12-month period

81. The rationale for the preferred option of proposal 8 in the SOP was:

The Dog Control Act 1996 enables Councils to require a dog to be neutered if found to have been not under the control of their owners. Council's current bylaw allows this action to be considered after three or more recorded incidences. This proposal would allow consideration after two or more incidences within a 12-month period. This will would better protect people from harm from aggressive dogs that can rush at, intimidate or attack people or other dogs.

This would not require automatic neutering of the dog after the second incident but makes such action an option. Officers consider a wide variety of circumstances when considering decisions such as this. There is an appeal process available for owners should they wish to contest the decision.

Discussion

82. The current minimum of three incidents is out of line with other regions and prevents Council officers from taking appropriate action where negligence is clearly causing a nuisance.
83. This proposal would reduce the number to two occasions within a 12-month period. This gives Animal Control staff the option to act earlier to reduce risks.
84. The preferred option does not require automatic neutering of the dog after the second incident but makes such action an option. Officers consider a wide variety of circumstances when approaching decisions such as this and there is an appeal process available for owners should they wish to contest the decision.

Panel recommendations:

85. Retain preferred option - Enable Council to require the neutering of dogs that have been found to be not under control two or more times in a 12-month period for the reasons stated in the SOP.

Additional feedback received on matters outside of the proposals

86. The following outlines additional matters raised by submitters that do not fall under any of the SOP proposals discussed above.

Nuisance caused by barking dogs

87. A submission was made at the hearing raising concerns around nuisance caused by barking dogs. The submission in full has been included in the Deliberations report ([Report 23-92](#)). A summary of the submission is as follows:
- i. Barking dog nuisance is recorded but not reported on.
 - ii. Prefer amending Section 4 of proposed policy (Enforce dog owner obligations) and Part 2 of the proposed Bylaw by including something about nuisance of barking dogs.
 - iii. Letters handed out by Dog control officers to owners (of barking dogs) but not a lot of communication between complainants, owners, and officers.
 - iv. Survey of neighbours required.
88. The Panel note that the RFS data on barking dogs (suburb-wise map attached in [Report 23-92](#)) reveals that most callouts pertaining to barking dogs have been received from the urban areas - Outer Kaiti (45), Mangapapa (41) and Te Hapara (41), Whataupoko (24), Kaiti (14) and Gisborne City (12). However, an express provision relating to barking dogs has not been included in the operative sections of the proposed policy and bylaw to avoid duplication of the relevant statutory provisions referred to in the Dog Control Act 1996.
89. Various dog owner obligations have been laid down under Section 52 to 64 of the Dog Control Act 1996. Section 55 and 56 of the Dog Control Act 1996, particularly deals with the procedure adopted by Dog control officers on receiving complaint/s pertaining to barking dogs.
90. If Council decide to amend the proposed policy and bylaw to include an express provision covering nuisance caused by barking dogs, section 155 of the Local Government Act 2002 may be invoked, and additional consultation using the special consultative procedure under that section.

Reducing off-leash area at Wainui Beach

91. A summary of the submission is as follows (full submission included in the Deliberations report ([Report 23-92](#)):
- i. Several dogs rushing at or out of control have been observed at Wainui beach by the submitter and they feel very unsafe.
 - ii. Prefer designating part of Wainui beach as off-leash rather than the whole beach.
 - iii. Residents of Wainui could be consulted specifically about areas they would like to designate as off-leash, on-leash or prohibited.
92. The RFS data for Wainui and Okitu regions show very low incidences for “animal rushed at” (Wainui: 1; Okitu: 1) and “person rushed at/intimidation (Wainui: 2; Okitu: 1). Given the low RFS counts, there is no evidence at this stage to show that public safety is at risk.

93. The requested change of reducing off-leash areas at the beach sits outside of what was consulted on as part of the proposal and the options considered.
94. Under Proposal 6 of the SOP the preferred option is to always allow dogs off-leash at Wainui and Okitu beaches with no changes for public or school holidays. The Panel has further recommended designating the area between Surf Lifesaving flags as on-leash instead of prohibited.

Panel recommendations:

95. The Panel recommend that the Chief Executive review the standard operating procedure to respond to barking dog complaints and the tools available to officers to monitor and record nuisance pertaining to barking dogs. This recommendation does not constitute a change to the policy or bylaw and is about enforcement process/es of the current rules.
96. The Panel further recommend retaining the preferred option (under Proposal 6 as referred to in the SOP) in relation to Wainui and Okitu Beaches which is always off-leash along with a minor change to remove the prohibition between the flags to on-leash.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Medium Significance

This Report: Medium Significance

The effects on individuals or specific communities

Overall Process: High Significance

This Report: High Significance

The level or history of public interest in the matter or issue

Overall Process: High Significance

This Report: High Significance

97. The decisions or matters in this report are considered to be of **Medium** significance in accordance with Council's Significance and Engagement Policy.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

98. Staff have reached out to tangata whenua partners (Trustees of Parihimanihi Marae, Ngāti Oneone, Tāmanuhiri Trust, Rongowhakaata Trust, Māhaki Trust, Te Whānau a Kai Trust, Nga Ariki Trust) via email inviting them to participate in the consultation process.
99. Response has been received from Ngāti Oneone expressing support for the prohibition of dogs on Kaiti Beach. However, other than that, staff have not received any response from other tangata whenua partners.
100. The Trustees of Parihimanihi Marae have been contacted specifically with regard to their preferred designation of Waihiere Domain (currently on-leash); however, no formal responses have been received so far.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

101. Over the consultation period, staff received 300 written submissions, 2 oral submissions during drop-in sessions, and several comments via Council's Facebook page dedicated for feedback on the proposed changes.
102. Further, a public hearing was organised on 26 April 2023 where 13 submitters addressed the Panel and spoke to their submissions.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

103. There are no climate change implications associated with the present report.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

104. Consulting on any additional issues that have not been consulted on may have financial implication for Council, that is the cost for adopting the special consultative procedure laid down under Section 155 of the Local Government Act 2002.
105. Implementation budget will need consideration through the Long-Term Plan process. As discussed above in relevant sections, updating signage to reflect changes adopted will have financial implication for the Council. There is limited existing budget to undertake significant additional or amended signage.
106. Any area where a change in the current designation is proposed, Council may need adequate signage to ensure the public are fully aware of the change. Some sites where there is a single entry/exit point would suffice installation of a prominent sign or multiple signs.
107. Similarly, additional budget would be required for installing rubbish-bag dispensers and waste bins at various popular dog walk locations such as Nelson Park, all beaches, and Whataupoko Reserve. The rubbish bag dispensers cost approximately \$800 per unit plus any instalment charges and then there is the ongoing maintenance and costs of providing bags and removing rubbish.

Legal

108. Section 155 of the LGA requires local authorities, when making/amending or revoking a bylaw to determine:
- i. whether a bylaw is the most appropriate way of dealing with the perceived problem or issue:

A bylaw is determined to be the most appropriate way to ensure public safety and promote responsible dog ownership in Tairāwhiti as this is the current regulatory mechanism and there are no alternatives.
 - ii. whether the bylaw is in the most appropriate form:

Panel considers the proposed bylaw to be in the most appropriate form of bylaw.
 - iii. whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990:

The Panel submit that that the proposed bylaw is neither inconsistent with nor raises any implications with the New Zealand Bill of Rights Act 1990 as the proposed changes are reasonable, not overly restrictive, or impractical. The changes are limited to the areas that require regulatory intervention.
109. Further, Section 156(1) of LGA requires local authorities to use the Special Consultative Procedure (under Section 83 of the LGA or as modified under Section 86 of the LGA) when making, amending, or revoking bylaws.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

110. Part of Waiteata Park has been proposed to be designated as off-leash. Objective 3 (Clause 4.3(e)) of the Waiteata Park Management Plan (WPMP) allows “dog owners the opportunity to exercise their pets in Waiteata Park without reducing the enjoyment of the park for other users”. However, Clause 5.20 of the WPMP requires dogs to be exercised on the reserve while on-leash.
111. Reserve Management plans do not create any enforceable rules in relation to dog control and so, provisions of the Dog Control bylaw will prevail over the Waiteata Park Management Plan and no amendments in this regard would be necessary to enable enforcement of the policy and bylaw.

RISKS - NGĀ TŪRARU

112. Public safety: Dogs can present a danger to the public, and while responsibility for control of a dog at all times rests with the owner, Council needs to use its powers under the Act to ensure dog access is appropriate to the area and does not present a nuisance or danger to the area's users.
113. Process: if Council accepts recommendations that are outside the scope of the SOP, then additional consultation will be needed before these changes could be adopted as is mentioned in relevant sections of this report.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
	Adopt the Dog Control Policy 2023 and the Dog Control Bylaw 2023.	Provided the Council accept all the recommended changes made by the Panel with respect to the proposed policy and bylaw.
	Public Notification of the adopted Bylaw	Provided the Council accept all the recommended changes made by the Panel with respect to the draft policy and bylaw
	Consultation on proposed changes that require further engagement before they can be included in the policy and/or bylaw.	Provided the Council accept all the recommended changes made by the Panel with respect to the proposed policy and bylaw.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Current Policy - Dog Control Policy 2010 [**23-128.1** - 13 pages]
2. Attachment 2 - Current Bylaw - Dog Control Bylaw 2010 [**23-128.2** - 15 pages]
3. Attachment 3 - Map of Alfred Cox Park - Awapuni [**23-128.3** - 1 page]
4. Attachment 4 - Map of Anzac Park - Inner Kaiti [**23-128.4** - 1 page]
5. Attachment 5 - Amended Policy [**23-128.5** - 30 pages]
6. Attachment 6 - Amended Bylaw [**23-128.6** - 9 pages]



Dog Control Policy 2010



Dog Policy 2010

Prepared pursuant to Section 10 of the Dog Control Act.

- Introduction
- Our objective
- Our policy
- Appendices

Introduction

This policy on dogs is prepared in accordance with the requirements of the Dog Control Act 1996 ('the Act') and came into force on 2010.

This policy aims to give effect to the Act by protecting the health and safety of the public whilst ensuring the well-being and welfare of dogs is protected through responsible ownership.

The community expects dog owners to act as responsible owners. It is recognised that many in the community believe dogs can play a positive role in society and provide enjoyment for individuals and families. This policy seeks to balance those two expectations.

Objective of this Policy

The overriding objective of this policy is to encourage responsible dog ownership and community awareness to promote an environment where dogs and people can happily and peacefully co-exist.

In order to meet this objective, dog owners must:

1. register their dog/s at three months of age and every year after;
2. provide for the health and well being of their dog;
3. keep their dogs under control when in a public place, particularly in and near places frequented by children;
4. ensure their dog doesn't cause a nuisance to neighbours and other people by persistent and loud barking or howling;
5. keep their dog under direct control or confined on their property so it doesn't wander or become lost;
6. pick up any faeces left by their dog in public places or on land not occupied by the dog owner;
7. take all reasonable steps to ensure their dog doesn't injure, endanger, intimidate, or otherwise cause distress to children and other people so that the public can use streets and public amenities without fear of attack or intimidation;
8. take all reasonable steps to ensure their dog doesn't injure, endanger or cause distress to any stock, poultry, domestic animal, or protected wildlife and is kept out of prohibited areas;
9. ensure their dog doesn't damage or endanger any property belonging to other people;
10. provide for the training, exercise and recreational needs of their dogs.

Our policy

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1. Register your dog/s

All dog owners must register their dogs so the council can identify the person responsible for the care and control of each dog and ensure that the costs of dog control are evenly distributed. All dogs registered after 1 July 2006 must be microchipped. Also from that date, all dogs that are classified as dangerous or menacing under the Dog Control Act 1996 (including dogs classified since 1 December 2003) are required to be microchipped.

How to achieve this:

- 1.1 Keep a register of dogs, provide information to the National Dog Control Information Database, set registration fees and provide dog owners with relevant information.
- 1.2 Inform and educate dog owners of the benefits of registration and microchipping.
- 1.3 Send annual registration renewal forms to all known dog owners.
- 1.4 Offer registration fee incentives for owners who have de-sexed their dog, passed a Dog Owner Licence test or paid their registration by the date given.
- 1.5 Target unregistered dogs and take strong enforcement action against owners of unregistered dogs.
- 1.6 To require dogs leaving the pound be registered before release.

2. Exercise areas for dogs

The council provides dog owners with a reasonable level of access to public places without compromising public safety and comfort.

How to achieve this:

- 2.1 When making bylaws controlling the access of dogs to public places, the council will:
 - 2.1.1 Recognise the right of children and the general public to use public places without fear of attack or intimidation;
 - 2.1.2 Recognise the responsible dog owner as a user of public places;
 - 2.1.3 Aim for peaceful co-existence between dogs and their owners with other park users;
 - 2.1.4 Provide dog exercise areas in parks and reserves on a district wide basis;
 - 2.1.5 Provide bins for dog faeces in designated dog exercise areas;
 - 2.1.6 Ensure that designated dog exercise areas and playgrounds are well signposted and information is easily accessible for both dog owners and the general public;
 - 2.1.7 To provide suitable signage in areas where dogs are prohibited, where they are required to be on a leash and where they can be off leash;
 - 2.1.8 Protect sensitive public areas and significant ecological areas from dogs, such as areas where dogs may be a danger to children, wildlife or other animals, or where their presence may be offensive or disturbing e.g. cemeteries.

- 2.2 The Council will make bylaws that are consistent with the above principles which:
 - 2.2.1 Identify public places where dogs can either be exercised off a leash, or are required to be on a leash, or where they are prohibited;
 - 2.2.2 Recognise that dogs confined in a vehicle or cage, dogs taking part in council approved special events or working dogs carrying out work duties should not be prohibited from public places or required to be on a leash;
 - 2.2.3 Require dog owners to, on all areas other than their own property, immediately remove any faeces left by their dog.
- 2.3 Inform dog owners of land within the Gisborne District that is included in a designated exercise area or a prohibited area or a controlled or open dog exercise area under the Conservation Act 1987.
- 2.4 Take enforcement action against owners who breach the Act or the Dog Control Bylaw by failing to contain or control their dogs.

3. Encourage responsible dog ownership

Dog owners must be encouraged to meet their obligations under the Act, to protect their dog's health and well-being and to ensure that neighbourhoods remain safe and pleasant. A responsible dog owner will:

- when purchasing a dog, ensure that the dog is suitable to their needs and their ability to care for the dog;
- provide appropriate accommodation for the dog and the exercise space needed for the breed;
- when in a public place carry a bag to pick up their dog faeces;
- ensure that faeces is picked up;
- attend appropriate dog owner and training courses; and
- ensure that their dog/s don't enter private land or prohibited Department of Conservation areas.

How to achieve this:

- 3.1 Reward dog owners demonstrating a specified level of responsible dog ownership.
- 3.2 Provide educational information on council's website on the shelter and health needs of dogs.
- 3.3 Include within the Dog Control Bylaw, limitations on the number of dogs that can be kept within the urban areas and only allow exemptions where there are no adverse effects.
- 3.4 Ensure dog owners take the necessary steps to ensure their dog's health and well being.
- 3.5 Through the bylaw prescribe minimum accommodation standards for dogs.

4. Enforce dog owner obligations

Powers of enforcement under the Act should be used appropriately to ensure public safety and comfort and to penalise and deter irresponsible dog ownership.

How to achieve this:

- 4.1 Receive, investigate and resolve and respond to dog complaints from members of the public.
- 4.2 Remove dogs threatening public safety and comfort.
- 4.3 Assist dog owners and the public by:
 - giving out good dog owner information; or
 - issuing warnings; or
 - where appropriate issuing infringement notices, prosecuting owners and where required using menacing dog, dangerous dog, probationary and disqualified dog owner classifications; and
 - taking immediate enforcement action against unregistered dogs.
- 4.4 Require that all dogs classified as menacing dogs be neutered in accordance with s.33E(1)(b) of the Act within one month after receipt of notice of the classification. In the case of dogs classified as menacing by another territorial authority, the dog be neutered within one month of registration with the Council.
- 4.5 Through the Bylaw require dogs found to be not within the control of their owner by Animal Control Officers on more than three occasions within a one year period to be neutered.
- 4.6 Through the Bylaw require bitches in season to be confined.

5. Education

Dog Control Officers will work with schools, children and dog owners and the community so that the public is aware as to how to live with dogs.

How to achieve this:

- 5.1 Inform and educate dog owners and the general public through media such as brochures, the Council's website and school education programmes.
- 5.2 Promote the availability of dog obedience courses.

6. Provide adequate funding for dog management services

Adequate funding must be provided to maintain an acceptable level of dog management services.

When considering dog-related fees, the council must take into account the user-pays principle, penalty-based fees, legislative requirements; the council's funding policies, community responsibilities and recognition of responsible dog ownership.

Council's current policy is that dog registration fees pay for 100 per cent of dog management related costs.

How to achieve this:

- 6.1 Set reasonable fees for the registration and control of dogs in accordance with the information above.
- 6.2 Set lower registration fees for working dogs and for owners demonstrating a specified level of responsible dog ownership.
- 6.3 Set a higher registration fee for owners who do not meet the date given for payment of registration fees.

7. Gather information to assess the effectiveness and fairness of our policy on dogs

Information will be gathered to determine if the council's methods are working towards achieving the objectives in this policy.

How to achieve this:

- 7.1 Report annually on the council's administration of dog control methods and the dog policy. The council must give public notice of the report and send a copy of it to the Secretary for Local Government.

8. Provide for special purpose dogs

Council recognises that where a person with special needs (certified by a Medical Practitioner) requires a special purpose dog, that dog is recognised as a working dog provided that dog has had training acceptable to the Chief Animal Control Officer. This approval, where granted will allow the dog to enter public buildings and prohibited areas whilst it is working as a special purpose dog.

How to achieve this:

- 8.1 Where a dog provides for the special needs of a member of the public and this is demonstrated to the satisfaction of the Chief Animal Control Officer, council will resolve that the dog will be a working dog for the purposes of Gisborne City's Dog Control Bylaw.

Appendix A - Leashed Areas

Dogs may be exercised off leash within these areas between the hours of 6am and 9am outside school and public holidays.

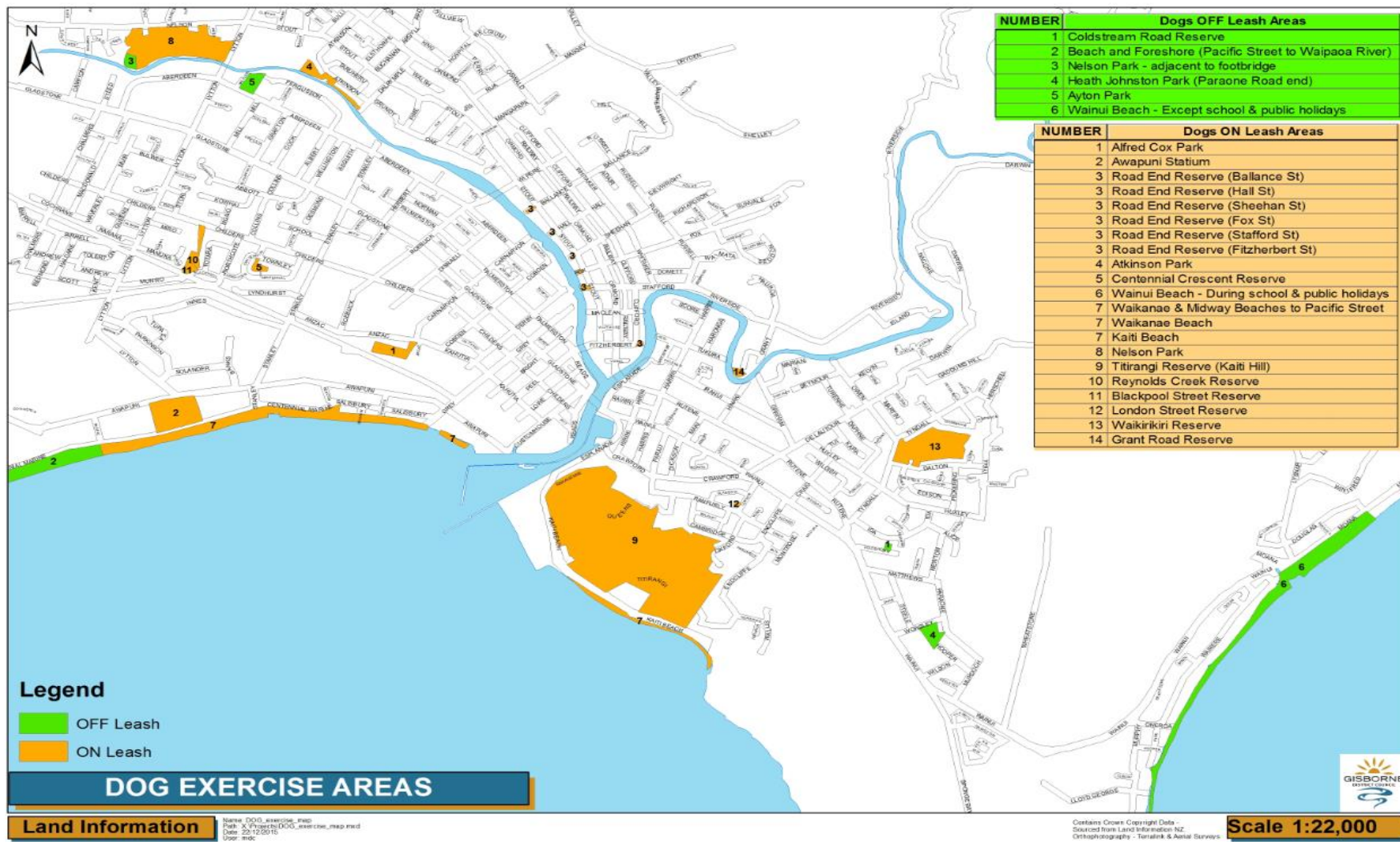
1. Alfred Cox Park
2. Awapuni Stadium
3. Road End Reserve (Ballance Street)
3. Road End Reserve (Hall Street)
3. Road End Reserve (Sheehan Street)
3. Road End Reserve (Fox Street)
3. Road End Reserve (Stafford Street)
3. Road End Reserve (Fitzherbert Street)
4. Atkinson Park
5. Centennial Crescent Reserve
6. Wainui Beach – During school & public holidays
7. Waikanae & Midway beaches to Pacific Street and associated foredune including walkways and adjoining public places
8. Waikanae Beach
9. Kaiti Beach
10. Nelson Park
11. Titirangi Reserve (Kaiti Hill)
12. Reynolds Creek Reserve
13. Blackpool Street Reserve
14. London Street Reserve
15. Waikirikiri Reserve
16. Grant Road Reserve

Off Leash Areas

Areas in which dogs may be exercised without physical constraint but under the oral command of their owners or on a lead:

1. Coldstream Road Reserve
2. Beach and Foreshore (Pacific Street to Waipaoa River)
3. Nelson Park adjacent to footbridge
4. Heath Johnson Park – (Paraone Road end)
5. Ayton Park
6. Wainui Beach – except school and public holidays

Designated areas

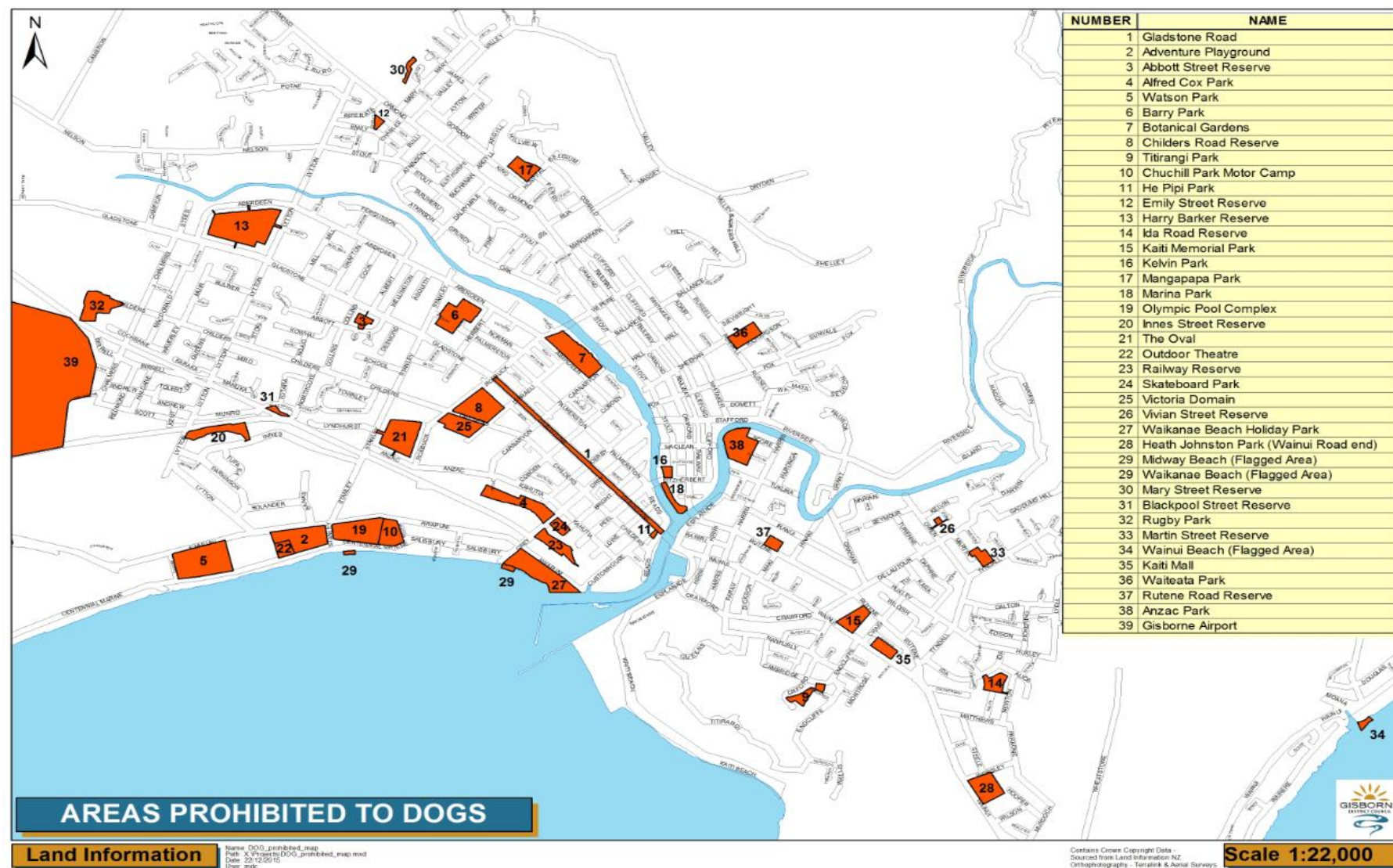


Appendix B – Prohibited Areas

Areas in which dogs are prohibited:

1. Gladstone Road between customhouse Street and Roebuck Road
2. Adventure Playground
3. Abbot Street Reserve
4. Alfred Cox Park
5. Ayton Park
6. Barry Park
7. Botanical Gardens
8. Childers Road Reserve
9. Titirangi Park
10. Churchill Park Motor Camp
11. Hei Pipi Reserve
12. Emily Street Reserve
13. Harry Barker Reserve
14. Ida Road Reserve
15. Kaiti Memorial Park
16. Kelvin Park
17. Mangapapa Park
18. Marina Park
19. Olympic Pool Complex
20. Innes Street Reserve
21. The Oval
22. Outdoor Theatre
23. Railway Reserve
24. Skateboard Park
25. Victoria Domain
26. Vivian Street Reserve
27. Waikanae Beach Motor Camp
28. Heath Johnston Park (Wainui Road end)
29. Midway Beach (Flagged area)
30. All of Gisborne Airport land
31. Mary Street Reserve
32. Blackpool Street Reserve
33. Rugby Park
34. Martin Street Reserve
35. Wainui Beach (Flagged area)
36. Kaiti Mall
37. Waiteata Park
38. Rutene Road Reserve
39. Anzac Park
40. Watson Park

Prohibited areas



Appendix C – Infringement Fees

These are a series of offences that are subject to fines or legal proceedings instituted. The Animal Control Officer can issue instant fines for the following offences:

Section	Brief Description of Offence	Infringement Fee
18	Wilful obstruction of Animal Control Officer or Ranger.	\$750.00
19(2)	Failure or refusal to supply information or wilfully providing false particulars.	\$750.00
19A(2)	Failure to supply information or wilfully providing false particulars about dog.	\$750.00
20(5)	Failure to comply with any bylaw authorised by the Section.	\$300.00
28(5)	Failure to comply with effects of disqualification.	\$750.00
32(2)	Failure to comply with effects of classification of dog as dangerous dog.	\$300.00
32(4)	Fraudulent sale or transfer of dangerous dog.	\$500.00
33E(2)	Failure to comply with effects of classification of dog as menacing dog.	\$300.00
36A(6)	Failure to implant microchip transponder in dog.	\$300.00
41	False statement relating to dog registration.	\$750.00
42	Failure to register dog.	\$300.00
46(4)	Fraudulent procurement or attempt to procure replacement dog registration label or disc.	\$500.00
48(3)	Failure to advise change of dog ownership.	\$100.00
49(4)	Failure to advise change of address	\$100.00
51(1)	Removal, swapping or counterfeiting of registration label or disc.	\$500.00
52(A)	Failure to keep dog controlled or confined.	\$200.00
53(1)	Failure to keep dog under control.	\$200.00
54(2)	Failure to provide proper care and attention, to supply proper and sufficient food, water and shelter and to provide adequate exercise.	\$300.00
54A	Failure to carry leash in public.	\$100.00
62(A)	Allowing dog known to be dangerous to be at large unmuzzled or unleashed	\$300.00

Appendix D – Dog Control Bylaw



Gisborne District Dog Control Bylaw 2010



Dog Control 2010

Explanatory Note

This Bylaw regulates dogs within the Gisborne District to minimise danger, distress and nuisance from dogs. It sets out the requirements for the control of dogs in public places, requirements to remove dog faeces from public places (and private land not occupied by the dog owner), and places limitations on the number of dogs that can be kept in different parts of the Gisborne District.

The Dog Control Act 1996 and Dog Control Amendment Act 2003 also place a number of other duties on dog owners. **Dog owners must:**

- register their dog every year and ensure it wears an identification/registration disc
- provide proper care and attention, supply proper and sufficient food, water and adequate shelter
- ensure that the dog receives adequate exercise
- take all reasonable steps to ensure that the dog does not cause a nuisance e.g. by persistent and loud barking or howling
- take all reasonable steps to ensure that the dog does not injure, endanger, intimidate or cause distress to any person, stock, poultry, domestic animal or protected wildlife or damage or endanger any property belonging to any other person
- ensure that the dog is kept under control at all times e.g. by confining the dog on their property when the dog is not under their direct control
- carry a leash at all times while with the dog in a public place.

Gisborne District Council can classify dogs as menacing or dangerous and require the owners of menacing or dangerous dogs to have that dog neutered and when in a public place have the dog muzzled. Dangerous dogs are also required to be on a leash when in a public place. The Traffic Regulations 1976 also require dog owners to secure their dog/s when they are carried on the open tray of a vehicle to ensure that the dog cannot fall from the vehicle.

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1. Application of Bylaw

1.1 This bylaw is the Dog Control Bylaw 2010 for Gisborne District Council and comes into force on 31 March 2011.

2. Interpretation and definitions

2.1 In this Bylaw, unless the context otherwise requires:

Act	Means the Local Government Act 2002.
Beach	Means the foreshore, being an area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation.
Control	Means that the dog is not causing a nuisance or danger and that the person in charge of the dog has the dog under continuous surveillance and is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means.
Disability Assist Dog	Means the same as that specified in the Dog Control Act 1996 and includes a dog certified by one of the following organisations as being a dog trained to assist (or as being a dog in training to assist) a person with a disability: <ul style="list-style-type: none"> a. Hearing Dog for Deaf People of New Zealand b. Mobility Assistance Dogs Trust c. New Zealand Epilepsy Assist Dogs Trust d. Royal New Zealand Foundation of the Blind e. Top Dog Companion Trust f. An organisation specified in an Order in Council made under section 78D of the Dog Control Act 1996.
Dog Owner	Means owner as defined in section 2 of the Dog Control Act 1996 and includes every person who: <ul style="list-style-type: none"> g. owns the dog; or h. has the dog in his or her possession, whether the dog is at large or in confinement, otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, damage, or distress, or for the sole purpose of restoring a lost dog to its owner; or i. the parent or guardian of a person under the age of 16 years who: <ul style="list-style-type: none"> i. is the owner of the dog pursuant to paragraph (a) or paragraph (b) of this definition; and ii. is a member of the parent or guardian's household living with and dependant on the parent or guardian; but does not include any person who has seized or taken custody of the dog under this Act or the Animal Welfare Act 1999 or the National Parks Act 1980 or the Conservation Act 1987 or any order made under this Act or the Animal Welfare Act 1999.
Foredune	The ground between the water's edge or sandy part of the beach and cultivated land including any adjoining public places along the beach or waterfront.
On a Leash	Means that the dog is kept under control by means of a leash, lead or chain which is secured or is held by a person so that the dog cannot break loose.
Act	Means the Local Government Act 2002.

Public Place	Means public place as defined in section 2 of the Dog Control Act 1996 and includes: <ul style="list-style-type: none"> a. a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or effect any person from that place; and b. includes any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.
Reserve	Means: <ul style="list-style-type: none"> a. any land vested in the council and declared as a reserve by resolution of the council, under section 14 of the Reserves Act 1977; or b. any park, domain or recreation area under the control or ownership of the council; or c. any reserve, park or recreation area under the control or management of the Gisborne District Council.
Urban Area	Means the area contained within the Gisborne urban area boundary as marked on the maps of the Gisborne Combined Regional Land and District Plan plus any area zoned general residential in that Plan.
Working Dog	Means the same as that in section 2 of the Dog Control Act 1996 and includes: <ul style="list-style-type: none"> a. any guide dog, hearing ear dog, or companion dog b. any dog: <ul style="list-style-type: none"> i. kept by the Police or any constable, the Customs Department, the Ministry of Agriculture, the Ministry of Fisheries or the Ministry of Defence, or any officer or employee of any such Department of State solely or principally for the purposes of carrying out the functions, powers, and duties of the Police or the Department of State or that constable, officer, or employee; or ii. kept solely or principally for the purposes of herding or driving stock; or iii. kept by the Department of Conservation or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties, and powers of that Department; or iv. kept solely or principally for the purposes of destroying pests or pest agents under any pest management strategy under the Biosecurity Act 1993; or <ul style="list-style-type: none"> a. kept by the Department of Corrections or any officer or employee of that Department solely or principally for the purposes of carrying out the functions, duties and powers of that Department; or b. kept by the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990, or any officer or employee of the Service solely or principally for the purpose of carrying out the functions, duties and powers of that Service; or
Act	Means the Local Government Act 2002.
Working Dog (cont)	<ul style="list-style-type: none"> c. certified for use by the Director of Civil Defence Emergency Management for the purposes of carrying out the functions, duties and powers conferred by the Civil Defence Emergency Management Act 2002; or

	<ul style="list-style-type: none"> v. owned by a security guard as defined in section 4 of the Private Investigators and Security Guards Act 1974 and kept solely or principally for the purposes of carrying on the business of a security guard; or vi. declared by resolution of the territorial authority to be a working dog for the purposes of this Act, or any dog of a class so declared by the authority, being a dog owned by any class of persons specified in the resolution and kept solely or principally for the purposes specified in the resolution.
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3. Control of dogs in public places

Prohibited Areas

- 3.1 Every dog owner must ensure that their dog does not enter or remain in any public place designated as a prohibited area in the First Schedule.

Exercise Areas

- 3.2 Every dog owner must ensure that their dog is kept on a leash or harness and under control in any public place designated as an Exercise Area in the Second Schedule.

Off Leash Areas

- 3.3 Providing the dog is kept under control at all times, a dog owner may exercise their dog without it being on a leash in any area designated as an off leash area in the Third Schedule.

Note: The Dog Control Act requires owners to carry a leash with them when their dog is in a public place.

Exemptions

- 3.4 Clauses **3.1** and **3.2** do not apply to the owner of:
- a. a working dog while it is working; or
 - b. any dog which is confined completely within a vehicle or cage; or
 - c. any dog taking part in an organised dog event, such as a dog show or dog training seminar;
- provided the dog is under control at all times.
- 3.5 Any person who has obtained Council approval to hold a special event or temporary activity in a park, reserve or public place (or part thereof) may apply to the Council for a permit to prohibit dogs from that park, reserve or public place or require them to be on a leash for the duration of that special event or promotion.

4. Removal of faeces

- 4.1 Where any dog defecates in a public place or on land or premises other than that occupied by the dog owner, the dog owner must remove the faeces immediately and dispose of it in a way that does not cause a nuisance.

5. Minimum standards of accommodation for dogs

- 5.1 The owner of a dog shall provide accommodation for dogs kept on premises in accordance with the Council's minimum standards of accommodation for dogs outlined in the Fourth Schedule.

6. Limitation on number of dogs and provision for dispensations

- 6.1 No owner or occupier of any land or premises within the urban area shall allow more than one dog, over the age of three months, to be kept on that land or premises for more than seven days.
- 6.2 Dog owners may apply to Council for a permit to keep more than one dog on any land identified in **clause 6.1** above. If the Council considers that more than one dog can be kept on the premises without any adverse effects, a fee may be charged by the Council for the permit in accordance with s.150 of the Local Government Act 2002.
- 6.3 Any owner who immediately prior to commencement of this bylaw, lawfully kept more than one dog over the age of three months on that land with written Council consent, may continue to do so, notwithstanding **clause 6.1** subject to the conditions of any such consent being fully complied with.
- 6.4 A permit granted pursuant to clause 6.2 may be issued subject to such conditions as the Council considers appropriate to prevent adverse effects. Any breach of the conditions of any permit shall entitle the Council to withdraw the permit.
- 6.5 Clause 6.1 does not apply to working dogs.

7. Nuisance - neutering and confinement

- 7.1 Where a dog owner fails to keep their dog under control on three or more occasions within a one year period the Council may, by written notice, require the owner to cause the dog to be neutered.
- 7.2 The owner must within one month of receipt of notice pursuant to 7.1 produce to Council a certificate issued by a veterinary surgeon certifying:
- a. that the dog has been neutered, or
 - b. that for reasons that are specified in the certificate, it will not be in a fit condition to be neutered before a date specified in the certificate.
- 7.3 If a certificate under 7.2(b) is produced to the Council, the owner of the dog must produce to the Council no later than one month from the date specified in the certificate a further certificate under 7.2.
- 7.4 The owner of a bitch in season must keep her confined to the premises within a dog-proof enclosure for the duration of her oestrus cycle.

Any dog so confined shall be regularly exercised under the control of the owner.

8. Offences and penalties

- 8.1 Every person who fails to comply with the requirements of this bylaw commits an offence and may be liable to an infringement fee as set by the Dog Control Act 1996 or a penalty as set by section 242(4) of the Local Government Act 2002.
- 8.2 The Council may apply to the District Court under section 162 of the Local Government Act 2002 for an injunction restraining a person from committing a breach of this bylaw.

First Schedule – Areas prohibited to dogs – shown on Plan 1

Areas in which dogs are prohibited:

1. Gladstone Road
2. Adventure Playground
3. Abbott Street Reserve
4. Alfred Cox Park
5. Watson Park
6. Barry Park
7. Botanical Gardens
8. Childers Road Reserve
9. Tifirangi Park
10. Churchill Park Motor Camp
11. He Pipi Park
12. Emily Street Reserve
13. Harry Barker Reserve
14. Ida Road Reserve
15. Kaiti Memorial Park
16. Kelvin Park
17. Mangapapa Park
18. Marina Park
19. Olympic Pool Complex
20. Innes Street Reserve
21. The Oval
22. Outdoor Theatre
23. Railway Reserve
24. Skateboard Park
25. Victoria Domain
26. Vivian Street Reserve
27. Waikanae Beach Holiday Park
28. Heath Johnston Park (Wainui Road end)
29. Midway Beach (Flagged Area)
30. Waikanae Beach (Flagged Area)
31. Mary Street Reserve
32. Blackpool Street Reserve
33. Rugby Park
34. Martin Street Reserve
35. Wainui Beach (Flagged Area)
36. Kaiti Mall
37. Waiteata Park
38. Rutene Road Reserve
39. Anzac Park
40. Gisborne Airport

Second Schedule – Leashed areas – shown on Plan 2

Areas in which dogs may be exercised only when on a lead or harness:

1. Alfred Cox Park
2. Awapuni Stadium
3. Road End Reserve (Ballance Street)
3. Road End Reserve (Hall Street)
3. Road End Reserve (Sheehan Street)
3. Road End Reserve (Fox Street)
3. Road End Reserve (Stafford Street)
3. Road End Reserve (Fitzherbert Street)
4. Atkinson Park
5. Centennial Crescent Reserve
6. Wainui Beach – During school & public holidays
7. Waikanae & Midway beaches to Pacific Street and associated foredune including walkways and adjoining public places
8. Waikanae Beach
9. Kaiti Beach
10. Nelson Park
11. Titirangi Reserve (Kaiti Hill)
12. Reynolds Creek Reserve
13. Blackpool Street Reserve
14. London Street Reserve
15. Waikirikiri Reserve
16. Grant Road Reserve

Dogs may be exercised off leash within these areas between the hours of 6am and 9am outside school and public holidays.

Third Schedule – Off leash – shown on Plan 2

Areas in which dogs may be exercised without physical constraint but under the oral command of their owners or on a lead:

1. Coldstream Road Reserve
2. Beach and Foreshore (Pacific Street to Waipaoa River)
3. Nelson Park - adjacent to footbridge
4. Heath Johnson Park (Paraone Road end)
5. Ayton Park
6. Wainui Beach – except school and public holidays.

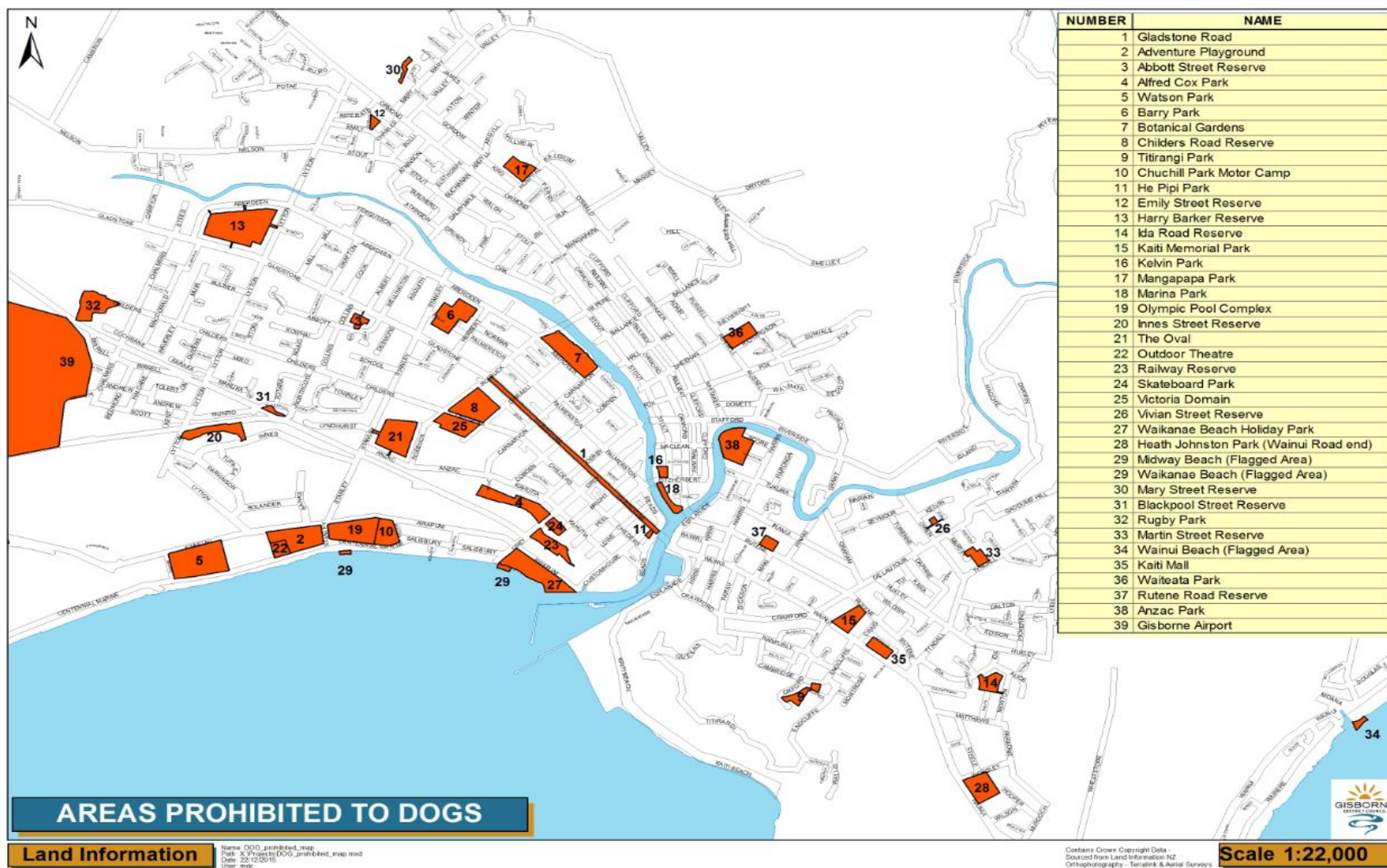
Fourth Schedule – Minimum standards for accommodation of dogs

The Council has set the following as the minimum standards for accommodation of dogs:

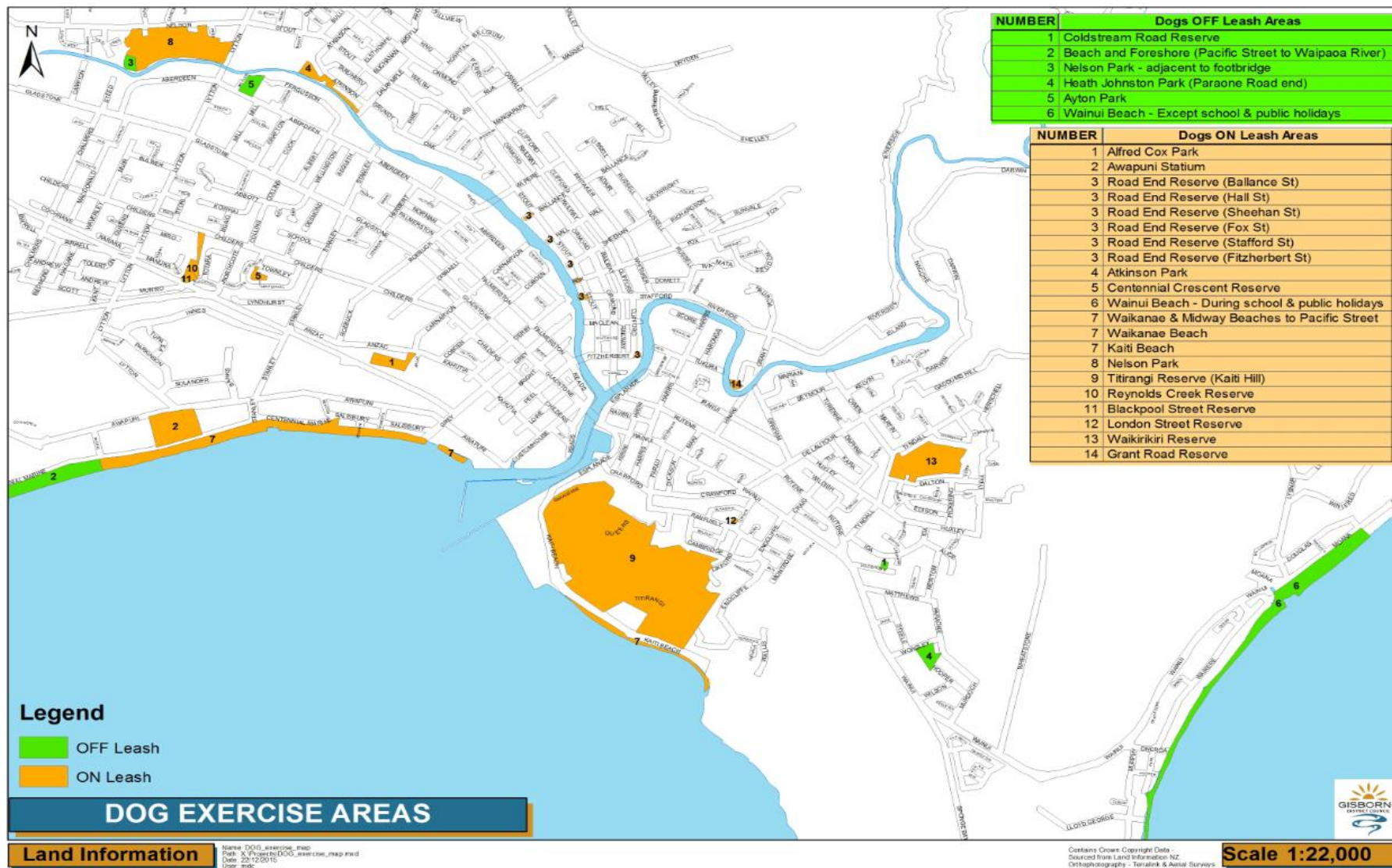
1. The owner of any dog shall provide for its use:
 - (a) a weatherproof kennel made from durable materials. Such kennel shall be of sufficient size so as to allow the dog to stand up, move freely, stretch out and recline, and in the case of a dog weighing less than 20kg shall have a floor area of not less than one square metre, and in the case of a dog weighing 20kg or more, shall have a floor area of not less than two square metres; and
 - (b) shall provide within access of a dog in a kennel, an adequate supply of clean drinking water.
2. Where a kennel does not have further means of confinement for the dog, such as a cage or enclosed run, the owner of the dog shall provide a secure means of physical attachment of the dog to the vicinity of the kennel to allow the dog to freely move about and into the kennel. Such physical attachment shall be a minimum of a running wire within the property to which the dog shall be attached by a chain.
3. The owner shall at reasonable intervals, clean any kennel and any associated area or means of confinement in the vicinity of any kennel so as to be kept free of accumulations of dog faeces, food, hair, or other organic matter. The owner shall either remove from any property all dog faeces or bury it within the property, provided that such burial is practicable and is not offensive or likely to be offensive or become a nuisance to any person.
4. No kennel shall be situated closer than two metres to the boundary of any owner's property, provided that a ranger may at his discretion permit a lesser distance for kennels existing at the date of enactment of this Bylaw.
5. No owner of any dog shall allow a dog to be kept beneath the floor of any building.
6. The Chief Animal Control Officer may approve alternative accommodation arrangements for a dog to the above standards where they are satisfied that the owner will be providing adequately for the needs of the dog and no other reasonable person is adversely affected PROVIDED THAT where any such alternative accommodation is permitted the owner shall provide a running wire within the owner's property to which the dog may be attached by a chain.
7. The Chief Animal Control Officer at their discretion may, upon application being made by any owner of a dog, grant an exemption from any requirement to provide a running wire in appropriate circumstance.

If any such application is declined the owner may apply in writing to the Manager for reconsideration of the application and on hearing that application may confirm, reverse or modify the decision made by the Chief Animal Control Officer.

Prohibited areas



Designated areas



THE COMMON SEAL OF GISBORNE DISTRICT COUNCIL WAS HERETO AFFIXED PURSUANT TO RESOLUTION PASSED AT A MEETING OF THE GISBORNE DISTRICT COUNCIL HELD ON 30th OF NOVEMBER 2015.

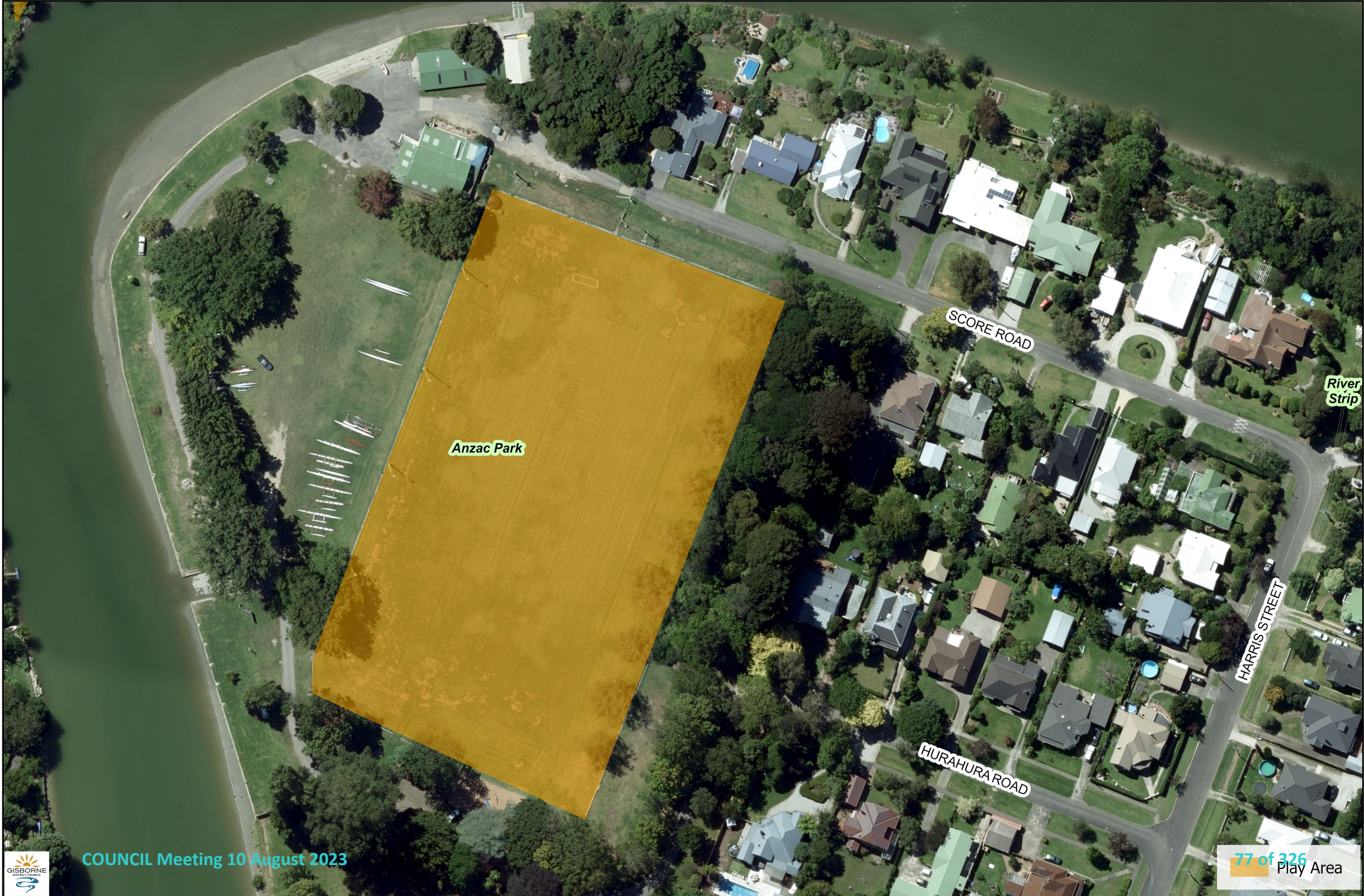
_____ MAYOR

_____ CHIEF EXECUTIVE

Alfred Cox Park - Awapuni



Anzac Park - Inner Kaiti



Anzac Park

SCORE ROAD

HURAHURA ROAD

HARRIS STREET

River Strip



Draft Dog Control Policy 2023

Kaupapa Whakahaere Kuri a Tairāwhiti 2023
(Tairāwhiti Dog Control Policy 2023)

DRAFT

Made by Gisborne District Council
Resolution of Council dated __ of _____ 2023
Review date _____



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1. Introduction

This policy on dogs is prepared in accordance with the requirements of the Dog Control Act 1996 ('the Act') and came into force on __ of ____ 2023.

This policy aims to give effect to the Act by ensuring the health and safety of the public whilst also ensuring the well-being and welfare of dogs, through responsible ownership.

The community expects dog owners to act as responsible owners. It is recognised that many in the community believe dogs can play a positive role in society and provide enjoyment for individuals and families. This policy seeks to balance those two expectations.

2. Objective of this Policy

The objective of this policy is to encourage responsible dog ownership, spread awareness within the community and promote an environment where dogs and people can happily and peacefully co-exist.

In order to meet this objective, dog owners must:

1. Register their dog/s at three months of age and every year after;
2. Provide for the health and wellbeing of their dog;
3. Keep their dogs under control when in a public place, particularly in and near places frequented by children;
4. Ensure their dog doesn't cause a nuisance to neighbours and other people by persistent and loud barking or howling;
5. Keep their dog under direct control or confined on their property so it doesn't wander or become lost;
6. Pick up any faeces left by their dog in public places or on land not occupied by the dog owner;
7. Take all reasonable steps to ensure their dog doesn't injure, endanger, intimidate, or otherwise cause distress to children and other people so that the public can use streets and public amenities without fear of attack or intimidation;
8. Take all reasonable steps to ensure their dog doesn't injure, endanger or cause distress to any stock, poultry, domestic animal, or protected wildlife and is kept out of prohibited areas;
9. Ensure their dog doesn't damage or endanger any property belonging to other people;
10. Provide for the training, exercise and recreational needs of their dogs.

3. Our policy

(1) Register your dog/s

All dog owners must register their dogs so the council can identify the person responsible for the care and control of each dog and ensure that the costs of dog control are evenly distributed. All dogs registered after 1 July 2006 must be microchipped. Also from that date, all dogs that are classified as dangerous or menacing under the Dog Control Act 1996 (including dogs classified since 1 December 2003) are required to be microchipped.

A. How to achieve this:

- (i) Keep a register of dogs, including those classified as dangerous and menacing, and provide information to the National Dog Control Information Database.
- (ii) Maintain a record of probationary and disqualified owners.
- (iii) Set registration fees and provide dog owners with relevant information.
- (iv) Inform and educate dog owners through the registration and microchipping process.
- (v) Send annual registration renewal forms to all known dog owners.
- (vi) Offer registration fee incentives for owners who have de-sexed their dog,
- (vii) Target unregistered dogs and take strong enforcement action against owners of unregistered dogs.
- (viii) Require dogs leaving the pound be registered before release.

(2) Exercise areas for dogs

The Council provides dog owners with a reasonable level of access to public places without compromising public safety and comfort.

A. How to achieve this:

When making bylaws controlling the access of dogs to public places, Council will:

- (i) Recognise the right of children and the general public to use public places without fear of attack or intimidation.
- (ii) Recognise the responsible dog owner as a user of public places.
- (iii) Aim for peaceful co-existence between dogs and their owners with other park users.
- (iv) Provide areas where dogs may be exercised off-leash in parks and reserves on a district wide basis.
- (v) Provide suitable signage in areas where dogs are prohibited and where they can be off leash.
- (vi) Protect sensitive public areas and significant ecological areas from dogs, such as areas where dogs may be a danger to children, wildlife or other animals, or where their presence may be offensive or disturbing e.g., Cemeteries.

B. Make bylaws that are consistent with the above principles:

- (i) Require dog owners to keep their dogs on a leash at all times in public places not designated as off-leash area or prohibited area.
- (ii) Recognise that dogs confined in a vehicle or cage, dogs taking part in council approved special events or working dogs carrying out work duties should not be prohibited from public places or required to be on a leash.
- (iii) Require dog owners to immediately remove any faeces left by their dog on all areas other than their own property.
- (iv) Inform dog owners of areas in the Gisborne District that are prohibited to dogs or where dogs are allowed off leash.
- (v) Take enforcement action against owners who breach the Act or the Dog Control Bylaw by failing to contain or control their dogs.

C. Guidance for assessing suitability of areas for dogs:

Council may apply the following criteria as a guide for determining dog access areas as off-leash or prohibited. In public places not specified as off-leash or prohibited, dogs must be kept on a leash at all times.

1. Off-leash areas:

For an area to be designated as an off-leash area, Council will identify and assess the current and future use of the place and whether there may be any potential conflicts to ensure the designation would not result in any significant risk or nuisance to any:

- a. Person (in particular children or vulnerable adults). In making this assessment, Council will consider:
 - a. The presence of a playground with no effective built or natural barrier (for example, a fence or stream)
 - b. Presence of sporting activity, including mountain biking.
- b. Protected wildlife vulnerable to dogs (in particular ground nesting birds or penguins).
- c. Stock, poultry, or domestic animal.
- d. Property (in particular, natural habitat and public amenities such as sports grounds).

2. Prohibited areas:

For an area to be designated as a prohibited area, Council will determine that:

- a. The criteria for being designated an off-leash area has not been met.
- b. Any risk identified in relation to the off-leash criteria would not be sufficiently managed by dogs being on-leash.
- c. There are no practicable alternative solutions to address the conflict between uses of the place (design and management solutions include fencing, different zones in one place, time-share arrangements).
- d. Displaced dog owners and their dogs have access to other places or that such access is provided as part of the same decision.

(3) Encourage responsible dog ownership

Dog owners must be encouraged to meet their obligations under the Act, to protect their dog's health and well-being and to ensure that neighbourhoods remain safe and pleasant. A responsible dog owner will:

- Ensure that the dog they purchase or adopt is suitable to their needs and their ability to care for the dog.
- Provide appropriate accommodation for the dog and the exercise space needed for the breed.
- Carry a bag to pick up their dog's faeces when in a public place.
- Ensure that faeces are picked up.
- Attend appropriate dog owner and training courses.
- Ensure that their dog/s don't enter private land or prohibited Department of Conservation areas.

A. How to achieve this:

- (i) Reward dog owners demonstrating a specified level of responsible dog ownership.
- (ii) Provide educational information on Council's website on the shelter and health needs of dogs.
- (iii) Include in the Dog Control Bylaw, limitations on the number of dogs that can be kept within the urban areas and only allow exemptions where there are no adverse effects.

- (iv) Ensure dog owners take the necessary steps to ensure their dog's health and wellbeing.
- (v) Prescribe minimum accommodation standards for dogs in the Dog Control Bylaw.

(4) Enforce dog owner obligations

Powers of enforcement under the Act should be used appropriately to ensure public safety and comfort and to penalise and deter irresponsible dog ownership.

A. How to achieve this:

- (i) Receive, investigate and resolve, and respond to dog complaints from members of the public.
- (ii) Remove dogs threatening public safety and comfort.
- (iii) Assist dog owners and the public by:
 - (a) Giving out good dog owner information.
 - (b) Issuing warnings.
 - (c) Issuing infringement notices, prosecuting owners and where required using menacing dog, dangerous dog, probationary and disqualified dog owner classifications.
 - (d) Taking immediate enforcement action against unregistered dogs.
- (iv) Require that all dogs classified as menacing dogs be neutered in accordance with s.33E(1)(b) of the Act within one month after receipt of notice of the classification. In the case of dogs classified as menacing by another territorial authority, the dog must be neutered within one month of registration with the Council.
- (v) Include a provision in the Bylaw that allows Council to require dogs to be neutered if they are found not to be under the control of their owners by Council on two or more occasions within a one-year period.
- (vi) Ensure female dogs in season are kept confined to their premises within a dog-proof enclosure for the duration of oestrus cycle.

(5) Education

Dog Control Officers will work with schools, children and dog owners and the community so that the public is aware of how to live with dogs.

A. How to achieve this:

- (i) Inform and educate dog owners and the general public through media such as brochures, the Council's website and school education programmes.
- (ii) Promote the availability of dog obedience courses.

(6) Provide adequate funding for dog management services

Adequate funding must be provided to maintain an acceptable level of dog management services.

When considering dog-related fees, Council will take into account the user-pays principle, penalty-based fees, legislative requirements, the council's funding policies, community responsibilities and recognition of responsible dog ownership.

A. How to achieve this:

- (i) Set reasonable fees for the registration and control of dogs in accordance with the information above.
- (ii) Set lower registration fees for working dogs and for owners demonstrating a specified level of responsible dog ownership.
- (iii) Set a higher registration fee for owners who do not meet the date given for payment of registration fees.

(7) Gather information to assess the effectiveness and fairness of our policy on dogs

Information will be gathered to determine if the Council's methods are working towards achieving the objectives in this policy.

How to achieve this:

Report annually on the council's administration of dog control methods and the dog policy. The council must give public notice of the report and send a copy of it to the Secretary for Local Government.

(8) Provide for special purpose dogs

Council recognises that where a person with special needs (certified by a Medical Practitioner) requires a special purpose dog, that dog is recognised as a working dog provided that dog has had training acceptable to Council. This approval, where granted will allow the dog to enter public buildings and prohibited areas whilst it is working as a special purpose dog.

How to achieve this:

Where a dog provides for the special needs of a member of the public and this is demonstrated to the satisfaction of the Council, Council will resolve that the dog will be a working dog for the purposes of Gisborne City's Dog Control Bylaw.



Schedule 1 – Prohibited Areas

1. Gladstone Road
2. Adventure Playground
- ~~3. Alfred Cox Park – Pump Track~~
- ~~4.3. Watson Park~~
- ~~5.4. Barry Park~~
- ~~6.5. Botanical Gardens (playground areas only)~~
- ~~7.6. Childers Road Reserve~~
- ~~8.7. Titirangi Park~~
- ~~9.8. He Pipi Park~~
- ~~10.9. Harry Barker Reserve~~
- ~~11.10. Olympic pool complex~~
- ~~12.11. The Oval~~
- ~~13.12. Innes Street Reserve~~
- ~~14.13. Railway Reserve~~
- ~~15.14. Skateboard Park~~
- ~~16.15. Victoria Domain~~
- ~~17.16. Heath Johnston Park (Wainui Road end)~~
- ~~18.17. Waikanae to Midway Beach – from cut to Roberts Road~~
- ~~19.18. Midway Beach (Flagged Area)~~
- ~~20.19. Waikanae Beach (Flagged Area)~~
- ~~21.20. Rugby Park~~
- ~~22.21. Wainui Beach (Flagged Area)~~
- ~~23.22. Kaiti Mall~~
- ~~24. Anzac Park~~
- ~~25.23. Gisborne Airport~~
- ~~26.24. Kaiti Beach and dunes (up to but not including adjacent road corridor)~~
- ~~27.25. Nelson Park Sports Grounds (Excluding the surrounding area)~~
- ~~28.26. Waikirikiri Reserve Sports Grounds (Excluding the surrounding area)~~



Schedule 2 - Off Leash Areas

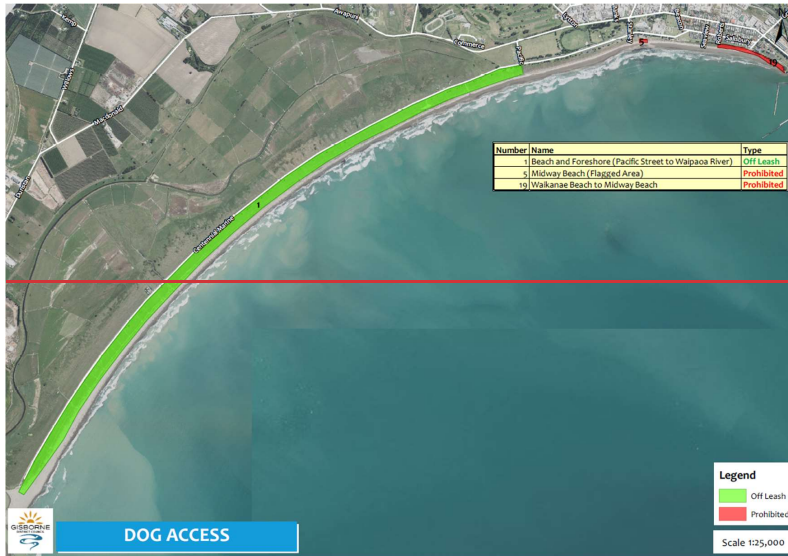
Areas in which dogs may be exercised without physical constraint but under the oral command of their owners or on a leash:

1. Waiteata Park (North side of waterway – non-playground side)
2. Beach and Foreshore (Pacific Street to Waipaoa River)
3. Nelson Park - adjacent to footbridge
4. Heath Johnson Park (Paraone Road end)
5. Wainui Beach (except between the flags)
6. Coldstream Reserve
7. Ayton Park
- 7.8. Whataupoko Reserve

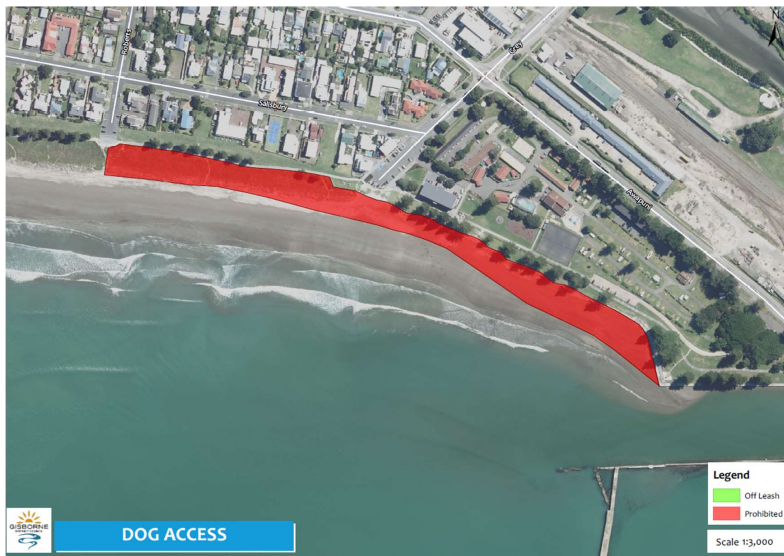
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Schedule 3 – Mapping of Dog Access Areas

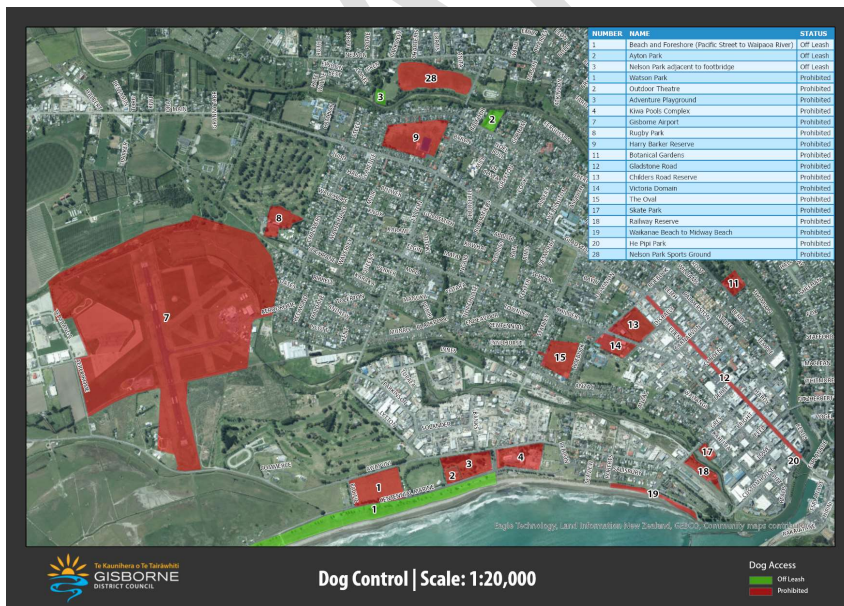
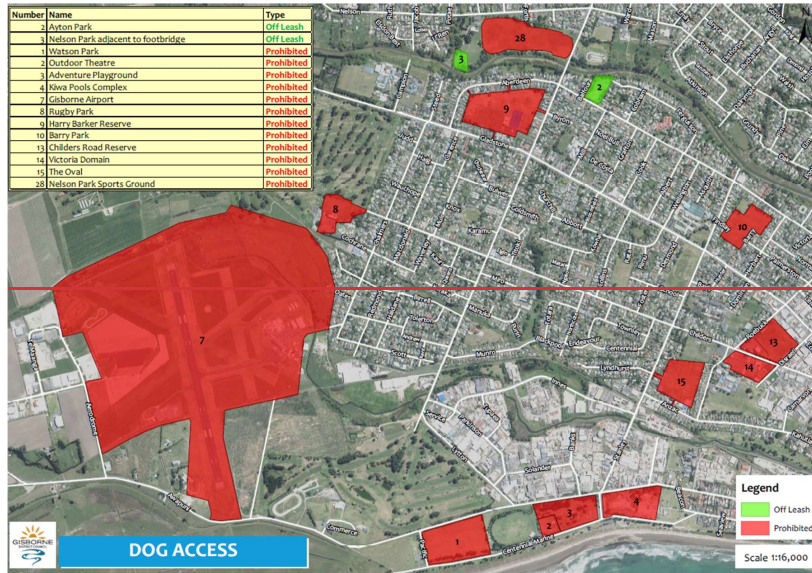
Map 1: Waikanae to Waipaoa River Mouth



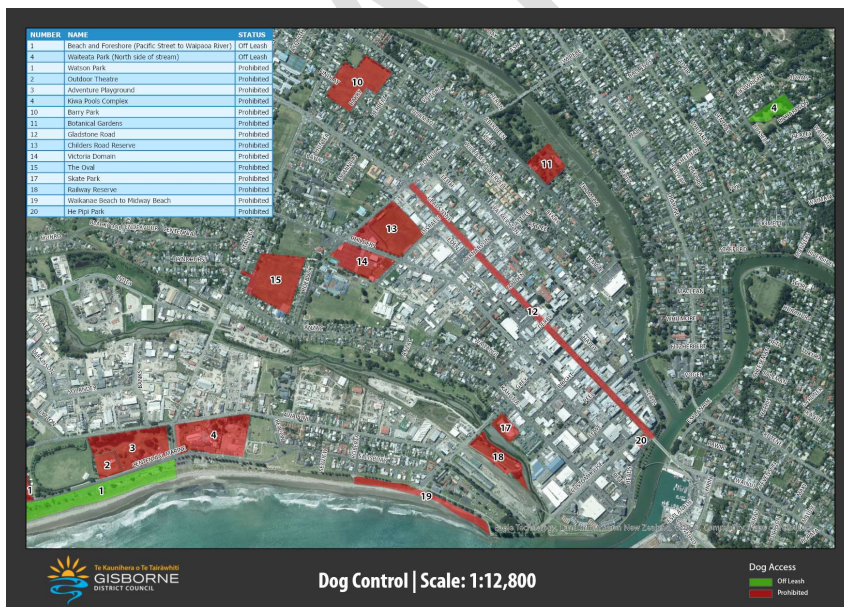
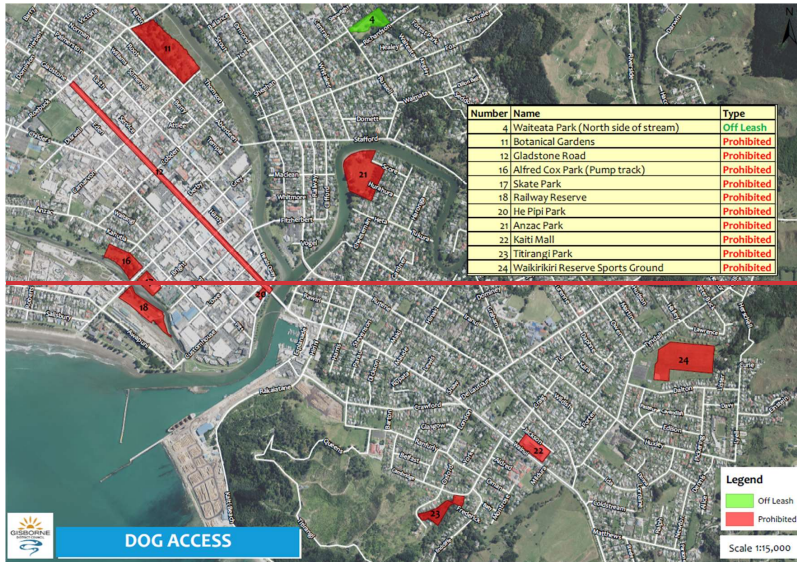
Map 2: Waikanae Prohibited Area



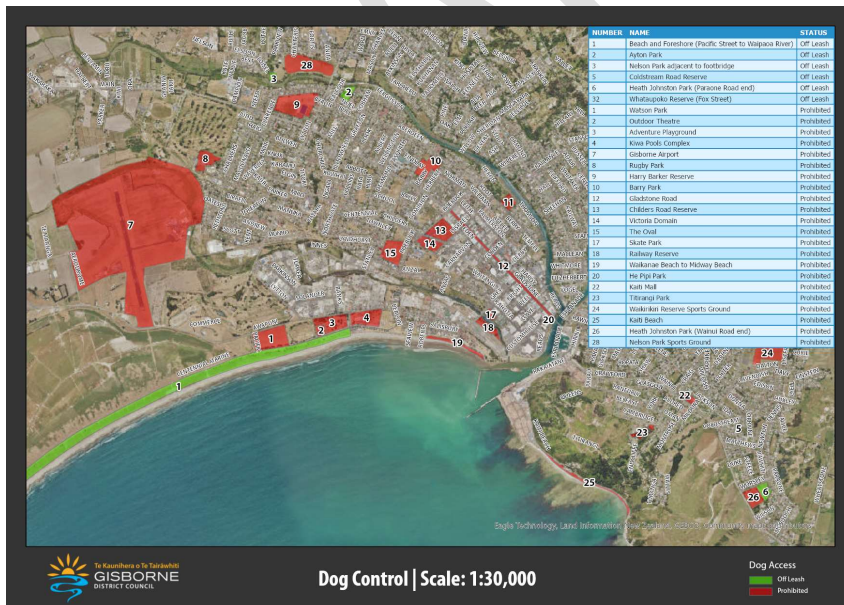
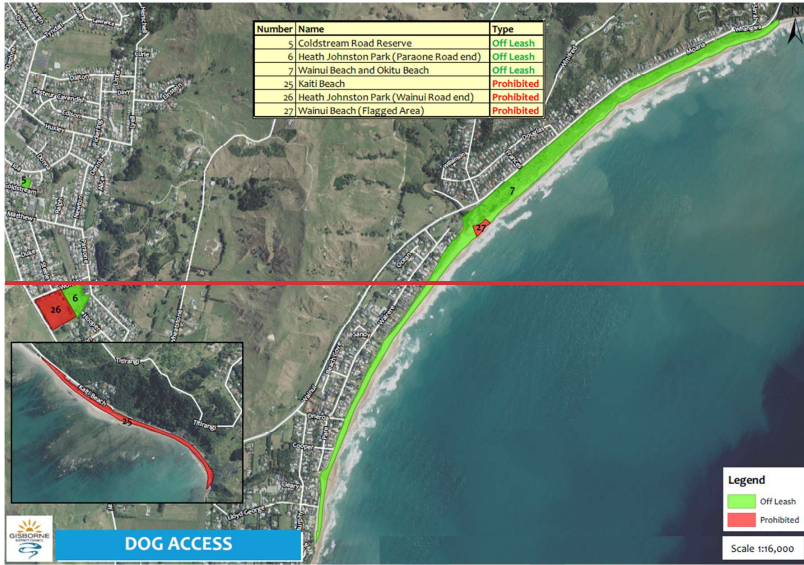
Map 3: Gisborne Map A

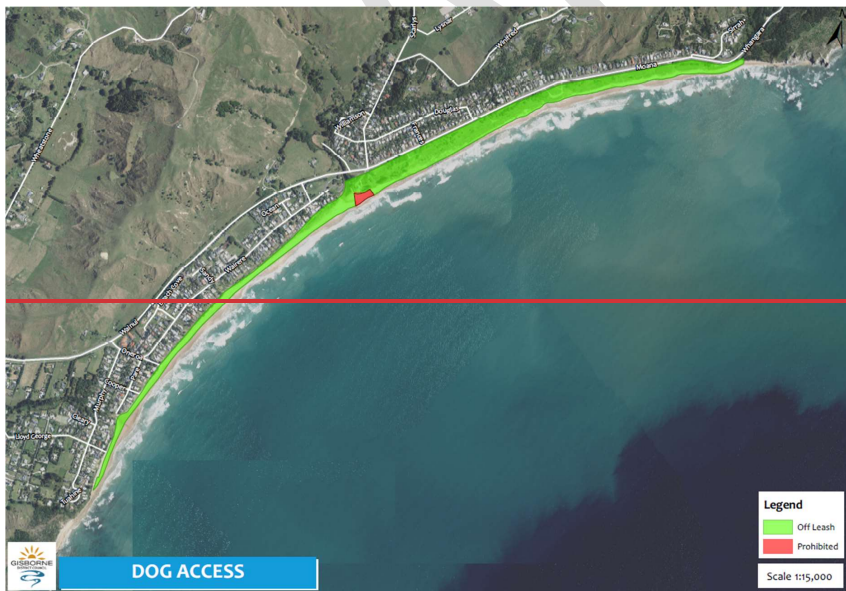
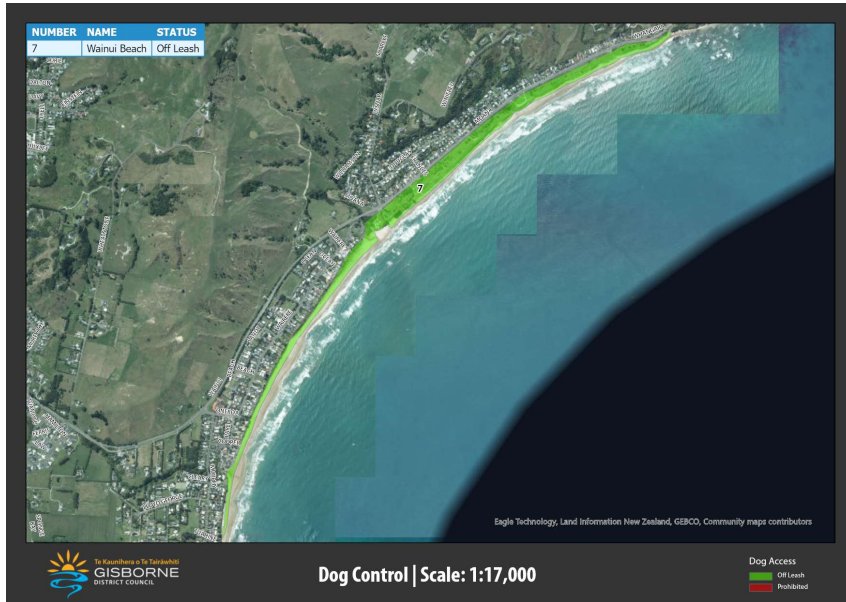


Map 4: Gisborne Map B

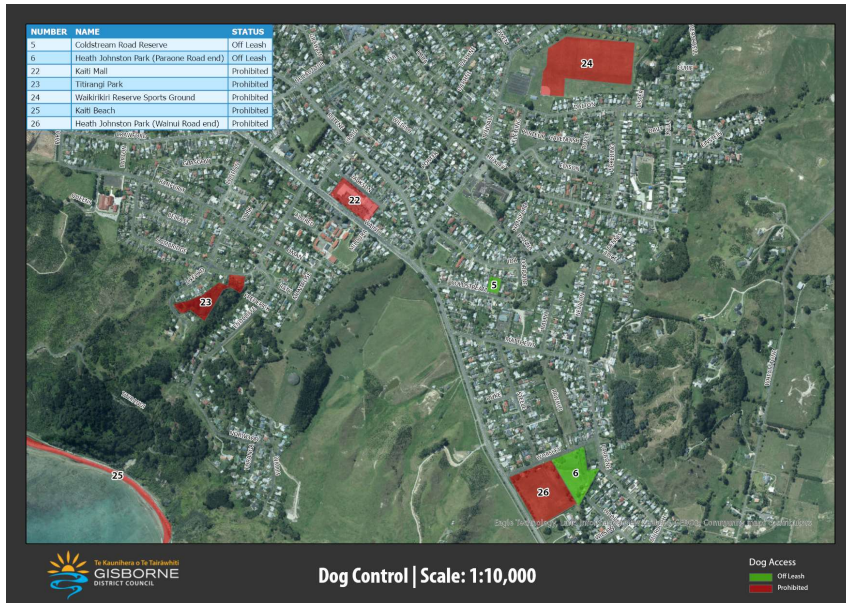


Map 4: Gisborne City C





Map 5: Gisborne City D:



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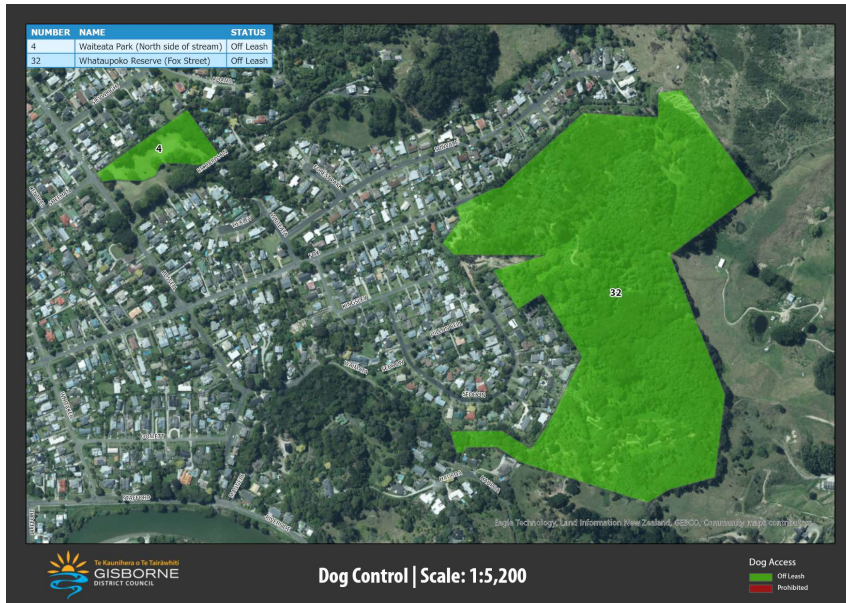
Map 56: Kaiti Beach



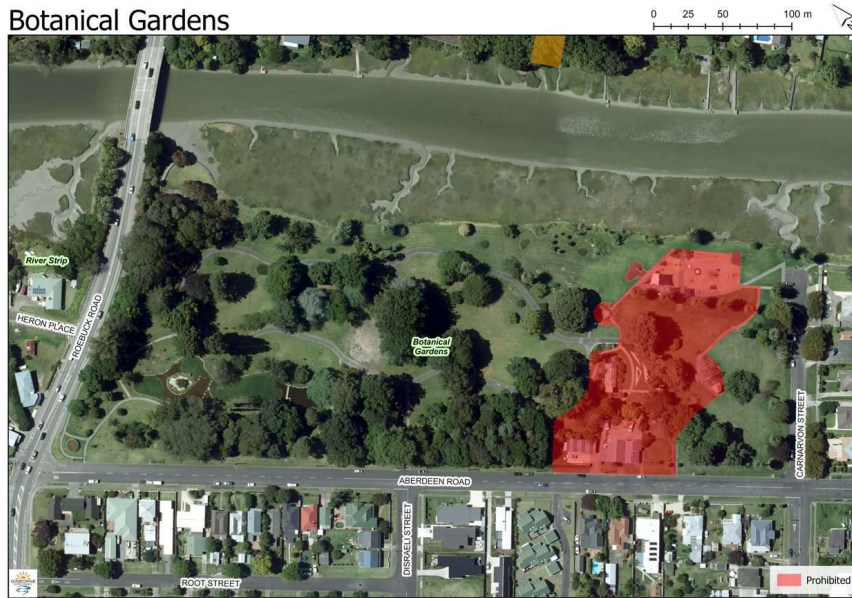
Map 7: Kaiti Beach (Road corridor)



Map 8: Whaupoko Reserve (Fox Street):



Map 9: Botanical Gardens (Playground areas)



Map 11: Heath Johnstone Park

Heath Johnstone Park - Tamarau



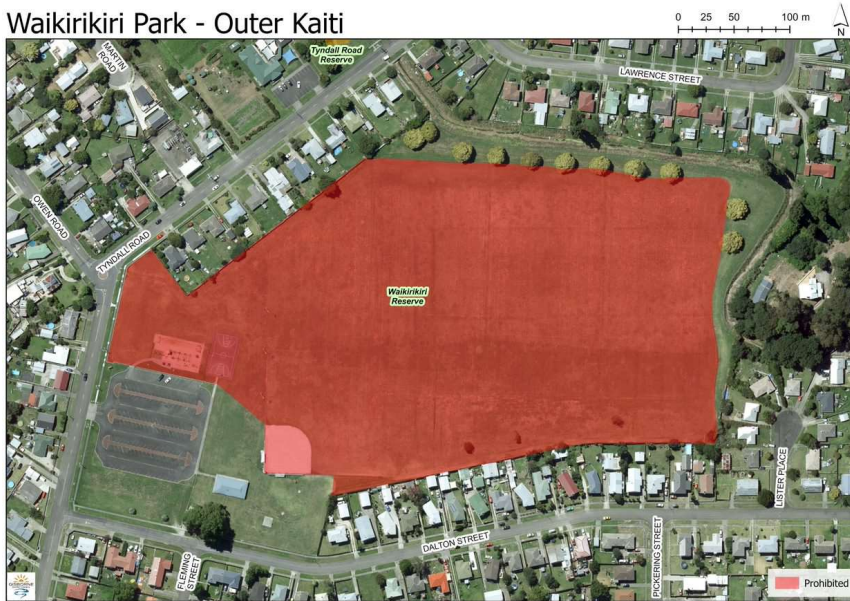
Map 12: Waiteata Park

Waiteata Park



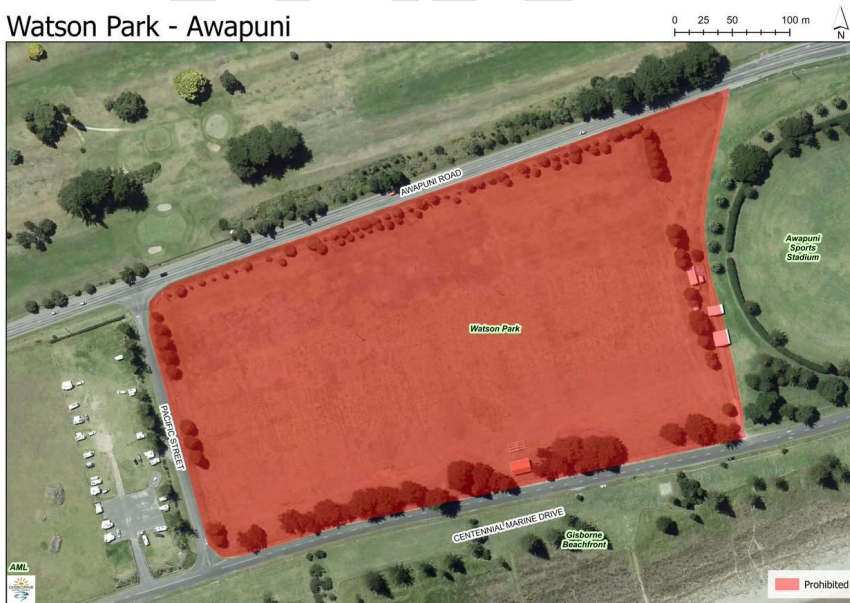
Map 14: Waikirikiri Reserve

Waikirikiri Park - Outer Kaiti



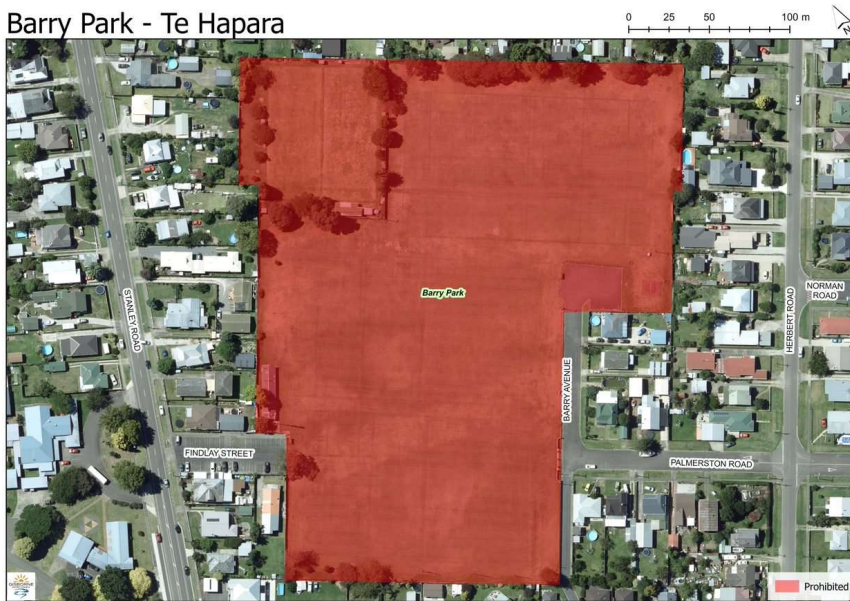
Map 15: Watson Park

Watson Park - Awapuni



Map 16: Barry Park

Barry Park - Te Hapara



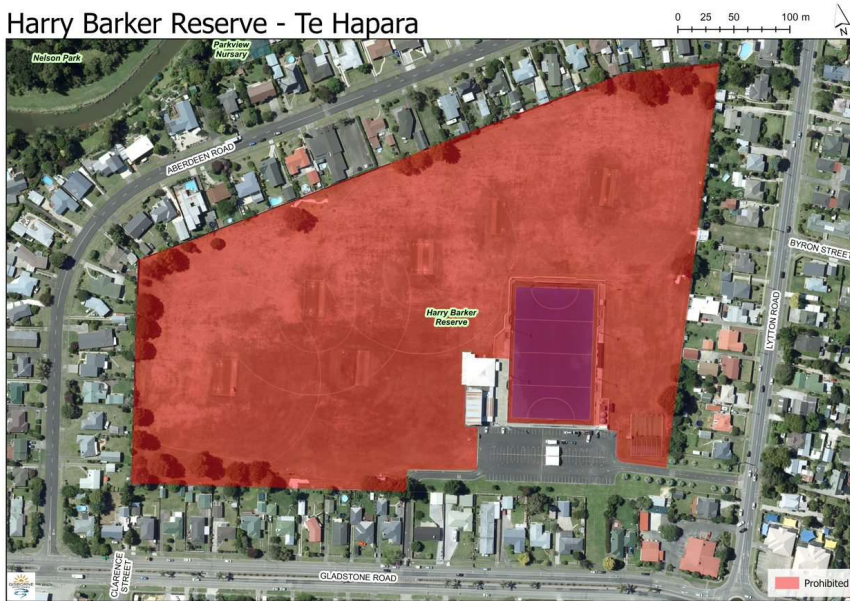
Map 17: Childers Road Reserve

Childers Road Reserve



Map 18: Harry Barkers Reserve

Harry Barker Reserve - Te Hapara



Map 19: The Oval

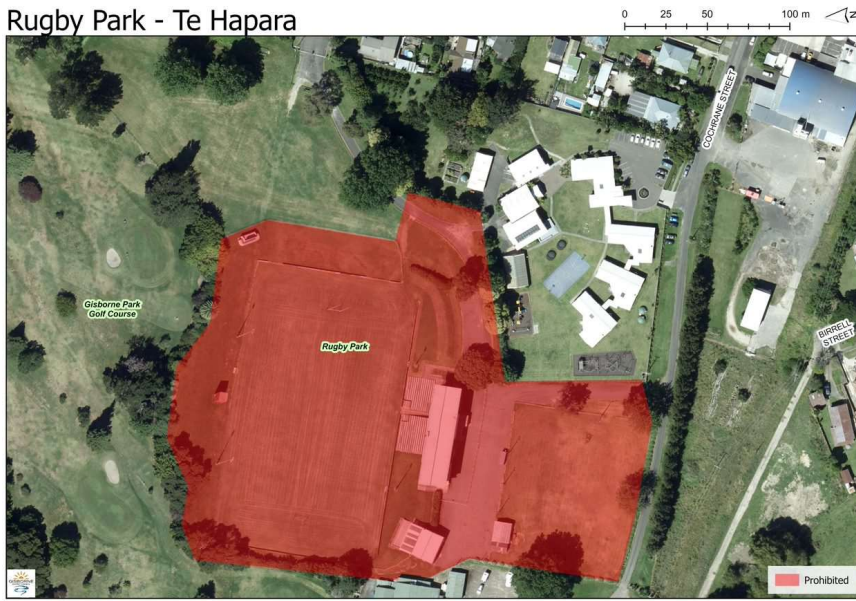
Oval Reserve



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Map 20: Rugby Park

Rugby Park - Te Hapara





Schedule 4 – Infringement Fees

These are a series of offences that are subject to fines (infringement fees). The Animal Control Officer can issue instant fines for the offences specified in schedule 1 of the Dog Control Act 1996. The infringement fee is also identified in this schedule.

<https://www.legislation.govt.nz/act/public/1996/0013/latest/DLM375486.html>

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Tairāwhiti Dog Control Bylaw 2023

Ture ā-rohe Tiaki Kurī o Te Tairāwhiti 2023

(Tairāwhiti Dog Control Bylaw 2023)

Made by Gisborne District Council

Resolution of Council dated __ of _____ 202_



GISBORNE
DISTRICT COUNCIL

Tairāwhiti Dog Control Bylaw 2023

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A_____



1. Title

This bylaw is the Tairāwhiti Dog Control Bylaw 2023.

2. Commencement

This bylaw comes into force on [insert date of Council resolution]

3. Application

This bylaw applies to the Gisborne District.

Part 1: Preliminary Provisions

4. Interpretation

(1) In this bylaw, unless the context otherwise requires –

Act means the Dog Control Act 1996

Control means that the dog is not causing a nuisance or danger and that the person in charge of the dog has the dog under continuous surveillance and is able to obtain an immediate and desired response from the dog by use of a leash, voice commands, hand signals, whistles or other effective means.

Council for the purposes of this Bylaw, means the Gisborne District Council or any person or committee delegated to act on its behalf in relation to this Bylaw.

Dangerous Dog means a dog which has been classified as a dangerous dog under section 31 of the Dog Control Act 1996.

Off-leash area means an area specified as an off-leash area in in Schedule 2 of the Gisborne District Council Dog Control Policy 2023.

Owner has the same meaning as in the Act.

Park means

(a) any land vested in or administered by the Council under the provisions of the Reserves Act 1977; or

(b) any park, domain or recreational area under the control or ownership of the Council.

Premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied. All lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

Private Way has the meaning given by section 315 of the Local Government Act 1974.

Prohibited public place means a place specified as prohibited in Schedule 1 of the Gisborne District Council Dog Control Policy 2023.

Public Place has the same meaning as in the Act.

**Related information**

Public Place means a place that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or effect any person from that place; and includes:

- (a) any aircraft, hovercraft, ship or ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward.
- (b) any Council controlled public place.

[Reticulated Services Boundary](#) has the same meaning as in the [Tairāwhiti Resource Management Plan](#).

Related information

[Link to Reticulated Services Boundary map](#)

Road has the meaning given by section 315 of the Local Government Act 1974 except that where a road is adjacent to a park, and the land within the road and park is developed in an integrated way, the common boundary between the road and park will be reduced or extended to:

- (a) a line parallel to the road that follows any physical separation between the road and park (e.g. fence or bollards); or
- (b) where no physical separation exists, a line parallel to the road that follows the edge of the road carriageway, footpath or cycle track that is closest to the centre of the park.

Urban area means the zones defined as Residential, Commercial or Industrial by the Tairāwhiti Resource Management Plan.

Related information

Urban area means the zones defined as Residential as well as Commercial or Industrial in the Tairāwhiti Resource Management Plan. These are:

Residential:	Commercial:	Industrial:
<ul style="list-style-type: none"> • General Residential • Inner City Residential • Residential Protection • Residential Lifestyle 	<ul style="list-style-type: none"> • Amenity Commercial • Aviation Commercial • Fringe Commercial • Inner Commercial 	<ul style="list-style-type: none"> • Outer Commercial • Rural Commercial • Suburban Commercial
		<ul style="list-style-type: none"> • Industrial • Rural Industrial A • Rural Industrial B

Note this includes residential, commercial and industrial zones in rural townships.

Working Dog has the same meaning as in the Act

Related information

Working dogs include disability assist dogs, dogs kept by state departments such as police dogs and customs dogs, pest control dogs and dogs kept solely or principally as stock or herding dogs. A full list can be found in section 2 of the Dog Control Act 1996.



-
- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Act unless the context plainly requires a different meaning.
 - (3) The Legislation Act 2019 applies to the interpretation of this bylaw.
 - (4) Related information is for information purposes only, does not form part of this bylaw, and may be inserted or changed by the Council at any time without any formality.

Part 2: Regulation and Control of Dogs

5. Prohibition of dogs in specified public places

- (1) The owner of any dog must ensure that their dog (including when confined in a vehicle or cage) does not enter or remain in any prohibited public place.
- (2) Subclause (1) does not apply to any working dog accompanying and assisting a person or accompanying a person engaged in the dog's training.

6. Dogs must be on a leash in public places

(1) This clause applies in the following areas:

- a. any area within the Reticulated Services Boundary;
- b. Waihiere Domain; and
- c. Tīfirangi Domain.

(2) The owner of any dog must ensure that the dog is controlled on a leash in any public place or private way that is not a designated off-leash area or prohibited public place.

Related Information

Section 54A of the Dog Control Act 1996 requires that the owner of a dog must carry a leash at all times when with a dog in a public place.

Gisborne District Council requires dogs in public places to be on a leash when not in an off-leash area to ensure the dog is visibly under control.

7. Dogs in an off-leash area

- (1) The owner of any dog in an off-leash area must ensure that the dog is kept under control at all times.

8. Restrictions on dangerous dogs

- (1) The owner of a dangerous dog must ensure that the dog is muzzled at all times in any public place or private way.

9. Restrictions on female dogs in season

- (1) The owner of any female dog in season must ensure the dog does not enter or remain in any public place or private way unless:
 - (a) That dog is confined in a vehicle or cage for the purposes of transportation; or
 - (b) The owner of that dog has the permission of the occupier or person controlling the public place; and complies with any reasonable conditions imposed.
- (2) Any dog confined must be regularly exercised under the control of the owner.

10. Dog faeces

- (1) The owner of a dog in any public place or premises must ensure the immediate removal and disposal of the dog's faeces in a manner that does not cause a nuisance.



- (2) Subclause (1) does not apply to the owner of a dog that is:
- (a) in a premise occupied by the owner;
 - (b) herding or driving stock on a road, where the dog is kept solely or principally for the purposes of herding or driving stock.

11. Keeping more than two dogs

- (1) The occupier of a premises in an urban area must not keep more than two dogs over the age of 3 months (other than a working dog) on the premises for more than 30 consecutive days.
- (2) Subclause (1) does not apply if –
- (a) The dogs are being kept in accordance with a permit; or
 - (b) An application for a permit to keep the dogs on the premises has been submitted to the Council within 30 days of the dogs first being kept on that premises, and the application for that permit is yet to be decided.

12. Permit for keeping more than two dogs on premises

- (1) Any application for a permit must be accompanied by the relevant application fee (if any).

Related Information

Council has the power to set fees by resolution under the Dog Control Act 1996. These are contained in the Fees and Charges Policy, which is updated annually.

- (2) An application for a permit must be in writing, contain all information necessary for the Council to consider issuing a permit, and be submitted in accordance with applicable Council policy.
- (3) A permit under this bylaw may be granted by the Council in its discretion, and include any conditions the Council considers appropriate (including the payment of ongoing fees and charges).
- (4) A holder of a permit issued under this bylaw must ensure that all conditions of the permit are complied with.
- (5) In determining an application for a permit, the Council may require the applicant to provide further information.
- (6) The Council may, in its discretion, at any time, review, suspend, or revoke any permit issued under this bylaw.
- (7) Unless otherwise stated in the conditions of the permit granted under this clause, the permit will remain valid as long as the circumstances described on the permit remain unchanged.
- (8) The permit cannot be transferred to another person or another premise.

13. Requirement to neuter uncontrolled dog

- (1) The council may by written notice require the owner of a dog to have that dog neutered if:



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DISTRICT COUNCIL

Tairāwhiti Dog Control Bylaw 2023

- (a) the owner has received an infringement notice relating to a breach of a requirement to keep the dog under control; and
 - (b) the owner has failed to keep the dog under control on more than two occasions within a 12-month period.
 - (c) The owner of a dog that receives a notice issued under subclause (1) must, within one month of receipt of the notice, produce to Council a certificate issued by a veterinary surgeon certifying: that the dog has been neutered, or
 - (a) that for reasons that are specified in the certificate, it will not be in a fit condition to be neutered before a date specified in the certificate.
- (3) If a certificate clause 14(2)(b) is produced to the Council, the owner of the dog must produce to the Council no later than one month from the date specified in the certificate a further certificate under clause 14(2).

Related Information

Dog owners that do not get their dog neutered in the time specified may be subject to an infringement and will still be required to neuter their dog.

14. Owners of dogs classified as menacing due to behaviour

- (1) If a dog has been classified as menacing due to their behaviour, under section 33A of the Dog Control Act 1996, the owner may request the classification be reviewed after a 12-month period if:
 - (a) the owner provides evidence of a dog behavioural assessment report, at the owner's expense;
 - (b) the owner has not received any infringement notices in relation to the dog within the preceding 12-month period; and
- (2) The Council will provide the owner with written notice of its decision.

Part 3: Enforcement, offences, penalties

15. Enforcement

- (1) The council may use its powers under the Dog Control Act 1996 and the Local Government Act 2002 to enforce this Bylaw.

16. Offences and Penalties

- (1) Every person who breaches this Bylaw commits an offence.
- (2) Every person who commits an offence under this Bylaw is liable to a penalty under the Dog Control Act 1996 and the Local Government Act 2002.

Part 4: Saving, transitional provisions



17. Existing permits to continue in force

- (1) Every permit to keep more than two dogs that was issued under the Gisborne District Council Dog Control Bylaw 2010 is deemed to be a permit issued under this Bylaw.
- (2) However, every permit to which subclause (1) applies expires:
 - (a) if any owner to which the permit applies changes address;
 - (b) if the number of dogs kept on the premises for more than 14 days exceeds the number permitted by the permit;
 - (c) if the number of dogs kept on the premises for a continuous period of more than 12 months is fewer than the number permitted by the permit; or
 - (d) for any reason specified in the permit.

Title: 23-95 Final Decision Report - Keeping of Animals Bylaw 2023
Section: Strategy
Prepared by: Abi Wiseman - Senior Policy Advisor - Climate Change
Meeting Date: Thursday 10 August 2023

Legal: No

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to present the Panel's recommendations to Council to revoke the Keeping of Animals, Poultry and Bees Bylaw 2012 and replace it with the proposed Keeping of Animals Bylaw 2023 with some minor amendments.

SUMMARY - HE WHAKARĀPOPOTOTANGA

In September 2022, the Sustainable Tairāwhiti Committee (the Committee) approved the review of the Keeping of Animals, Poultry and Bees Bylaw 2012 (**Report 22-173**). The bylaw aims to protect the public from nuisance caused by the keeping of animals and was due for its ten-year review. Council adopted the Statement of Proposal (SOP) for public consultation on 15 December 2022, and public consultation was carried out from 25 January to 16 March 2023 (**Report 22-246**).

The Bylaw Submissions Panel (the Panel) received 37 submissions on 26 April 2023, including hearing three submitters in person (**Report 23-12**). The Panel deliberated on the matters raised in submissions on 23 May 2023 to inform decisions on the final proposed form of the Keeping of Animals Bylaw 2023 (**Report 23-101**). After considering all feedback received, the Panel proposes a minor amendment to the draft Bylaw to aid clarity and proposes further work to investigate the management of cats in Tairāwhiti.

The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. **Revokes the Keeping of Animals, Poultry and Bees Bylaw 2012 and replaces it with the Keeping of Animals Bylaw 2023 provided in Attachment 2. This includes the suggested edits proposed by the Panel.**
2. **Confirms the Keeping of Animals Bylaw 2023 comes into force on 10 September 2023.**
3. **Directs the Chief Executive to investigate options for the management of cats in Tairāwhiti and provide an Issues and Options report to Council.**
4. **Directs the Chief Executive to improve data collection on ngaro huruhuru (native bees) as part of ongoing biodiversity research.**

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Keeping of Animals Bylaw 2023; Poultry; Pigs; Bees; Cats; Feral; Stray; nuisance

BACKGROUND - HE WHAKAMĀRAMA

1. The Keeping of Animals, Poultry and Bees Bylaw 2012 (the current bylaw) aims to protect the public from animal nuisance through general and species-specific regulation of animals (except dogs), bees and poultry to reduce the incidence of odour, noise and vermin.
2. In September 2022, the Sustainable Tairāwhiti Committee (the Committee) approved the review of the current bylaw. The bylaw was due for its ten-year review. The Committee also determined that a bylaw is still the most appropriate and proportionate way of addressing the perceived problem of nuisance (as defined in the Bylaw) arising from the keeping of animals, poultry and bees in Tairāwhiti (**Report 22-173**), as is required under section 155 of the Local Government Act 2002.
3. On 15 December 2022, Council adopted the Statement of Proposal (SOP) for public consultation (**Report 22-246**). Consultation on the SOP and draft Keeping of Animals Bylaw 2023 (the draft Bylaw) took place from 25 January to 16 March 2023. The original consultation end date of 2 March was extended by two weeks to account for the disruption to communications channels and community capacity to engage caused by Cyclone Gabrielle. Council received 37 submissions on the SOP and draft Bylaw.
4. On 26 April 2023, the Bylaw Submissions Panel (the Panel) received the submissions (**Report 23-12**). This included hearing three submitters who wished to present to the panel in addition to their written submission. The Panel deliberated on the matters raised in submissions on 23 May 2023 to inform decisions on the final proposed form of the Keeping of Animals Bylaw 2023 (**Report 23-101**).

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

5. The Panel's recommendations for the final Bylaw as a result of deliberations are shown in tracked changes in the Bylaw in **Attachment 1**. These tracked changes show the changes between the Bylaw as included in the Statement of Proposal for consultation and the final changes recommended by the Panel.
6. The Panel considered the implications of the proposed changes in relation to the legislative requirements of Council under S155(2) of the Local Government Act 2002. The Panel recommends to the Council that the Bylaw, as provided in **Attachment 2** is:
 - a. the most appropriate form of bylaw
 - b. does not give rise to any implications under the New Zealand Bill of Rights act 1990.
7. The Panel recommends the Bylaw comes into force on 10 September 2023.

Cat Management

8. In response to feedback from animal welfare and conservation organisations, the Panel recommends that Council direct the Chief Executive to investigate options for the management of cats in Tairāwhiti, including assessing options to:
 - a. amend the Keeping of Animals Bylaw 2023 (once adopted) to include cat management provisions, in line with the approach taken by other Councils;
 - b. create a non-bylaw instrument to support cat management, such as a Policy on cats or clear guidance on what is expected of cat owners; and/or,
 - c. promote non-regulatory approaches to cat management, including working with the SPCA and CANZ to reduce barriers to desexing and microchipping.
9. The process for amending the Bylaw to include cat management provisions would include the following steps:

Step	Note	Indicative timing
Issues and Options	Staff present an Issues and Options report to Council to determine if an amendment to the Keeping of Animals Bylaw 2023 would be the most appropriate and proportionate way of addressing the issue.	16 November 2023 <i>This is the earliest date that a report can be brought to Council. If this date cannot be met due to staff capacity and need to priorities other mahi (such as recovery), then all other timeframes will be extended.</i>
Adopt Statement of Proposal for Consultation	If it is determined that an amendment to the Keeping of Animals Bylaw 2023 would be the most appropriate and proportionate way of addressing the issue, staff will report back to Council with draft cat management provisions and Statement of Proposal for Council to adopt for public consultation.	14 December 2023
Consultation	Public consultation will be required in line with the Special Consultative Procedure.	January - February 2024
Hearings	The Bylaw Submissions Panel will receive the submissions and hearings.	March 2024
Deliberations	The Bylaw Submissions Panel will consider all feedback received and deliberate on the final provisions.	April 2024
Adoption	The Panel will report to Council with final cat management provisions for approval.	May 2024
Public Notification	Public notification of amended Keeping of Animals Bylaw 2023.	June 2024

Ngaro Huruhuru

10. The Panel note that there is limited information available about the impact of honeybees on the indigenous ngaro huruhuru (native bees) in Tairāwhiti, an important taonga species, particularly as bee-keeping becomes more popular. The Panel recommend that staff seek to improve data collection on ngaro huruhuru as part of ongoing biodiversity strategy and research work.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Low Significance

This Report: Low Significance

The effects on individuals or specific communities

Overall Process: Medium Significance

This Report: Medium Significance

The level or history of public interest in the matter or issue

Overall Process: Low Significance

This Report: Low Significance

11. The decisions or matters in this report are considered to be of Low significance in accordance with Council's Significance and Engagement Policy.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

12. During the consultation phase, staff reached out via email to Te Runanganui o Ngāti Porou, Rongowhakaata Iwi Trust, Ngai Tāmanuhiri Trust, Te Aitanga a Māhaki Trust, Te Whanau a Kai and Nga Ariki to invite submissions on the SOP and draft Bylaw. No submissions were received from these iwi or from hapū.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

13. The review of the Bylaw was undertaken in accordance with the statutory requirements outlined in section 156 of the Act and followed the Special Consultative Procedure as provided in section 83 and as modified by section 86 of the Act.
14. The consultation period was publicised broadly via the Council's website and social media channels, the Gisborne Herald, and radio ads across all major radio stations. Submitters were able to complete a survey online, or provide submissions via email, phone or in person at the drop-in sessions held at the Awarua building.
15. Targeted engagement was limited to Iwi Trusts, as detailed in paragraph 53, as well as directly emailing respondents of an earlier pre-engagement survey targeted towards beekeeping, which ran online for two weeks in May 2022.
16. The consultation period was extended from the initial end date of 2 March 2023 to account for the disruption caused by Cyclone Gabrielle, including total loss of communication channels across Tairāwhiti from 14 February, with most communication channels restored within a week, as well as an ongoing reduction in our communities' capacity to engage given the broader impacts of the national emergency.
17. Council received 33 written submissions through the online Participate portal, as well as three further written submissions received via email. One submission was made verbally during a drop-in session with Council staff. Three organisations verbally presented their submissions to the Panel on 26 April. An analysis and staff response to the feedback received is included in Report 23-101.
18. A Communications Plan will be developed to notify the public of the new Bylaw.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

19. There are no climate change impacts or implications arising from the matters discussed in this report.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

20. There are no financial or budget implications arising from the matters discussed in this report.

Legal

21. The consultation process has followed the Special Consultative Procedure requirements under the Local Government Act 2002 (LGA). Section 155 of the LGA requires that councils determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue, whether the bylaw is in the most appropriate form and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. These determinations were made by Council in September 2022 (**Report 22-173**) and December 2022 (**Report 22-246**).

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

22. Adoption of the Keeping of Animals Bylaw 2023 presents no ongoing policy and planning implications.

RISKS - NGĀ TŪRARU

23. There are no major risks associated with the decisions sought.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
10 September 2023	Keeping of Animals, Poultry and Bees Bylaw 2012 is revoked and replaced with the Keeping of Animals Bylaw 2023 Public Notification of the new Bylaw.	Subject to Council approval on 10 August 2023
16 November 2023	Staff report back to Council on options to manage cats in Tairāwhiti.	Subject to Council direction on 10 August 2023, and workload.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Tracked Changes Keeping of Animals Bylaw 2023 [23-95.1 - 10 pages]
2. Attachment 2 - Keeping of Animals Bylaw 2023 [23-95.2 - 12 pages]

Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023

(Tairāwhiti Keeping of Animals Bylaw 2023)

Made by Gisborne District Council

Resolution of Council dated 10 of August 2023

Pursuant to sections 145 and 146 of the Local Government Act 2002, and sections 23 and 64 of the Health Act 1956, revokes and replaces the Keeping of Animals, Poultry and Bees Bylaw 2012 with the following bylaw.

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1. Title

This bylaw is the Tairāwhiti Keeping of Animals Bylaw 2023.

2. Commencement

This bylaw comes into force on 10 September 2023.

3. Application

This bylaw applies to the Gisborne District.

Related information:

This bylaw should be read in conjunction with other legislation that applies to the management and regulation of animals in the district, including:

- Gisborne District Stock Control Bylaw 2017
- Gisborne Dog Control Bylaw 2010 and Dog Control Policy
- Resource Management Act 1991 (and the operative district plan - Tairāwhiti Resource Management Plan)
- Animal Welfare (Care and Procedures) Regulations 2018
- Animal Welfare Act 1999

4. Interpretation

(1) In this bylaw, unless the context otherwise requires —

Animal means any member of the animal kingdom other than human beings or dogs.

Bylaw means the Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 – Tairāwhiti Keeping of Animals Bylaw 2023.

Council means the Gisborne District Council, and anyone authorised to act on its behalf.

Dwelling means any building that is primarily occupied as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited.

~~**Feral animal** means a domestic animal which is not a stray animal, and which has none of its needs provided by humans, and includes an animal that reasonably appears to be a feral animal. Feral animals generally do not live around centres of human habitation.~~

Nuisance means any unreasonable interference with the peace, comfort or convenience of another person and includes a statutory nuisance as defined in section 29 of the Health Act 1956, and includes the following -

- (a) where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive;
- (b) where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive; and
- (c) where any noise emitted by an animal unreasonably interferes with the peace, comfort, and convenience of any person.

Occupier means the inhabitant occupier of any property, and includes any agent, employee, or other person acting or apparently acting in the general management or control of the land.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who –

(a) owns the animal; and

(b) is a member of the parent's or guardian's household, living with and dependant on the parent or guardian.

Owner, in relation to land and any buildings on the land, means any person who is entitled to the rack rent from the land, or who would be so entitled if the land were let to a tenant at a rack rent; and includes the owner of the fee simple of the land.

Poultry means domestic fowls of all descriptions, age and gender and includes chickens, roosters, geese, ducks, pigeons, turkeys, and peafowl.

Prescribed form means a form prescribed by the Council (which may include a prescribed format).

Property means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s), whether or not the land and/or building is occupied.

Rural area means the zones defined as rural in the Tairāwhiti Resource Management Plan, as well as zones Rural Industrial A and Rural Industrial B.

Sensitive use means any place of assembly or community facility such as a school or church, any occupied building including dwellings and workplaces, and any place where persons remain for leisure or recreation including outdoor living areas. This definition does not include roads.

Stock means any herd animal regardless of age or gender, and includes horse, cattle, goat, pig, sheep, deer, emu, donkey and alpaca.

~~**Stray animal** means a domestic animal which is lost or abandoned, and which is living as an individual or in a group, and includes an animal that reasonably appears to be a stray animal. Stray animals normally have many of their needs indirectly supplied by humans and live around centres of human habitation.~~

Urban area means the zones defined as Residential, Commercial or general Industrial (except for zones Rural Industrial A and Rural Industrial B) by the Tairāwhiti Resource Management Plan.

- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Local Government Act 2002 unless the context plainly requires a different meaning.
- (3) The Legislation Act 2019 applies to the interpretation of this bylaw.
- (4) Any Related Information is for information purposes only. It does not form part of this bylaw and may be inserted or changed by the Council at any time without any formality.

Related information

Rural area means the zones defined as rural in the Tairāwhiti Resource Management Plan, which are:

- Rural Residential;
- Rural Lifestyle;
- Rural General; and
- Rural Production.

For the purposes of this bylaw, rural area also includes properties zoned Rural Industrial A or Rural Industrial B.

Urban area means the zones defined as Residential as well as Commercial or Industrial in the Tairāwhiti Resource Management Plan, except for zones Rural Industrial A and Rural Industrial B. These are:

- General Residential
- Inner City Residential
- Residential Protection
- Residential Lifestyle
- Amenity Commercial
- Aviation Commercial
- Fringe Commercial
- Inner Commercial
- Outer Commercial
- Rural Commercial
- Suburban Commercial
- Industrial

Note this includes these zones in rural townships.

5. Purpose

The purpose of this bylaw is to protect the public from nuisance and to protect, promote and maintain public health and safety, by controlling the keeping of certain animals, bees and poultry.

Part 1: General Nuisance Provisions

6. Animal owners must control animal and their effects

- (1) The owner of any animal must at all times:
 - (a) ensure that animal does not cause a nuisance to any other person;
 - (b) ensure that any building, shelter or enclosure used to house the animal is constructed, drained and maintained so as to ensure that it does not cause a nuisance to any other person;
 - (c) ensure that the animal and any activity associated with the keeping of the animal does not cause the discharge of objectionable or offensive odours having an adverse effect beyond the boundary of the property;
 - (d) provide effective fencing or other containment measures to confine and control the animals, other than bees and free-flight birds, within the site; and
 - (e) ensure parasites, flies and other pests do not reach levels that may create a nuisance to neighbours or a health risk to humans or animals.
- (2) The Council will determine whether an odour has an adverse effect for the purpose of clause 6(1)(c) after having regard to the frequency, intensity, duration and character of the odour, and the type of land use and nature of human activities in the vicinity of the odour source.
- (3) Clause 6(1) will apply regardless of whether a person has complied with other clauses of this bylaw.

7. Controls to stop feral or stray animals becoming a nuisance

~~(1) A person must not provide sustenance, harbourage, food, shelter or comfort to an feral or stray animal that the person does not own, in a way that results in so-as-to-cause the animal to-become a nuisance to other persons.~~

~~(2)(1) The owner or occupier of a property from which a feral or stray animal is emanating, must ensure that the animal does not cause a nuisance.~~

Related information:

This clause is aimed at ensuring that feral or stray animals do not become a nuisance.

The following steps could be taken to ensure that a feral or stray animal does not cause a nuisance:

- (a) claiming the animal as a domestic owned pet and keeping it in such a state as to abate any nuisance;
- (b) permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
- (c) agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.

Animal rescue activities in the community are allowed as long as they are not conducted in such a way as to encourage stray or feral animals to cause nuisance.

Part 2: Animal Specific Provisions

8. Poultry Keeping

(1) The owner or occupier of a property where poultry are kept must ensure that any poultry house or run is:

- (a) at least ten metres from any dwelling unit or other sensitive use; and
- (b) at least two metres from any neighbouring property boundary.

(2) The owner or occupier of a property in an urban area must not keep more than six head of poultry, or any roosters, geese or peafowl on the property.

(3) The owner or occupier of a property where poultry are kept must ensure that the poultry are confined to the property.

(4) However, clauses 8(1) and (2) do not apply if the poultry house or run, or keeping of animals is in accordance with a written permit issued by the Council.

Related information:

Poultry can be confined to the property by providing either:

- (a) an enclosed poultry house with an attached poultry run compliant with clause 8(3);
or
- (b) an enclosed poultry house compliant with clause 8(3), and adequate fencing of the property.

9. Bee Keeping

- (1) A person must not keep more than two beehives on any property in an urban area, unless it is in accordance with a written permit issued by the Council.
- (2) A person must not keep bees in a location or manner that is, or is likely to become, noxious, dangerous, injurious to health, or a nuisance to any person.
- (3) If the Council considers the keeping of bees on a property to be in breach of clause 9(2), it may, by written notice, require the beekeeper or owner or occupier of the property to take specified action to ensure compliance or mitigate the effects of the non-compliance.
- (4) Any beekeeper, owner, or occupier who receives a notice under clause 9(3) must, without delay, comply with the notice.

Related information:

To avoid breaching this bylaw, the number of beehives kept on any property must be appropriate to the section size, the proximity of neighbours and the layout of the property. This is also important to remember when undertaking work to split beehives, which may result in a property having more hives than it is able to maintain without causing nuisance.

Placement of beehives is a critical factor for avoiding problems for neighbours in urban areas. When placing beehives, consider the following factors:

- Water sources: Providing and maintaining a water trough near beehives reduces nuisance caused by bees searching for water sources on other properties.
- Fence height: A solid, high fence encourages bees to fly over neighbouring properties, rather than through them, helping to reduce nuisance.
- Flight path: Placing obstructions in front of beehives or elevating them at least 2.5m above ground level helps ensure bees cross the site boundary at a height which reduces nuisance.

When undertaking hive work or manipulation, be considerate of neighbours or other potentially affected sensitive areas (such as preschool centres), by only working hives in the evenings, or at a time agreed upon between any potentially affected parties.

In terms of clause 8(2), noxious effects may include significant adverse effects on the environment even though the effects may not be dangerous to human health.

Examples of steps that the Council may specify under clause 9(3) are:

- Limiting the number of hives on the property.
- Requiring hives to be kept a specified minimum distance from any neighbouring property.
- Requiring hives to be removed or relocated.

10. Stock Keeping

- (1) The owner or occupier of a property in an urban area must ensure no stock is kept on the property, unless it is in accordance with a written permit issued by the Council.

11. Pig Keeping

- (1) The owner or occupier of a property in an urban area must ensure no pigs are kept on the property, unless it is in accordance with a written permit issued by the Council.
- (2) A person who keeps pigs on a property in a rural area must ensure the following set-back requirements are met:
 - (a) any pig shelter or enclosure, manure, swill or feed must be kept at least 10 metres from any dwelling unit on the same site; and
 - (b) if three or fewer pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 50 meters from any neighbouring dwelling unit or other sensitive use; and
 - (c) if four or more pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 100 meters from any neighbouring dwelling unit or other sensitive use.
- (3) However, the set-back requirements of this clause do not apply if the activity:
 - (a) is being undertaken either in accordance with a written permit issued by the Council; or
 - (b) was lawfully established and operated pursuant to the Resource Management Act 1991 prior to the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 coming into force, and the activity has not lapsed.

Part 3: Operation and Enforcement

12. Removal of works

- (1) The Council may—
 - (a) remove or alter a work or thing that is, or has been, constructed in breach of this bylaw; and
 - (b) recover the costs of removal or alteration from the person who has committed the breach of this bylaw.

13. Council may charge fees

- (1) Council may charge fees for assessing applications, issuing permits, monitoring and enforcement in respect of this bylaw.

14. Permits under this Bylaw

- (1) The Council may set application fees for permits under this bylaw and any application for a permit must be accompanied by the relevant application fee (if any).
- (2) An application for a permit must be in writing on the prescribed form (if any), contain all information necessary for the Council to consider issuing a permit, and be submitted in accordance with any applicable Council policy.
- (3) Any permit under this bylaw may –

- (a) include any conditions the Council considers appropriate (including the payment of ongoing fees and charges), and
 - (b) be granted or refused by the Council in its discretion.
- (4) A holder of a permit issued under this bylaw must ensure that all conditions of the permit are complied with.
- (5) In determining an application for a permit, the Council may require the applicant to provide further information, such as a site location plan or management plan.
- (6) In determining an application for a permit, the Council may consider factors before making a decision such as:
- (a) Any effects on neighbours who have not given their consent to the activity;
 - (b) whether effluent might drain into any waterway;
 - (c) whether any enclosure or fencing is adequate to contain the animals;
 - (d) previous history of the applicant;
 - (e) potential noise;
 - (f) animal management and care;
 - (g) type, number and intensity of animals; or
 - (h) any other relevant factor.
- (7) A permit expires on the earliest of the following dates:
- (a) the date specified in the permit;
 - (b) the date the permit holder ceases to own or occupy the relevant property;
 - (c) the date at which the permit holder surrenders the permit by written notice to the Council; or
 - (d) the date of revocation of the permit.
- (8) The Council may at any time review, suspend, or revoke any permit issued under this bylaw.

Related information:

Permits are issued to a specified person or persons in respect to a specified property. Permits are not transferable to another person or persons when the property is sold.

15. Statutory powers may be used to enforce this bylaw

- (1) The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this Bylaw.

Related information:

Enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165, 168), powers of entry (sections 171, 172, 173), cost recovery for damage (sections 175, 176), and power to request name and address (section 178). Enforcement powers under the Health Act 1956 included court orders (section 33), cost recovery for council to abate nuisance (section 34), powers of entry (section 128), and power to request name and address (section 134).

16. Penalties

A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

Related information:

Under section 242 of the Local Government Act 2002, a person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.

Under section 66 of the Health Act 1956, a person who breaches a bylaw is liable to a \$500 maximum fine and where the offence is continuing, a further \$50 maximum fine for every day it continues.

Part 3: Savings and transitional provisions

17. Saving of approvals granted under previous bylaw

Any written approval or permit granted by the Council under the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 is deemed to be a permit granted under this bylaw.

18. Transition to new maximum permitted animal numbers

Clause 8(2) does not affect a person keeping poultry in accordance with clause 5.2(ii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.

Clause 9(1) does not affect a person keeping bees in accordance with clause 6.1(iii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.

Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023

(Tairāwhiti Keeping of Animals Bylaw 2023)

Made by Gisborne District Council

Resolution of Council dated 10 August 2023

Pursuant to sections 145 and 146 of the Local Government Act 2002, and sections 23 and 64 of the Health Act 1956, revokes and replaces the Keeping of Animals, Poultry and Bees Bylaw 2012 with the following bylaw.

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1. Title

This bylaw is the Tairāwhiti Keeping of Animals Bylaw 2023.

2. Commencement

This bylaw comes into force on 10 September 2023.

3. Application

This bylaw applies to the Gisborne District.

Related information:

This bylaw should be read in conjunction with other legislation that applies to the management and regulation of animals in the district, including:

- Gisborne District Stock Control Bylaw 2017
- Gisborne Dog Control Bylaw 2010 and Dog Control Policy
- Resource Management Act 1991 (and the operative district plan - Tairāwhiti Resource Management Plan)
- Animal Welfare (Care and Procedures) Regulations 2018
- Animal Welfare Act 1999

4. Interpretation

(1) In this bylaw, unless the context otherwise requires –

Animal means any member of the animal kingdom other than human beings or dogs.

Bylaw means the Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 – Tairāwhiti Keeping of Animals Bylaw 2023.

Council means the Gisborne District Council, and anyone authorised to act on its behalf.

Dwelling means any building that is primarily occupied as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited.

Nuisance means any unreasonable interference with the peace, comfort or convenience of another person and includes a statutory nuisance as defined in section 29 of the Health Act 1956, and includes the following -

- (a) where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive;
- (b) where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive; and
- (c) where any noise emitted by an animal unreasonably interferes with the peace, comfort, and convenience of any person.

Occupier means the inhabitant occupier of any property, and includes any agent, employee, or other person acting or apparently acting in the general management or control of the land.

Owner, in relation to any animal, means a person who has an animal in their possession or custody, or under that person's care, control, or supervision, and includes the parent or guardian of a person under the age of 16 years who –

(a) owns the animal; and

(b) is a member of the parent's or guardian's household, living with and dependant on the parent or guardian.

Owner, in relation to land and any buildings on the land, means any person who is entitled to the rack rent from the land, or who would be so entitled if the land were let to a tenant at a rack rent; and includes the owner of the fee simple of the land.

Poultry means domestic fowls of all descriptions, age and gender and includes chickens, roosters, geese, ducks, pigeons, turkeys, and peafowl.

Prescribed form means a form prescribed by the Council (which may include a prescribed format).

Property means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s), whether or not the land and/or building is occupied.

Rural area means the zones defined as rural in the Tairāwhiti Resource Management Plan, as well as zones Rural Industrial A and Rural Industrial B.

Sensitive use means any place of assembly or community facility such as a school or church, any occupied building including dwellings and workplaces, and any place where persons remain for leisure or recreation including outdoor living areas. This definition does not include roads.

Stock means any herd animal regardless of age or gender, and includes horse, cattle, goat, pig, sheep, deer, emu, donkey and alpaca.

Urban area means the zones defined as Residential, Commercial or general Industrial (except for zones Rural Industrial A and Rural Industrial B) by the Tairāwhiti Resource Management Plan.

- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Local Government Act 2002 unless the context plainly requires a different meaning.
- (3) The Legislation Act 2019 applies to the interpretation of this bylaw.

- (4) Any Related Information is for information purposes only. It does not form part of this bylaw and may be inserted or changed by the Council at any time without any formality.

Related information

Rural area means the zones defined as rural in the Tairāwhiti Resource Management Plan, which are:

- Rural Residential;
- Rural Lifestyle;
- Rural General; and
- Rural Production.

For the purposes of this bylaw, rural area also includes properties zoned Rural Industrial A or Rural Industrial B.

Urban area means the zones defined as Residential as well as Commercial or Industrial in the Tairāwhiti Resource Management Plan, except for zones Rural Industrial A and Rural Industrial B. These are:

- | | | |
|--------------------------|-----------------------|-----------------------|
| • General Residential | • Amenity Commercial | • Outer Commercial |
| • Inner City Residential | • Aviation Commercial | • Rural Commercial |
| • Residential Protection | • Fringe Commercial | • Suburban Commercial |
| • Residential Lifestyle | • Inner Commercial | • Industrial |

Note this includes these zones in rural townships.

5. Purpose

The purpose of this bylaw is to protect the public from nuisance and to protect, promote and maintain public health and safety, by controlling the keeping of certain animals, bees and poultry.

Part 1: General Nuisance Provisions

6. Animal owners must control animal and their effects

- (1) The owner of any animal must at all times:
 - (a) ensure that animal does not cause a nuisance to any other person;
 - (b) ensure that any building, shelter or enclosure used to house the animal is constructed, drained and maintained so as to ensure that it does not cause a nuisance to any other person;
 - (c) ensure that the animal and any activity associated with the keeping of the animal does not cause the discharge of objectionable or offensive odours having an adverse effect beyond the boundary of the property;
 - (d) provide effective fencing or other containment measures to confine and control the animals, other than bees and free-flight birds, within the site; and
 - (e) ensure parasites, flies and other pests do not reach levels that may create a nuisance to neighbours or a health risk to humans or animals.
- (2) The Council will determine whether an odour has an adverse effect for the purpose of clause 6(1)(c) after having regard to the frequency, intensity, duration and character of the odour, and the type of land use and nature of human activities in the vicinity of the odour source.
- (3) Clause 6(1) will apply regardless of whether a person has complied with other clauses of this bylaw.

7. Controls to stop feral or stray animals becoming a nuisance

- (1) A person must not provide food, shelter or comfort to an animal that the person does not own, in a way that results in the animal becoming a nuisance to other persons.

Related information:

This clause is aimed at ensuring that feral or stray animals do not become a nuisance.

The following steps could be taken to ensure that a feral or stray animal does not cause a nuisance:

- (a) claiming the animal as a domestic owned pet and keeping it in such a state as to abate any nuisance;
- (b) permanently removing (including disposal of) the animal so it no longer causes a nuisance to others; or
- (c) agreeing with the Council that the Council will remove the animal and the occupier will pay the Council's reasonable costs.

Where possible, Council will work proactively with the SPCA and other animal rescue organisations to ensure animal welfare requirements are met and all practicable options are explored when dealing with feral and stray animals.

Animal rescue activities in the community are allowed as long as they are not conducted in such a way as to encourage stray or feral animals to cause nuisance.

Part 2: Animal Specific Provisions

8. Poultry Keeping

- (1) The owner or occupier of a property where poultry are kept must ensure that any poultry house or run is:
 - (a) at least ten metres from any dwelling unit or other sensitive use; and
 - (b) at least two metres from any neighbouring property boundary.
- (2) The owner or occupier of a property in an urban area must not keep more than six head of poultry, or any roosters, geese or peafowl on the property.
- (3) The owner or occupier of a property where poultry are kept must ensure that the poultry are confined to the property.
- (4) However, clauses 8(1) and (2) do not apply if the poultry house or run, or keeping of animals is in accordance with a written permit issued by the Council.

Related information:

Poultry can be confined to the property by providing either:

- (a) an enclosed poultry house with an attached poultry run compliant with clause 8(3);
or
- (b) an enclosed poultry house compliant with clause 8(3), and adequate fencing of the property.

9. Bee Keeping

- (1) A person must not keep more than two beehives on any property in an urban area, unless it is in accordance with a written permit issued by the Council.
- (2) A person must not keep bees in a location or manner that is, or is likely to become, noxious, dangerous, injurious to health, or a nuisance to any person.
- (3) If the Council considers the keeping of bees on a property to be in breach of clause 9(2), it may, by written notice, require the beekeeper or owner or occupier of the property to take specified action to ensure compliance or mitigate the effects of the non-compliance.
- (4) Any beekeeper, owner, or occupier who receives a notice under clause 9(3) must, without delay, comply with the notice.

Related information:

To avoid breaching this bylaw, the number of beehives kept on any property must be appropriate to the section size, the proximity of neighbours and the layout of the property. This is also important to remember when undertaking work to split beehives, which may result in a property having more hives than it is able to maintain without causing nuisance.

Placement of beehives is a critical factor for avoiding problems for neighbours in urban areas. When placing beehives, consider the following factors:

- Water sources: Providing and maintaining a water trough near beehives reduces nuisance caused by bees searching for water sources on other properties.
- Fence height: A solid, high fence encourages bees to fly over neighbouring properties, rather than through them, helping to reduce nuisance.
- Flight path: Placing obstructions in front of beehives or elevating them at least 2.5m above ground level helps ensure bees cross the site boundary at a height which reduces nuisance.

When undertaking hive work or manipulation, be considerate of neighbours or other potentially affected sensitive areas (such as preschool centres), by only working hives in the evenings, or at a time agreed upon between any potentially affected parties.

In terms of clause 8(2), noxious effects may include significant adverse effects on the environment even though the effects may not be dangerous to human health.

Examples of steps that the Council may specify under clause 9(3) are:

- Limiting the number of hives on the property.
- Requiring hives to be kept a specified minimum distance from any neighbouring property.
- Requiring hives to be removed or relocated.

10. Stock Keeping

- (1) The owner or occupier of a property in an urban area must ensure no stock is kept on the property, unless it is in accordance with a written permit issued by the Council.

11. Pig Keeping

- (1) The owner or occupier of a property in an urban area must ensure no pigs are kept on the property, unless it is in accordance with a written permit issued by the Council.
- (2) A person who keeps pigs on a property in a rural area must ensure the following set-back requirements are met:
 - (a) any pig shelter or enclosure, manure, swill or feed must be kept at least 10 metres from any dwelling unit on the same site; and
 - (b) if three or fewer pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 50 meters from any neighbouring dwelling unit or other sensitive use; and
 - (c) if four or more pigs are kept, any pig, pig shelter or enclosure, manure, swill or feed must be kept at least 100 meters from any neighbouring dwelling unit or other sensitive use.

- (3) However, the set-back requirements of this clause do not apply if the activity:
- (a) is being undertaken either in accordance with a written permit issued by the Council; or
 - (b) was lawfully established and operated pursuant to the Resource Management Act 1991 prior to the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 coming into force, and the activity has not lapsed.

Part 3: Operation and Enforcement

12. Removal of works

- (1) The Council may—
 - (a) remove or alter a work or thing that is, or has been, constructed in breach of this bylaw; and
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13. Council may charge fees

- (1) Council may charge fees for assessing applications, issuing permits, monitoring and enforcement in respect of this bylaw.

14. Permits under this Bylaw

- (1) The Council may set application fees for permits under this bylaw and any application for a permit must be accompanied by the relevant application fee (if any).
- (2) An application for a permit must be in writing on the prescribed form (if any), contain all information necessary for the Council to consider issuing a permit, and be submitted in accordance with any applicable Council policy.
- (3) Any permit under this bylaw may –
 - (a) include any conditions the Council considers appropriate (including the payment of ongoing fees and charges), and
 - (b) be granted or refused by the Council in its discretion.
- (4) A holder of a permit issued under this bylaw must ensure that all conditions of the permit are complied with.
- (5) In determining an application for a permit, the Council may require the applicant to provide further information, such as a site location plan or management plan.
- (6) In determining an application for a permit, the Council may consider factors before making a decision such as:
 - (a) Any effects on neighbours who have not given their consent to the activity;
 - (b) whether effluent might drain into any waterway;
 - (c) whether any enclosure or fencing is adequate to contain the animals;
 - (d) previous history of the applicant;
 - (e) potential noise;
 - (f) animal management and care;
 - (g) type, number and intensity of animals; or
 - (h) any other relevant factor.

- (7) A permit expires on the earliest of the following dates:
- (a) the date specified in the permit;
 - (b) the date the permit holder ceases to own or occupy the relevant property;
 - (c) the date at which the permit holder surrenders the permit by written notice to the Council; or
 - (d) the date of revocation of the permit.
- (8) The Council may at any time review, suspend, or revoke any permit issued under this bylaw.

Related information:

Permits are issued to a specified person or persons in respect to a specified property. Permits are not transferable to another person or persons when the property is sold.

15. Statutory powers may be used to enforce this bylaw

- (1) The Council may use its powers under the Local Government Act 2002 and the Health Act 1956 to enforce this Bylaw.

Related information:

Enforcement powers under the Local Government Act 2002 include court injunction (section 162), seizure and disposal of property (sections 164, 165, 168), powers of entry (sections 171, 172, 173), cost recovery for damage (sections 175, 176), and power to request name and address (section 178). Enforcement powers under the Health Act 1956 included court orders (section 33), cost recovery for council to abate nuisance (section 34), powers of entry (section 128), and power to request name and address (section 134).

16. Penalties

A person who fails to comply with this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002 or the Health Act 1956.

Related information:

Under section 242 of the Local Government Act 2002, a person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.

Under section 66 of the Health Act 1956, a person who breaches a bylaw is liable to a \$500 maximum fine and where the offence is continuing, a further \$50 maximum fine for every day it continues.

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17. Saving of approvals granted under previous bylaw

Any written approval or permit granted by the Council under the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 is deemed to be a permit granted under this bylaw.

18. Transition to new maximum permitted animal numbers

Clause 8(2) does not affect a person keeping poultry in accordance with clause 5.2(ii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.

Clause 9(1) does not affect a person keeping bees in accordance with clause 6.1(iii) of the Gisborne District Council Keeping of Animals, Poultry and Bees Bylaw 2012 until two years after this bylaw comes into force.

Title: Decision Application for Lease Hatea-a-Rangi Memorial Park Tokomaru Bay United Sports Club Incorporated

Section: Liveable Communities

Prepared by: Chris Visser - Principal Community Assets and Partnerships Advisor

Meeting Date: Thursday 10 August 2023

Legal: No

Financial: No

Significance: **Medium**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek Council's decision on the application for a new lease from the Tokomaru Bay United Sports Club Incorporated [Tokomaru Bay United Sports Club], to lease a portion of reserve land for their clubrooms on Hatea-a-Rangi Memorial Park, Tokomaru Bay.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Council's Operations Committee approved in principle the granting of a new lease to Tokomaru Bay United Sports Club on 15 September 2022 (**22-201**). The intention to grant the lease was notified for public comment pursuant to the Reserves Act 1977 shortly after.

The submission period closed in mid-December 2022. Fourteen submissions were received, ten in support of the intended grant of the lease and four in opposition.

Two submitters spoke in support of their submissions at a Hearing on Thursday 12 May 2023 at Tokomaru Bay.

Submissions were heard on behalf of Council by a Hearing Panel comprising Councillor Robinson (Chair) and Councillor's Foster, Ria and Thompson.

The Hearing Panel has given full consideration to submissions and objections as set out in the Deliberation Report attached [**Attachment 1**]. Submissions received can be viewed in **Attachment 2**.

The panel recommends to Council that the lease be granted as set out in that report.

The decisions or matters in this report are considered to be of **Medium** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. Grants a land only lease under section 54(1)(b) of the Reserves Act 1977 of 1150 sq m (part Hatea a Rangi Memorial Park – as shown in Appendix 1 of this report) to the Tokomaru United Sport Club Incorporated for a total term of 33 years.
2. Directs Council staff to investigate establishing a co-governance agreement for the ongoing management of Hatea-a-Rangi Memorial Park.

Authorised by:

Michele Frey - Director Liveable Communities

Keywords: lease, Hatea-a-Rangi Memorial Park, Tokomaru Bay, United Sports Club

ASSESSMENT of SIGNIFICANCE

1. Councils' decision in respect of the application for lease will/may be of **Medium** level in accordance with the Council's Significance and Engagement Policy.
2. Submissions received during public consultation suggests a high level of interest in the outcome of this process from the local community.

TANGATA WHENUA/MAORI ENGAGEMENT

3. As described in the Hearing Panels Deliberation Report attached, the process of consideration of the lease has sought the views of Tangata Whenua. Formal submission has been received from Ngā Hapū o Tokomaru.

COMMUNITY ENGAGEMENT

4. There had been community and stakeholder engagement as part of developing the Tairāwhiti Sports facilities business case (for the development of the multi-purpose court space).
5. The intention to grant a new lease was notified for public comment and submissions received as set out in the Hearing Panel Deliberation Report.

CLIMATE CHANGE – Impacts / Implications

6. As a community Tokomaru Bay is facing significant challenges due to climate change, noting recent and worsening weather events.
7. The clubrooms are on an elevated site. The clubrooms have been used in Civil Defence emergency.

CONSIDERATIONS

Financial/Budget

8. Lease rental for the clubrooms will be determined in line with Council guidelines for Community Occupancy. The Club would need to insure the building.

Legal

9. The granting of lease for the purposes of Sports Clubrooms is permissible under the Reserves Act 1977.

POLICY and PLANNING IMPLICATIONS

10. Grant of the lease and the redevelopment of the clubrooms outdoor area would be consistent with Council plans and strategies, including Gisborne District Council's Sports Park Management Plan 2015 and Community Facilities Strategy 2018. Additions or alterations to the building would be subject to obtaining all necessary building permits and Resource Consents.

RISKS

11. Given submissions both opposing and supporting the grant of a lease, any decision carries with it some risk of adverse public reaction.

NEXT STEPS

Date	Action/Milestone	Comments
10 August	Hearing Panel recommend decision to Council and decision made	
Week 14 August	Council decision communicated to Applicant and Submitters	

Area to be Leased



ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Deliberation Report Hearing Panel Hatea a Rangi Lease Tokomaru United Sports Club July 2023 [23-117.1 - 6 pages]
2. Attachment 2 - REDACTED full set of submissions intention to Lease Hatea a rangi December 2022 [23-117.2 - 24 pages]



Deliberation Report submissions and objections received intention to grant a lease to Tokomaru Bay United Sports Club Incorporated Hatea- a Rangi Memorial Park Tokomaru Bay

PURPOSE - TE TAKE

The purpose of this report is to detail the considerations of the Hearings Panel of submissions and objections received, on the intention to grant a new lease to the Tokomaru Bay United Sports Club Incorporated [Tokomaru Bay United Sports Club] for their clubrooms on Hatea-a-Rangi Memorial Park, Tokomaru Bay.

This report is prepared pursuant to section 120 (d) of the Reserves Act 1977.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Tokomaru Bay United Sports Club have leased a footprint of land on Hatea-a-Rangi Memorial Park in Tokomaru Bay since 1981 for the purpose of community clubrooms.

The lease expired on 31 January 2014. Tokomaru Bay United Sports Club requested the granting of a new lease for the Clubrooms and to enable the redevelopment of an outside area at the rear of the clubrooms into a multi-purpose court for the benefit of rangatahi. The club have secured external funding for this development work from Trust Tairawhiti.

Council Operations Committee approved in the principle the granting of the lease on 15 September 2022 (22-201). The intention to grant the lease was notified for public comment pursuant to the Reserves Act 1977 shortly after.

The submission period closed in mid-December 2022. Fourteen submissions were received, ten in support of the intended grant of the lease and four in opposition.

Under the Reserves Act 1977 the administering body (Council) is required to give full consideration to each submission (both written and verbal) before deciding whether to proceed with the proposal.

Two submitters spoke in support of their submissions at a Hearing on Thursday 12 May 2023 at Tokomaru Bay. Submissions were heard on behalf of Council by a Hearing Panel comprising Councillor Robinson (Chair) and Councillor's Foster, Ria and Thompson.

This report details the Hearing Panel's considerations of submissions and objections received.

On balance the Hearing Panel recommends to Council that the lease should be granted as detailed in this report.

BACKGROUND - HE WHAKAMĀRAMA

Hatea a Rangi Memorial Park

1. Hatea-a-Rangi Park Domain was formally established as a Reserve under the Reserves Act in 1946. It was managed via a Park Domain Board by the Department of Lands and Survey.
2. In 1950 an additional five lots were added to the Reserve and four out of the nine positions available on the Domain Board were allocated to 'representatives of the Māori Owners' (ref. Hatea a Rangi Memorial Park Management Plan 2000).
3. The Local Government (Gisborne Region) Reorganisation Order 1989 disestablished the Hatea- a – Rangi Domain Board and passed administration of the Reserve to the Gisborne District Council. The land was subsequently vested in Gisborne District Council in 1992.
4. In 2000 Gisborne District Council prepared a Reserve Management Plan for the Park. This document describes the area as a site of historic tribal battle and burial, and notes it was used as a burial site for victims of the great influenza epidemic in the 1920's. The Management Plan notes that in 1997 (when the clubrooms were built) there was some feedback from some local people that bones had been unearthed and that in their view works should be halted the site as the site was waahi tapu. Other local people were of the view that it was not human bones discovered. At the time the Historic Places Trust and Council determined not to halt further works as there was no further soil disturbance to be undertaken.
5. This event is referred to by some submissions opposing the grant of the lease.
6. The land has been used by the local community as a sports field since the 1940's. Community clubrooms have been on the land since 1997.
7. Hatea-a-Rangi is the only sports field in Tokomaru Bay. The field is maintained by Council.

Submissions Received

8. Fourteen submissions have been received – ten in support and four against.

Submission Points

9. Written and verbal submissions received through consultation have been analysed, with the key submission points considered below. The full submissions are included in Attachment 1.

Submission Point One

Submission Point	Submissions were received that the Clubrooms are a valuable community asset and hub, the proposed extension to the facility will be of benefit to the community, and the clubrooms are open to all.
Panel Deliberation	<p>The Clubrooms are clearly used for community activities and groups, several which have submitted in support of the lease (Hatea – a Rangi School, Awhina Fishing Club, Gisborne Volunteer Centre, Ngati Porou Boardriders Club and Te Ataarangi ki Tokomaru Inc Society).</p> <p>One submission raised a concern regarding the proposed rangatahi area, noting that this would bring young people into proximity of adults drinking.</p> <p>Alternative submission notes that the sports club is a safe and secure environment for rangatahi and whanau events. The school notes their pupils were heavily involved in discussions around developing an area for rangatahi and they are very excited at the prospect of it.</p>

Submission Point Two

Submission Point	<p>Submissions were received that the land is waahi tapu and should not be used or developed, and that the Council has not taken this into account.</p> <p>Submission that the land had been taken by nefarious means and should be returned.</p>
Panel Deliberation	<p>The history and cultural significance of this land is acknowledged. The panel accepts that the cultural significance of the land was not explicitly stated or discussed in the decision reports or decision made by Council regarding an intention to grant a lease. We note however the Reserve Management Plan (2000) refers to the cultural significance of the land.</p> <p>The Panel considers that the disestablishment of the Park Domain Board in 1989 reduced the ability of the descendants of the original Māori landowners to have a clear role and influence in the management of this park. The Panel acknowledges this has detrimentally impacted the mana of those descendants</p> <p>We recommend the Gisborne District Council should enter into a co-governance agreement with the descendants of the original owners of the whenua for the management of Hatea - a -Rangi Memorial Park.</p> <p>The Panel acknowledges there would be several complexities to work through with Treaty Partners to determine if this is a desirable outcome. It is the Panel's recommendation however that Gisborne District Council seek to achieve this in respect of Hatea-a- Rangi, given the cultural significance of the site.</p> <p>The Panel heard strong submissions on the question of ko iwi being present on the park. The Panel does not make any determination on the question of ko iwi however we note that any resource consents in respect of the required development of the site would address the matter of any earthworks proposed. The Panel also trusts that the Sports Club, having heard concerns about ko iwi from other community members will proceed with the highest regard for this matter.</p> <p>The area to be leased has been clarified, and the proposed additions/developments at the clubrooms would be within the area originally leased in 1997 (that is 1150 sq. m). Reference to 'extension' of lease area in previous reports has proved to be a misunderstanding.</p> <p>We note submission from some descendants of the original owners of the land '<i>the land was taken by nefarious means</i>' and that it should be returned. Whilst we appreciate the connection to the land expressed in these submissions, 'return' of Public Reserve to descendants of original landowners is beyond the scope of the deliberation of the Hearing Panel in respect of any re-issue of lease. The Panel notes that Treaty Settlement has occurred for this area and that Hatea-a-Rangi is not listed as an area subject to specific cultural redress in the Ngāti Porou Deed of Settlement.</p> <p>However, the Panel takes into account the submitters connection with the land and their wish to be involved with it and accordingly recommends Gisborne District Council develop and enter into a co-governance agreement with the descendants of the original landowners.</p>

Submission Point Two

Submission Point	Government and Council continue to lease our land without our approval as whanau and hapu. Reference 'End all perpetual leases'.
Panel Deliberation	<p>In response to submissions received, staff re-examined the process of consulting with iwi regarding the application for lease. Prior to public notification, consultation had occurred with Ngati Porou in the context of the development of the rangatahi zone application for funding to Trust Tairāwhiti. As noted in the report to Council Operations Committee in September 2022, the application was endorsed by Rau Tipu Rau Ora which includes representatives from Ngati Porou.</p> <p>In January 2023 Council staff specifically invited any additional comment from Ngati Porou, Ngā Hapū o Tokomaru and Te Whānau a Ruataupare regarding the application for lease. The request was acknowledged by Ngati Porou, but no further feedback was received from Nga Hapu o Tokomaru Akau and Te Whānau a Ruataupare. It is noted Ngā Hapū o Tokomaru submitted as part of the public consultation process (submission #13 attached).</p> <p>One submitter states that the 'gift' of land by the original owners was conditional of there being a co-governance structure for the Reserve, and that this does not exist. This is likely to refer to the Domain Board discussed above.</p> <p>The proposed lease of part Hatea-a-Rangi Memorial Park pursuant to the Reserves Act 1977 is not a 'perpetual lease'. The maximum term for any lease under the Reserve Act is 33 years. The Panel acknowledges the complex issues and concerns regarding 'perpetual leases'.</p>

OPTIONS

10. The Panel considers Council has several options available to it, each with varying degrees of known impact and risk:

Option	Advantages	Disadvantages
Option 1: Do not grant the lease	Would satisfy submission opposing the lease and stops associated use (clubrooms) from the land.	Loss of a community venue on the Reserve. The club owns existing building. Removal or relocation of the building would be complex and expensive. Loss of Rangatahi specific development.
Option 2: Proceed to grant the lease, (noting that potential impacts of soil disturbance would be by any resource consent).	Enables continuation of the Community venue on the Reserve and supports existing community use. Enables the proposed (externally funded) upgrade to convert the current smoker's area and land to a community multipurpose court facility.	Does not satisfy submissions that the presence of this building should not be permitted.

Option	Advantages	Disadvantages
<p>Option 3: (recommended option) Proceed to grant the lease as per Option 2 above AND seek to establish a co-governance agreement for the ongoing management of Hatea-a-Rangi Memorial Park</p>	<p>Enables continuation of the Community venue on the Reserve and supports existing community use. Enables the proposed (externally funded) upgrade to convert the current smoker's area and land to a community multipurpose court facility. Establishing a co-governance mechanism could lead to better outcomes for the community.</p>	<p>Does not satisfy submissions that the presence of this building should not be permitted. Setting up a co-governance mechanism could be quite complex. For example, determining the parties to any co-governance agreement, and scope.</p>

Councillor Tony Robertson

Chair and on behalf of the Hearing Panel on the matter of intention to grant a lease to Tokomaru Bay United Sports Club Incorporated [Tokomaru Bay United Sports Club] for their clubrooms on Hatea-a-Rangi Memorial Park, Tokomaru Bay.

July 2023.

Appendix 1 Area to be leased



ATTACHMENTS - NGĀ TĀPIRITANGA

1. Submissions received (personal contact details redacted to protect privacy)

1 #

5/12/2022

Kia Ora Chris,

I am writing to express my concern that Hatea- a- Rangi Park is being advertised for lease to Tokomaru Bay United Sports Club. Mana Whenua have been documented expressing their concern and disapproval at how the Government and Council continue to lease our land without our approval as a whanau and hapu. This repetitive behaviour is a direct intention from the council and government to continue to keep us alienated from our ancestral lands. As we would never sell our land. I object as the granddaughter of Hinerangi Whakataka - Brightwell for the council to continue to lease our land. My late grandmother is a land owner in Tokomaru bay. Before she died she told me to continue to make movements for the return of her land from perpetual leases. To date the government still has not returned mana motuhake for her land for her descendants to have authority over. Hatea - a - Rangi is wahi tapu, it is sacred land because of the koiwi (human bones) that still remain in this area. Mr Taikaha Whakataka protested extensions on this wahi tapu 20 years ago and erected a Pou carved by Matahi Whakataka - Brightwell. This represents our objection to plans by the council. It is evident that Gisborne District council have ignored mana whenua. This is extremely disappointing and needs to be rectified immediately.

Please find attached photos of our recent protest in Tokomaru Bay, to end perpetual leases that affect our Whakataka whanau.



Tokomaru Bay Protest:
End perpetual leases



Abolish Perpetual leasing



Support from GDC representative

Meredith Akuhata.

Keita Brightwell - Hauiti on the left, Tracey Whakataka on the right.

Please note my objection to this proposal of further leasing of Hatea - te
- Rangi Park.

Heoi Ano

Keita Brightwell - Hauiti

B.F.A/ Dip Tch/ CPS Dip

Z #

Chris Visser

From: Tina Ratana >
Sent: Thursday, 24 November 2022 9:38 am
To: Chris Visser
Subject: Submission opposing the lease of Hatea-A Rangī

Importance: High

Tena Koe Chris

I am writing formally to oppose the grant of lease and further development of Hatea-a – Rangī Park. The basis of my objection is in two parts.

Firstly, this area is Waihi Tapu, the site of an ancient battle. The council is aware of this and yet continues to allow developments to occur on this whenua. Around 20 years ago the clubrooms was again given consent for a 'little extension' even though original owners opposed resulting in the unearthing of kō iwi and the consequences thereof.

Secondly the taking of this whenua initially was by dubious means. Although over time the owners agreed to 'gift' the whenua for the purpose of recreation it was conditional on a co-governance structure. My request for the minutes of the co-governance committee was to draw your attention to the fact that such a committee 'should' be operating and it is only through them that such an application be made. It is clearly obvious that is not the case and this needs to be rectified.

If you require any further information, please contact me.

Tina Olsen-Ratana
 Descendant of one of the original owners.

From: Chris Visser [mailto:Chris.Visser@gdc.govt.nz]
Sent: Wednesday, 23 November 2022 10:49 AM
To: Tina Ratana
Subject: RE: Intention to Grant a lease Hatea a-rangī memorial park

Kia Ora Tina,
 Apologies for delay in response. I had thought this was responded to on Friday. Very sorry.

- The information regarding the lease application is on the GDC website – link below.
- There isn't a format for submissions, an email or letter will be fine
- GDC doesn't hold minutes of the Hatea a-Rangī Committee (sorry I can't assist in this respect!)

<https://www.gdc.govt.nz/council/public-notice/council-notices/intention-to-grant-a-lease>

Nga Mihi

Chris Visser | Principal Community Assets and Partnerships Advisor | Gisborne District Council
email Chris.Visser@gdc.govt.nz | **ph** +64 6 867 2049 | **ddl** 06 869 2451 | **mob** 027 240 3104
address 15 Fitzherbert Street, PO Box 747, Gisborne 4010 | **url** www.gdc.govt.nz

IN-CONFIDENCE

3 #

1/2

TOKOMARU BAY 4047

5 December 2022

To Chris Visser / Gisborne District Council,

RE: INTENTION TO GRANT A LEASE – HATEA-A-RANGI MEMORIAL PARK - OBJECTION

We are descendants of the original whenua owners and are shareholders. As a Whanau Trust, we collectively OBJECT to the intention to grant a lease pertaining to this whenua.

There are two very separate issues contained in the Gisborne Herald Notice published 16 November 2022, and we object to both.

1) The lease proposal for a term of 11 years with two 11 year rights of renewal.

As shareholders and Mana Whenua, we are currently fighting for Mana Motuhake, the return of our whenua and calling for all perpetual leases in Tokomaru Bay to be abolished.

For over 100 years, we have not only lost the use of our whenua, but we have lost the right to say what happens with our whenua. We have unjustly been alienated from our whenua, including the whenua known as Hatea-a-Rangi Domain.

There is evidence to show, that our tipuna and ourselves have said NO to the taking of our whenua, and our voices have never been heard.

Our tipuna did not willingly give the Crown authority over our lands, and although 'gifting' of the whenua was agreed to, that it was done so by our tipuna with conditions to which our tipuna would remain kaitiaki

Over the many years that our tipuna have been fighting this fight, legislative goal posts have been moved, to suit the settlers and the Government and these acts of suppression need to stop.

2) The club can make changes to the clubroom including adding a multi-purpose court for community use.

Gisborne District Council is fully aware of what lies beneath the clubrooms, as the 1997 extensions of the clubrooms were objected to by our father Maukino Taikaha Whakataka and our whanau.

We know that this whenua was a battle ground and our fallen warriors, friend or foe, lie beneath.

We know that in 1997, when the clubroom extensions were done, that ko iwi were unearthed, taken and buried in a shallow unmarked spot in the urupa at Tuatini Marae.

We know that the Gisborne District Council, Te Runanga o Ngati Porou and Heritage New Zealand (formally the Historic Places Trust of New Zealand) either did not support our application, did not want to set a precedent, did not support the significance of the whenua or classify the whenua as a wahi tapu.

3#
2/2

IN-CONFIDENCE

Gisborne District Council have no right to desecrate our whenua and disrespect our tipuna, our whakapapa, in the way that you do.

We would like to present our objection at a hearing.

Regards



Tracey Takarua

Responsible Trustee (on behalf of)

Lee and Tiger Whakataka Whanau Trust, its Trustees and whanau



4 #

Block 1, Shop 2, Treble Court Complex,
25 Peel St,
Gisborne

Phone: 06 868 4522
Email: manager@gisbornevolunteercentre.org.nz
www.gisbornevolunteercentre.org.nz

Rob MacKenzie
Chairman
Tokomaru Bay United Sports Club
PO Box 120
Tokomaru Bay 4079

8th December 2022

To Whom It May Concern

Re: Tokomaru Bay United Sports Club Lease Renewal and Submission.

Please accept this letter of support for the Tokomaru Bay United Sports Club's Lease Renewal and Submission.

The Gisborne Volunteer Centre has used the Sports Club's for various community workshops throughout the year. We have been welcomed and have felt comfortable using the space, finding the location and atmosphere suited to our needs.

We wish the Sports Club success in securing the lease for this valuable community asset and look forward to using it for future workshops to enrich community knowledge in the volunteering sector.

Nāku, nā

Jennifer Greaves
Manager

A connected community enriched through volunteering.

Me mahi tahi tātou mo te oranga o te katoa - We must work together for the wellbeing of all

CC27533

5#



Rob MacKenzie
Chairman
Tokomaru Bay United Sports Club
PO Box 120
Tokomaru Bay 4079

7th December 2022

To Whom It May Concern

Re: Tokomaru Bay United Sports Club Lease Renewal and Submission.

On behalf of Tokomaru Bay United Sports Club please accept this letter as our submission of support.

Tokomaru Bay United Sports Club is a Community Building and Hub utilised by the Community and external organisations for Community Engagement Hui, Training.

The 'Sports' club employses 2.7 FTE employees and also employs other residents on a casual basis.

The Sports Club is also the hub and base for:

1. Akau Warriors Covid-19 Manaaki Support Services inclusive of education, storage of covid-19 resources that includes RATs tests, Care Packs and Food Provision; and
2. Akau Warriors Civil Defence and Emergency training and planning and welfare coordination base. The Sports Club serves as a base to receive food, medication and tools for distribution as well as a manaaki space where we offer hot drinks and meals for our volunteers and contractors as well as giving whanau a safe haven during these events. The Sports Club is within walking distance to Tuatini Marae that is utilised to house any whanau that have needed to evacuate their homes.

The Sports Club also acts as a base for the following affiliate Sports Clubs:

1. Tokomaru Bay United Rugby Club
2. Ngati Porou Boardriders Surf Club – Tamariki/Rangatahi focused
3. Awhina Fishing Club, and
4. Tokomaru Bay United Darts and Pool Club
5. Tokomaru Bay RSA
6. Tokomaru Bay JAB – Tamariki focused

The Sports Club were notified in October 2021 after partnering with GDC for East Coast Community Facilities Strategy that Trust Tairawhiti approved quick wins funding to build a dedicated Rangatahi Zone for nga Rangatahi of Tokomaru. We have not been able to progress the funding application due

to the lease being expired and the need to increase our area footprint. It is the Sports Club's wish to extend the area in which the Sports Club leases to enable the rear of the building to be dedicated to Rangatahi o Tokomaru. It is our intent to build an indoor multipurpose court, have a technology suite to enable Rangatahi access to technology and the internet, build a stage for Rangatahi led concerts and events.

It is also our wish to locate 2 containers to the rear of the water tank location, one has been sponsored by Trust Tairawhiti and will be fully kitted out with Surf gear for the use of our affiliate club Ngati Porou Boardriders Surf Club. The surf club has members that travel from Gisborne, Tolaga Bay, Te Puia Springs, Waipiro Bay, Ruatoria and Wharekahika.

The second container will be a custom built meat processing plant with chiller with meat preparation and packing room. This enables our community to be self-resilient and reliant in the event of civil defence emergencies and/or natural disasters and will be also utilised to train tamariki, Rangatahi and whanau whanui how to process meat while achieving NZQA credits, this is a partnership that we have been exploring with Eastern Institute of Technology.

The Sports Club has engaged extensively with our tamariki and Rangatahi of Tokomaru and it is our hope that we will be able to achieve their goals and aspirations by delivering on this Rangatahi Zone Project.

The Sports Club has also been hired for the following events historically;

- Fundraising events for local schools and JAB Rugby Teams
- Fundraising events for Civil Defence Emergency Responses
- Tairawhiti REAP GDL2Mahi Drivers Licencing Courses for residents of Te Puia Springs, Waipiro Bay, Tokomaru Bay and Tolaga Bay
- Gisborne Volunteer Centre Training
- Sport Tairawhiti Engagement and Training
- Gisborne District Council Community Engagement, Consultations and Flood Recovery Hui
- Akau Warriors Manaaki Support Services Whanau Isolation Planning Sessions, How to use RATs sessions and general information sharing events as well as Vaccination events such as Vax to the Max
- Hatea-a-Rangi School for alternative breakout spaces during school celebrations and sporting events that involve visiting schools
- Ruatoria Bio-Science Information Evenings
- Raukumara Pae Maunga Information Evenings
- Financial members birthdays, baby showers and on occasion funeral receptions post burial
- Children's Halloween Parties and Discos
- DIA – Training modules i.e. Strategic Planning, Successful Funding Application Tips
- First Aid Training
- End of year wind ups
- Community Celebrations
- Tokomaru Bay United Rugby Club & Ngati Porou East Coast Rugby After Match Kai and Functions
- Host, cater for and entertain Match Fit TV series retired All Blacks
- Lean on Me – Suicide Prevention Concert
- Canterbury of NZ Apparel – Worlds Toughest Active Wear campaign shoot
- Venue for ANZAC Breakfast after Dawn Ceremony

The Sports Club also has a bar facility that is open 4-5 times per week for Financial Members and their visitors. It is also important to note that we have not experienced any issues with our bar licence renewal or any compliance issues. The committee also works closely with the Tokomaru Bay based Police to deter members from driving under the influence of alcohol.

Although local marae were utilised historically for many of the events listed above Covid-19 has meant that there is 0 – limited availability of marae to hire. Some marae are still closed due to upgrades however as with all marae tikanga, tangihanga takes precedence over any other bookings received.

It is important for our executive committee to highlight through this process that Tokomaru Bay United Sports Club is an important community hub that is utilised during the day and evening to host hui, trainings, a space for our school children to engage, a space for our Rangatahi to learn in terms of succession planning and is the heart of the community during a civil defence emergency and covid-19 community transmission and manaaki support.

The Sports Club serves many purposes for many people and organisations near and far and you will see from the above that many of the events benefit residents of Tokomaru Bay and also neighbouring community residents.

It is with humility that we present this submission to the panel for consideration with the hope of securing a lease for our premises and our community.

We would be interested in presenting this submission in person should we get the opportunity to do so.

Naku pōhiri



Rob MacKenzie
Chairperson
Tokomaru Bay United Sports Club Inc.

6

Harry McClutchie
Founder/Director
Ngati Porou Boardriders Club



Tokomaru Bay 4079

Monday 5th December, 2022

To whom it may concern

Re: Support Submission for Tokomaru Bay United Sports Club Lease Renewal

On behalf of Ngati Porou Boardriders Club please accept this letter as a letter of support for Tokomaru Bay United Sports Club Lease Renewal.

Ngati Porou Boardriders Club is a Surf Club that umbrella's tamariki and rangatahi of Tokomaru Bay, Uawa, Te Puia Springs, Waipiro Bay, Ruatoria and Wharekahika.

Ngati Porou Boardriders is a financial affiliate club of Tokomaru Bay United Sports Club.

Our Club utilises the club for coach and tamariki/Rangatahi training when the weather doesn't allow us to use the sea.

Our tamariki/Rangatahi and their whanau appreciate being umbrella'd by the Sports Club as this enables us to have a base for our members to utilise.

Tokomaru Bay United Sports Club is a valued community hub enabling members and organisations of our communities and neighbouring communities and organisations to use to benefit the oranga of our whanau and hapu.

The facility is used for educational purposes, celebrations, fundraising for community groups and schools and a meeting/planning venue for our club also.

GDC has recently approved a consent for a surf container that was sponsored by Trust Tairawhiti and Gisborne Boardriders to be located at the rear of our building for the use of our members and whanau whanui.

Should you have any queries about this letter of support please do not hesitate to phone me on

Regards

Harry McClutchie
Founder/President
Ngati Porou Boardriders Club

7

14.12.2022

Awhina Fishing Club,
Postal Agency
TOKOMARU BAY.

Gisborne District Council. Tokomaru Bay United Sports Club Lease Renewal
chris.visser@gdc.govt.nz

Tena koe Chris,

The Awhina Fishing Club is submitting this letter in support, for the applicant, stated above. For
The following : Part Section 11 Block VIII Tuatini MAORI TNSP / Part Section 1 Block X Tuatini MAORI
TNSP.

The Awhina Fishing Club, has utilised this premises to hold Fishing Competitions, recently due to
Covid and Lockdowns, we have not been able to, but hope to in the future.

Our main focus to utilising the Clubrooms was purely a safety issue, as it was off the main road, and
Plenty of room. We erected a Boom, which is located outside of the Clubrooms where fish are
Weighed etc. It is vital to have the use of this for our future competitions.

For many years this establishment has been the hub, for a vast amount of groups that require a
premise.

Listed below to name just a few that come to mind.

Hui – Numerous

Civil Defence Emergency – This is used as the Base. (For any emergency)

Fundraising events for our Community

Private Functions – Birthdays / Prizegivings

Covid Response Venue

Awhina Fishing Club Base (Community Club)

Tokomaru Bay United Rugby Club

This establishment is vital to the number of different entities, also yourselves, as I am sure you will
be aware Gisborne District Council also use this venue to host hui, on numerous occasions.

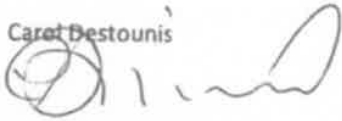
These are groups who require the kitchen facilities, Rest Rooms, and space of which our Club can provide.

The continuation of this lease, is very important to not only our Fishing Members, but to the wider community outside of Tokomaru, who also utilise the Building.

I do not formally want to present my submission.

Nga mihi

Carol Destounis



Awhina Fishing Club.

Club Member (TUSC)

Resident.

8

Akau Warriors Manaaki Covid Support & Civil Defence Response Roopu
C/o Lillian Ward

Tokomaru Bay 4079

Monday 12th December 2022

Dear Chris Visser,

Re: Intention to Grant a Lease – Hatea-a-Rangi Domain – Tokomaru Bay United Sports Club

Please accept this letter as a submission to support TBUSC securing the proposed lease for a term of 11 years with two 11-year rights of renewal.

Akau Warriors Manaaki Covid Support was created to respond to the 2020 Covid-19 Lockdowns. AWM for the first 2 years of Covid lockdown was a voluntary roopu of hapu and non-hapu members that supported Police Checkpoints and the receipt and distribution of food to tautoko whanau during the initial lockdown period.

In September 2021 Akau Warriors, (umbrella'd by Tokomaru Bay United Sports Club) joined the Hamo-te-Rangi Hapu lead collective to formulated and implement face to face strategies that assisted whanau to:

- Provide education sessions for whanau to assist whanau to plan for covid-19 community spread by completing a Whanau Covid-19 Isolation Plan
- Provide and facilitate RATs test education sessions
- Utilise the Sports Club as its base to provide information and education sessions as well as store all Covid-19 donated Iwi Kai boxes, hygiene packs and frozen meals for the distribution to whanau who need to be isolated
- Covid-19 vaccination events such as Vax to the Max and other pop up vaccination events

In June 2021 Tokomaru Bay experienced severe flooding that affected residents within Tokomaru Bay. Tokomaru Bay United Sports Club was then utilised for the Akau Warriors Civil Defence Response and in March and April 2022 the community was hit again with floods and the Sports Club was utilised again as the Civil Defence base for Tokomaru Bay.

The use of the Sports Club enabled our volunteer Akau Warrior Civil Defence Response roopu to:

- Provide a venue for whanau and volunteers to come and volunteer their time to respond to areas of work that needed to be done after each weather event
- It is a base for our volunteers and contractors to come for hot drinks and hot meals
- We plan, discuss and deploy support to local residents and our two schools
- The Sports Club is in walking distance to one of two marae that is used for evacuation of residents purposes
- Food and medical supplies were received at the Sports Club then distributed to not only the community of Tokomaru Bay but also Anaura Bay, Te Puia Springs, Waipiro Bay and Whareponga
- The Sports Club is utilised for all Civil Defence Planning training facilitated by the Tairāwhiti Civil Defence Emergency Management team from Gisborne District Council
- A changing room has been set aside to house community clean up resources such as wheel barrows, spades, rakes, generators, a heavy duty water blaster, fluoro clothing

and safety gloves, disinfectant, buckets, cleaning clothes etc. to assist in the clean-up post flood events.

In providing this submission it is important to highlight that the Sports Club is a community hub. We are a resilient community and the Sports Club enables us to be able to respond in a timely manner without having to book the facility, we are very lucky that during a severe weather event that the Sports Club governance and financial members support the use of the Sports Club to respond to each communities needs.

It is utilised by many external organisations for training, education and consultation purposes.

The Sports Club not only services the community of Tokomaru Bay but many residents in neighbouring rural townships therefore it is important to maintain the facility for the health and wellbeing of nga whanau whanui o Ngati Porou.

During the March 2022 Civil Defence Emergency Tokomaru Bay United Sports Club's Akau Warrior Covid-19 Manaaki roopu secured a contract from the Ministry of Social Development to employ Community Connectors, these connectors are now employed by the Sports Club to provide Covid-19 manaaki support so we have been able to employ 1.5 FTE equivalent to provide Covid-19 manaaki support not just to the community of Tokomaru Bay but also residents of Te Puia Springs and Waipiro Bay. The Sports Club is the base for all of our Covid-19 manaaki resources for whanau of Tokomaru Bay, Te Puia Springs and Waipiro Bay.

Historically nga marae would have been utilised to respond to the needs of whanau and hapu members however Covid-19 and funds available through the Provincial Growth Fund marae are either being upgraded or they are closed and it is also important to highlight that marae are relied heavily upon to accommodate large groups of whanau and manuhiri that attend whanau celebrations, tangihanga and unveilings.

Unfortunately I am not available to provide a verbal submission on behalf of Akau Warriors Manaaki and Civil Defence Response Roopu but trust that this written submission highlights the importance that the Sports Club has to the community of Tokomaru Bay and neighbouring rural communities.

No

Lillian Ward
Akau Warriors Manaaki and Civil Defence Overseer
c/o Tokomaru Bay United Sports Club
Tokomaru Bay

9 #

TOKOMARU BAY 4047

15 December 2022

To Whom It May Concern

Re: Tokomaru Bay United Sports Club Lease Renewal and Submission

On behalf of Te Ataarangi ki Tokomaru Inc Society please accept this letter of support to the Tokomaru Bay United Sports Club Lease Renewal and Submission

The Sports Club provides an alternative safe registered facility to accommodate organisations like Te Ataarangi ki Tokomaru to host and cater for local and external students and their family members who attend total immersion te reo Māori seminars. Our organisation has provided a range of total immersion te reo Māori classes and seminars for our Communities over the past years. Te reo Māori is often used in prayer, speeches and song at functions hosted by the Sports Club and equally the same when local and external organisations use the Club facility.

The Club has been a special part of our Community for many years and has a long history of sporting greats and providing support to community groups and community events.

We express our gratitude to the Tokomaru Bay United Sports Club for being wonderful kaitiaki(Guardians) of the premises and surrounding areas and submit this letter of support to the panel.

We look forward to a favourable response for the renewal of lease to the Tokomaru Bay United Sports Club.

Nāku nā



Kura Tihore
Kaituhi
Te Ataarangi ki Tokomaru Inc Society

c.c. Rhonda Tibble
Māori Ward Councillor
Te Kaunihera o Te Taiāwhiti

10 (1)

TOKOMARU BAY 4047

15 December 2022

To Whom It May Concern

Re: Tokomaru Bay United Sports Club Renewal of Lease and Submission

On behalf of the children of the late Erahia Duke Matahiki and the late Mihi Matekai Matahiki, I respectfully submit this letter to support the renewal of lease for the Tokomaru Bay United Sports Club.

Our father was one of the original members who established the Sports Club in the 60's for gatherings of the community including sportspeople, their families, and friends in a Skyline Garage. We have progressed immensely through their efforts and continue to work tirelessly to retain, to maintain and uphold the foundation they created for our generation and future generations. Our mother is fondly remembered as an avid supporter on the sideline of the rugby field and her manaakitanga (the way she cared for everyone).

Every year the founding members are honoured and remembered by the Tokomaru Bay United Rugby Team for their contributions through the presentation of trophies. The trophies are displayed in the Tokomaru Bay United Sports Club.

I submit this letter of support to the committee and look forward to a favourable response for the renewal of lease to the Tokomaru Bay United Sports Club.

Nāku noa
nā



Arihia Matahiki

10 (2)

TOKOMARU BAY 4047

14 December 2022

To Whom It May Concern

Re: Tokomaru Bay United Sports Club Renewal of Lease and Submission

On behalf of the Tokomaru Bay Returned Services Association please accept this letter of support for the Tokomaru Bay United Sports Club Renewal of Lease and Submission.

The Sports Club has always been a special breakfast venue for our Association to host our servicemen, service women, their families, and friends after the ANZAC dawn service to commemorate our fallen of all the wars.

We express our gratitude to the Tokomaru Bay United Sports Club, an establishment that has tirelessly upheld the integrity of its purpose to maintain good relationships and sustain a common place of gathering.

It will always be a special part of our Community, built by warriors of Tokomaru Bay, way back in the '60s.

We submit this letter of support to the panel and look forward to a favourable response for the renewal of lease to the Tokomaru Bay United Sports Club.

*Lest We Forget
Kia maumahara tātou i a rātou*



Eldrick Naden
President

#11



HATEA-A-RANGI SCHOOL

PO BOX 41

TOKOMARU BAY 4047

Email: admin@hatea-a-rangi.school.nz

Phone: 06 864 5818.

Gisborne District Council
8 o Hakihea, 2022

Tena koe e te rangatira,

Re: Letter of Endorsement

Tokomaru Bay United Sports Club has been a very practical venue for our kura to utilise. On behalf of Hatea-a-Rangi School students, staff and whanau I humbly take this opportunity to acknowledge the outstanding support we have received from staff and whanau while we have used this space.

Recently we held a Whakanuia Day so our present day students could celebrate our 150th Jubilee with their friends and whanau from nearby kura. The Sport Tairawhiti nutrition team was able to set up in the clubrooms and use these facilities to host a healthy food workshop for whanau, students and our staff.

During our initial flood recovery clean up in June 2021 and March 2022, the Tokomaru Bay United Clubrooms was a haven for our kaimahi and tradespeople to eat and relax away from the silt and mess on our school site. This venue was ideal for all whanau affected by the floods to find support and to share their challenges or successes.

Our tamariki were very fortunate to work with Gisborne District Council and Trust Tairawhiti to design a Rangatahi Hub and they identified the Tokomaru Bay United Clubrooms as an ideal space for them to meet with friends and family. So our tamariki are heavily invested in this space.

Our students have attended various community workshops at the clubrooms and the most beneficial workshop which comes to mind is the Inter-generational Workshop. Observing our senior students working alongside their pakeke was very interesting and the discussions were very robust.

Many of our students frequent the clubrooms with their whanau outside of school hours also. It is a great venue for whanau to meet and relax. There are a large number of whanau who are founding members of this club and they have worked hard to maintain it for future generations. We support the lease of this space for Tokomaru Bay United Sports Club.

Noho ora mai,

K. Kohatu

Na Karla Kohatu

Hatea-a-Rangi School Principal

Self-managing, lifelong learners who experience high achievement and have high expectations for their future.

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8 November 2022

Tena koe

Re Tokomaru Bay United Sports Club Lease Renewal and Submission

Please accept this letter as our support for the Tokomaru Bay United Sports Club Lease Renewal and Submission

Tokomaru Bay United Sports Club is a Community Building and Hub utilised by the Community and external organisations

The Tokomaru Bay United Sports Club is an important community hub that is utilised during the day and evening to host Hui, and training, a space for our school children to engage, a space for our Rangatahi to learn in terms of succession planning

United Sports Club is the heart of the community during a Civil Defence Emergency and Covid-19 community transmission

The Sports Club serves many purposes for many people and organisations near and far and you will see from the above that many of the events benefit residents of Tokomaru Bay and also neighbouring community residents

We present this list of Signatures of our current club members to support our submission, to the panel for consideration with the hope of securing a lease for our premises and our community

Noho ora mai

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NGA HAPU O TOKOMARU AKAU

*Ko te hononga te timatatanga
Ka pumau te hononga ka ahu whakamua
Ma te mahi ngatahi ka angitu te kaupapa*

*Coming together is a beginning
Keeping together is progress
Working together is success*

Nga Hapu o Tokomaru Akau
Tawhiti Street
Tokomaru Akau 4079
E:

16th December 2022

Mr Chris Visser
Principle Community Assets and Partnerships Advisor The Gisborne District Council
15 Fitzherbert Street
PO Box 747
GISBORNE 4010

Re: 22-201 Tokomaru United Sports Club Lease

Tena Koe Mr Visser

I am writing to you today regarding the following;

"Council proposes to grant a lease to Tokomaru Bay Sports Club Inc. for an area referred to as Hatea-a-Rangi Memorial Park:

Part Section 11 Block V111 Tuatini Maori Township, Part Section 1 Block X Tuatini Maori Township;

Located on Mangahauini Street Tokomaru Bay, The proposed lease term is for 11 years plus 11 and so forth. The Club also has been granted permission to make changes to the Clubroom including the addition of a multi purpose court for Community use.

I formally disagree to the lease being granted for the following reasons

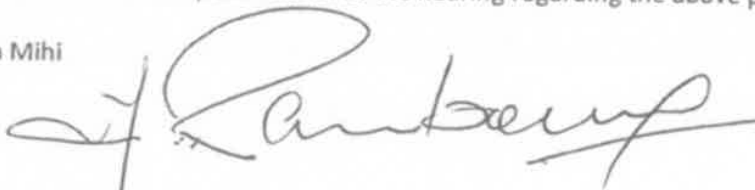
1. That the whole Domain to us as a Hapu, is Wahi Tapu and has a Sacred 'Pou Whenua Rahui' placed upon it and remains so since 1997. If the Council has this registered under Parks and Reserves, then that is incorrect and needs to consult with their own Maori liaison people for clarity. We are currently working to have this area brought

- back into the Tuatini township portfolio and these negotiating pathways are still being actioned with the Crown Agency involved by our Legal Teams.
2. There has been a lack of Hapu consultation on this issue. Nga Hapu O Tokomaru Akau (NHOTA) have been consulting with the GDC over the past 5 to 10 years and more, why then was this issue not discussed face to face pursuant to our relationship.
 3. The last lease expired some 8 years ago in 2014 and this should have been brought to our attention when we met this year. This area and others were part of the historical gems put forward during our recent High Court Case through September and October of this year.
 4. The Club has a desire to extend the area close to the rear boundary line to enable the installation of an indoor multi purpose court where Rangatahi and community members can play basketball, netball, tennis and squash. Noting that there are no other court facilities in the Community that would serve this purpose and right next door where alcohol is served.
 5. Our Rangatahi who will be using these new "multi purpose facilities" during the evenings, will bear witness to the example of some adults under the influence, which has become part of our communal behaviour.
 6. As it states in the council minutes 30th September 2022, The Tokomaru Bay United Sports Club serves as a community hub closely intertwined in the township's Social Fabric.

We recommend that this type of facility be moved to another area of the Bay to draw our young away from the stuff that is unsettling our society. Furthermore, when we last met in an open forum, we intimated that we would rather enter into consultation than litigation as in the past. However, as it stands at present, this could once again be one of our preferred options as well as the Waitangi Tribunal if this recent issue is not settled by dialogue.

Therefore I wish to speak further at the hearing regarding the above points I have raised.

Nga Mihi



Roger Tu Lewis Tichborne

14 #

Pakirikiri Marae

Tokomaru Bay, 4079.

16th December, 2022

To :Tena Koutou katoa,

Re: Tokomaru Bay United Sports Club Lease Renewal and Submission

On behalf of the Pakirikiri Marae trustees & Whānau we forward a letter of support to the Tokomaru Bay United Sports Club Inc. Lease Renewal and Submission.

The Sports Club provides a safe alternative facility to accommodate our local and external whānau hui, sports clubs, community and Te Tairāwhiti organisations to host their events/hui training modules and celebrations.

Firstly I advise Pakirikiri Marae is closed currently(past two years) due to renovations and upgrading of our Marae. However during this time, the Marae trustees and whānau have seen the amazing support the Sports club and members has given our local community throughout the severe weather conditions; flooding, road closures, slips, during Covid-19 pandemic and lockdown.

During the trying times of the above mentioned, the Sports Club became the Civil Defence Headquarters, whanau support space; Akau Warriors hub (*local rangatahi volunteer group that continues today*), drop off centre for food; medical supplies, resources and pick up point for delivery to our pakeke and local community.

Pakirikiri Marae has an alcohol policy that permits alcohol on the premises for Hakari only and this closes at 6pm. Therefore our marae promotes the Sports club as a safe, secure environment to continue with their event/hui after 6pm. We also encourage all whanau the Sports Club is a great safe environment for rangatahi & whanau events.

The Sports Club has been an integral part and place of our local community for many years from the humble beginnings to the current day. There are special memories for whanau of past and present athletes who have represented the Tokomaru Bay United Sports club, Ngati Porou East Coast, other provinces, nationally and at international level.

We acknowledge and appreciate the Tokomaru Bay United Sports Club for the utmost dedication (Kaitiakitanga) they continue to provide to their members and the local community.

We submit our letter of support and look forward to continuing to work with Tokomaru Bay United Sports Club and whānau to support our local community and wish them well with their future aspirations and this submission.

Nāku noa,



Trustee.

nā Pearl Matahiki, "On behalf of Trustees, Pakirikiri Marae"

Cc Rhonda Tibble (Maori Ward GDC)

Title: 23-79 Operative Date for Remaining 2015 Freshwater Provisions
Section: Strategy
Prepared by: Ariel Yann le Chew - Policy Planner
Meeting Date: Thursday 10 August 2023

Legal: Yes

Financial: No

Significance: **Medium**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek Council's approval to make the freshwater provisions¹ in the Tairāwhiti Resource Management Plan operative following the resolution of all appeals on 29 June 2023.

SUMMARY - HE WHAKARĀPOPOTOTANGA

The Gisborne Regional Freshwater Plan (Freshwater Plan) was publicly notified on 10 October 2015. After 41 submissions and another 2,500 further submission points (opposing or supporting the original submissions) were received, hearings were held between August and December 2016. Recommendations from the Hearing Panel were adopted by Council on 17 August 2017.

Sixteen appeals were lodged with the Environment Court. Mediation on the appeals was arranged into eight appeal topics. Six of the topics were successfully resolved and formalised through the Environment Court's consent orders in 2018. One topic (forestry) was withdrawn in November 2018.

The Cultural Interests topic was unresolved through the mediation process and progressed to an Environment Court hearing. The appeal, lodged by Te Whanau a Kai, was heard by the Environment Court in September 2020. The Court declined most of the changes sought by Te Whanau a Kai. Te Whanau a Kai subsequently took its appeal to the High Court, the Court of Appeal and the Supreme Court. In each case its appeal was declined.

The Supreme Court decision to decline the application for the appeal marks the end of the appeal process under the Resource Management Act.

Council is now able to make operative the freshwater provisions amended through the Environment Court consent orders and decision on the Te Whanau a Kai appeal.

Affixing the Council seal and setting an operative date represents the last step in making the freshwater plan provisions operative. This is required of the Council under clause 20 of Schedule 1 in the Resource Management Act 1991.

¹ Provisions is the all-inclusive term referring to the objectives, policies, and methods (including rules).

The decisions or matters in this report are considered to be of **Medium** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

- 1. Notes that staff have amended the freshwater provisions contained in the Tairāwhiti Resource Management Plan to reflect Environment Court decision NZEnvC 115 dated 4 August 2021 (Attachment 1) and Consent Orders:**
 - **Topic 1 RPS provisions, 11 December 2018 (Attachment 2).**
 - **Topic 2 Water quantity and allocation, 7 March 2019 (Attachment 3).**
 - **Topic 3 Water quality, 4 December 2019 (Attachment 4).**
 - **Topic 4 Activities in waterways, 23 November 2018 (Attachment 5).**
 - **Topic 5 Riparian margins, 20 December 2018 (Attachment 6).**
 - **Topic 8 FENZ and Defence appeals, 2 November 2018 (Attachment 7).**
- 2. Approves the freshwater planning provisions contained in the Tairāwhiti Resource Management Plan as amended by the Consent Orders and Environment Court decision referred to in resolution 2, under clause 17 of Schedule 1 of the Resource Management Act 1991.**
- 3. Resolves to make the freshwater provisions contained in the Tairāwhiti Resource Management Plan operative as of 30 August 2023.**
- 4. Notes that the staff will use clause 16 of Schedule 1 of the RMA to correct any typographical errors and other minor matters that need to be addressed, such as plan numbering and the use of cross-references.**
- 5. Directs the Chief Executive to complete the statutory processes required to make the freshwater planning provisions operative, which include:**
 - a. Affixing the Council's seal to the amended Tairāwhiti Resource Management Plan.**
 - b. Publicly notifying the operative date least five working days before the provisions become operative.**
 - c. Providing a copy of the amended Tairāwhiti Resource Management Plan to:**
 - i. The Ministry for the Environment.**
 - ii. Adjacent regional councils.**
 - iii. Iwi authorities.**
 - iv. Every public library in the district.**

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Freshwater provisions, Tairāwhiti Resource Management Plan, Environment Court, appeals

BACKGROUND - HE WHAKAMĀRAMA

Gisborne Freshwater Plan notified October 2015

1. The Gisborne Freshwater Plan (including the Waipaoa Catchment Plan) was publicly notified (Report 15-259) on 10 October 2015, with 41 submissions received and summarised into 1,200 individual submission points. The summary of submissions was publicly notified for further submissions in February 2016. Council received a further 2,500 submission points opposing or supporting the original submissions.
2. Hearings for the Freshwater Plan were held between August and December 2016. The Hearings Panel comprised three independent commissioners and two Councillors (Report 16-303).
3. The Panel made its recommendations to Council on the Freshwater Plan on 3 August 2017. Council adopted these recommendations on 17 August 2017.
4. In the same year, Council combined its resource management plans (including the recently adopted Freshwater Plan) into the Tairāwhiti Resource Management Plan (TRMP). Report 17-509 provides information on the merging and subsequent changes through the process.

Appeal to the Environment Court

5. Council received 16 appeals, which were arranged into eight appeal topics. After two rounds of mediation in 2018, six of the appeal topics were resolved by agreement. The Eastland Wood Council appeal (relating to Topic 7 Forestry) was withdrawn by the appellant on 29 November 2018. Changes to the plan content agreed through mediation were formalised through consent orders² made by the Environment Court (EC).

The six consent orders of the resolved topics are listed as follows:

- Topic 1 RPS provisions, 11 December 2018 (**Attachment 2**).
 - Topic 2 Water quantity and allocation, 7 March 2019 (**Attachment 3**).
 - Topic 3 Water quality, 4 December 2019 (**Attachment 4**).
 - Topic 4 Activities in waterways, 23 November 2018 (**Attachment 5**).
 - Topic 5 Riparian margins, 20 December 2018 (**Attachment 6**).
 - Topic 8 FENZ and Defence appeals, 2 November 2018 (**Attachment 7**).
6. One appeal was not resolved through mediation. The appeal (lodged by Te Whanau a Kai) sought that the Plan recognises Te Whanau a Kai's customary (including proprietary) interests in freshwater within its rohe and, by doing so, that its interests in those waters be taken into account in all decision making.

² During mediation, parties normally write up any agreement they reach as a mediation agreement. This is later formalised into a draft consent order by an Environment Court Judge.

7. The appeal³ was heard by the EC in September 2020, and its decision on the appeal issued in August 2021 (**Appendix 1**). The Court declined most of the relief sought by Te Whanau a Kai. Key points on why it was declined include:
- Recognition of proprietary interests in the Freshwater Plan as proposed by the Te Whanau a Kai appeal is not within the jurisdiction of the Court under the Resource Management Act 1991 (RMA).
 - The evidence before the Court is insufficient to support a proprietary title and, consequently, the amendments to the Plan proposed by Te Whanau a Kai.
 - The Court has no legislative authority to direct Council to provide resourcing and technical assistance in the Plan provisions.

Appeal to the High Court

8. Te Whanau a Kai then lodged an appeal to the High Court (HC) based on Section 299 of the RMA. In summary, the appeal⁴ asserted that the EC:
- did not correctly interpret and apply the sections of the RMA relevant to Te Tiriti o Waitangi and recognition of Māori values, interests, and relationships;
 - applied the wrong test when considering whether proprietary interest was demonstrated by the appellant's evidence; and
 - made a decision that is contrary to the sections of the RMA relevant to Te Tiriti and recognition of Māori values, interests, and relationships.
9. The appeal asked the HC to make a judgment that:
- Te Whanau a Kai has tikanga-based Māori proprietary rights and/or interests in freshwater in its rohe, and that these need to be recognised and provided for in the Freshwater Plan;
 - Council has a duty to provide, through provisions in the Freshwater Plan, resourcing to support the exercise of the appellant's tikanga-based rights and responsibilities; and
 - Directs amendments that need to be made to the Freshwater Plan to reflect the findings.
10. The HC hearing on the appeal made by Te Whanau a Kai against the EC decision on the Freshwater Plan was held on 4 and 5 April 2022. The Attorney-General joined the appeal as an "intervener" given the implications of any finding that planning instruments could recognise native title rights in freshwater. The appeal was dismissed by the HC on 23 June 2022.

³ [2021-NZEnvC-115-Te-Whanau-a-Kai-Trust-v-Gisborne-District-Council.pdf \(disputestribunal.govt.nz\)](#)

⁴ [workspace_SpacesStore_1c7a8fe0_44a4_4a26_b38e_04cc421da722.pdf \(justice.govt.nz\)](#)

11. A summary of key points in the HC judgment:

- **Issue 1 – Jurisdictional issue:** The HC held that the EC analysis was correct, that there is no jurisdiction under the RMA to recognise ownership/native title rights in freshwater.
- **Issue 2 – Evidence of tikanga-based customary rights:** The HC held that the EC was entitled to find that the evidence fell far short of establishing that Te Whanau a Kai held the customary interests that it sought to be recognised in the Freshwater Plan.
- **Issue 3 – Resourcing to support the exercise of the tikanga-rights:** The HC held that the EC was right to find that there was no power under the RMA to require the Council, through a provision in its Freshwater Plan, to provide resourcing to support the exercise of tikanga rights that are recognised in the Plan.
- **Issue 4 – Wording of specific amendments:** The HC worked through each amendment sought by Te Whanau a Kai and confirmed that the EC made no errors in law in terms of the Freshwater Plan provisions.

Appeal to the Court of Appeal

12. In November 2022, Te Whanau a Kai submitted their grounds for appeal to the Court of Appeal (CoA) on the HC judgment. On 13 March 2023, the CoA declined Te Whanau a Kai's application for leave to appeal⁵.

13. Summary of the CoA findings on the grounds of appeal:

- **First proposed ground of appeal – Challenge to the jurisdiction finding:** The CoA held that both the HC and the EC were correct to conclude that the RMA provides for consideration of Te Tiriti o Waitangi, the relationship of Māori with their ancestral lands and water, and kaitiakitanga. However, the focus of the RMA is to provide a regulatory framework for the use and management of natural resources, not the underlying ownership of those resources.

This proposed ground of appeal was not seriously arguable, and therefore did not meet the test for leave to appeal. Instead, the Court recommended that the appropriate course is for the issue to be pursued via other legal or political avenues.

- **Second proposed grounds of appeal – Challenges to the evidence finding:** The Court accepted that the evidence-based test for the existence of tikanga based proprietary rights is a question of law which is of general or public importance. However, it was not seriously arguable that the jurisdiction finding was in error.
- **Third proposed ground of appeal – Challenge to the funding finding:** The Court agreed with the Council's submission that requiring Council to fund Te Whanau a Kai in relation to the exercise of its asserted proprietary rights in freshwater runs counter to both the RMA and the Local Government Act. It would be inappropriate for the EC to overstep the Local Government Act's framework for decisions about funding and expenditure. On this ground of appeal, the Court found that both the EC and the HC had not erred on this issue.

⁵ [2023-NZCA-55.pdf \(lawsociety.org.nz\)](https://www.lawsociety.org.nz/2023-NZCA-55.pdf)

- **Fourth proposed ground of appeal – Definition of “tikanga wai Māori” in the Freshwater Plan:** The Court agreed with the reasoning outlined by the HC and prior to that, the EC. The EC adopted the definition of “tikanga Māori” according to the evidence before it, which included taking into account the need for consistency with existing definitions in other instruments. The Court found that this argument did not warrant a third appeal to the Court.

Appeal to the Supreme Court

14. Following CoA's decision, on 13 April 2023, Te Whanau a Kai sought to appeal against the decision of the HC to the Supreme Court, and also sought an extension of time to make the leave application.
15. Section 75 of the Senior Courts Act 2016 states that no direct appeals to the Supreme Court are possible other than from the Court of Appeal unless:
 - a. It is necessary in the interests of justice for this Court to hear and determine the appeal: and
 - b. There are exceptional circumstances that justify taking the proposed appeal directly to this Court.
16. On 29 June 2023, the Supreme Court dismissed the appeal⁶. The Supreme Court did not find any extraordinary and compelling circumstances that would justify a direct appeal when the CoA had already declined leave with a fully reasoned judgement.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

17. The EC issued consent orders on appeal topics following mediation in 2018. The provisions changed by the consent orders have been incorporated into the TRMP and are being used by consent planners, applicants and the community, but have not yet been formally made operative. They are currently highlighted in the plan to distinguish them from other operative provisions.
18. The provisions changed by the consent orders and court judgement are located in the following parts of the TRMP:
 - B1 Tangata Whenua
 - B6 Freshwater
 - C6 Freshwater
 - DF1 Freshwater Management units: Waipaoa Catchment Management Plan
 - E1 Māori Terms and Concepts
 - E2 Common Definitions that apply across the Plan
 - E6 Freshwater Definitions
 - Schedules G15 and G17
 - Appendix H20: Requirements of Farm Environment Plans.

The amendments for both consent orders and appeals are compiled in **Attachments 1-7**.

⁶ [2023-NZSC-77.pdf \(courtsofnz.govt.nz\)](https://www.courtsofnz.govt.nz/2023-NZSC-77.pdf)

19. With the resolution of the appeal, Council can make the freshwater provisions operative. This involves affixing the seal and publicly notifying the operative date. Public notification must occur at least five working days before the date on which the plan change becomes operative.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: High Significance

This Report: Medium Significance

The effects on individuals or specific communities

Overall Process: High Significance

This Report: Medium Significance

The level or history of public interest in the matter or issue

Overall Process: High Significance

This Report: High Significance

20. The decisions or matters in this report are considered to be of **Medium** significance in accordance with Council's Significance and Engagement Policy.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

21. Tangata Whenua were widely engaged during the process of developing the Freshwater Plan. This included representation on the Freshwater Advisory Group as well as additional community hui and meetings with iwi representatives on key topics such as water allocation and discharges. No further engagement is needed at this stage of the process.
22. Te Whanau a Kai's appeal indicates the increasing interest in tangata whenua rights to freshwater, both locally and in other parts of the country. Council is committed to hold meaningful engagement with tangata whenua through various avenues, such as the Regional Freshwater Advisory Group and the catchment-specific Advisory Groups.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

23. Wider community engagement on the Freshwater Plan was also undertaken, with three consultation rounds occurring between 2012 and 2014. This included community hui and meetings with various interest groups. No further engagement is needed at this stage of the process.
24. As part of the TRMP review process, Council is committed to include community aspirations in the new freshwater provisions. This will be done through various avenues, such as open community sessions in various locations of the region, and representation in the Regional and catchment-specific Advisory Groups.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

25. Climate change will affect the availability and reliability of freshwater resources. The combination of existing over-allocated water resources, an expected increased future demand, and impacts of climate change mean that managing water quantity within limits is a significant issue for freshwater management in the region and will only become more important in the future. This is a key consideration for the current review of the freshwater planning provisions.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

26. Operational teams took into account the requirements of the freshwater planning provisions when they developed their activity plans and budgets for the 2021-2031 Long term Plan. These have not changed as a result of the changes made by the Environment Court decision and consent orders.

Legal

27. The Freshwater Plan was prepared in accordance with the National Policy Statement on Freshwater Management (NPS-FM) 2014 to meet the statutory requirements at that time.
28. There will be changes made to the freshwater provisions as part of the current TRMP review in order to meet the requirements of the more recent NPS-FM 2020. This includes the greater emphasis of Te Mana o te Wai in NPS-FM 2020, which adds a significant dimension to freshwater planning and will require significant work and consideration to ensure our regional and catchment plans give effect to it.
29. Because the NPS-FM 2020 builds on the requirements set out in the NPS-FM 2014, the freshwater provisions are still relevant to the overall objective of the NPS-FM and are better than having no provisions.

30. Making the remaining freshwater provisions operative will mean that the Council has fulfilled its obligations under Schedule 1 of the RMA since the freshwater provisions were first considered in 2017 by a panel of hearing commissioners.
31. With the review of the operative TRMP currently underway, Council will ensure that the freshwater provisions align to the development of the Regional Policy Statement (RPS) and meet the NPS-FM 2020 requirements.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

32. Implementation of the freshwater provisions is consistent with the Long Term Plan 2021 – 2031, community outcomes and strategic priorities.

RISKS - NGĀ TŪRARU

33. Clear messaging in our communications is important to ensure the public understands that Council is notifying the remaining 2015 freshwater provisions and not a new set of freshwater provisions, however this is a low risk.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
21 August 2023	Public notification of operative date in Gisborne Herald	
30 August 2023	All freshwater provisions made operative	

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - EC Decision on Plan amendments [23-79.1 - 14 pages]
2. Attachment 2 - Consent Order Topic 1 RPS provisions [23-79.2 - 4 pages]
3. Attachment 3 - Consent Order Topic 2 Water quantity and allocation [23-79.3 - 13 pages]
4. Attachment 4 - Consent Order Topic 3 Water Quality [23-79.4 - 48 pages]
5. Attachment 5 - Consent Order Topic 4 Activities in waterways [23-79.5 - 8 pages]
6. Attachment 6 - Consent Order Topic 5 Riparian margins [23-79.6 - 7 pages]
7. Attachment 7 - Consent Order Topic 8 FENZ and Defence Appeals [23-79.7 - 4 pages]

Annexure C

Court's Decision on Plan Amendments

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
	<p>[To be inserted as a new definition below the "Authorised discharge point" definition]</p> <p>Awa...A natural watercourse including a river, stream, creek, canal, gully or gorge.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Authorised discharge point" definition]</p> <p>Awa...A natural watercourse including a river, stream, creek, canal, gully or gorge.</p>
	<p>[To be inserted as a new definition below the "Road construction" definition]</p> <p>Roto...A lake.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Road construction" definition]</p> <p>Roto...A lake.</p>
	<p>[To be inserted as a new definition below the "Registered operator" definition]</p> <p>Repo...A wetland including a swamp, bog or marsh</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Registered operator" definition]</p> <p>Repo...A wetland including a swamp, bog or marsh</p>
	<p>To be inserted as a new definition below the "Pumping test" definition]</p> <p>Puna...A natural water source including a spring, well or pool.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Pumping test" definition]</p> <p>Puna...A natural water source including a spring, well or pool.</p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
	<p>[To be inserted as a new definition below the "Vegetation clearance" definition]</p> <p>Wainuku...Water existing beneath the earth's surface including in underground streams or aquifers.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Vegetation clearance" definition]</p> <p>Wainuku...Water existing beneath the earth's surface including in underground streams or aquifers.</p>
	<p>[To be inserted as a new definition below the "Network utility operation" definition]</p> <p>Ngutuawa...The end of a river out of which water flows including a river mouth or estuary.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Network utility operation" definition]</p> <p>Ngutuawa...The end of a river out of which water flows including a river mouth or estuary.</p>
	<p>[To be inserted as a new definition below the "Modified watercourse" definition]</p> <p>Muriwai...A shallow body of water including a lagoon, body of backwater or a junction of two streams.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Modified watercourse" definition]</p> <p>Muriwai...A shallow body of water including a lagoon, body of backwater or a junction of two streams.</p>
	<p>[To be inserted as a new definition below the "Mana whenua" definition]</p> <p>Mauritanga....The practice of maintaining the Mauri of freshwater resources.</p>	<p><i>Accepted:(para 7 Annex. B)</i></p> <p>[Insert a new definition below the "Mana whenua" definition]</p> <p>Mauritanga....The practice of maintaining the Mauri of freshwater resources.</p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
	<p>{To be inserted as a new definition below the "Tikanga Maori" definition}</p> <p>Tikanga wai Māori...The Maori rules and laws in regards to activities concerning freshwater resources.</p>	<p><i>Rejected: (para 5 Annex B), instead:</i></p> <p>[Insert a new definition below the "Tikanga Maori" definition]</p> <p>Tikanga wai Māori...Maori customary values and practices in regard to activities concerning freshwater resources.</p>
	<p>{To be inserted as a new definition below the "Iwi management plan" definition}</p> <p>Kaitiakitanga...The obligation to nurture and care for the mauri of a taonga including the roles of guardianship, stewardship and trusteeship.</p> <p>{To be inserted as a new definition below the "Mana whenua" definition}</p> <p>Mauri...The life principle or living essence contained in all things, animate and inanimate, including the life force, vitality and well-being of all things.</p> <p>{To be inserted as a new definition below the "Pumping test" definition}</p> <p>Rāhui...The act of placing a temporary prohibition or closed season or ban or reserve on access to or the use of the whole of or part of their freshwater resources.</p>	<p><i>Rejected: (para 4 Annex B)</i></p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
Section 3.0 RPS for Freshwater 3.1 Tangata Whenua and Freshwater – He Taonga Tuku Iho		
	<p>Create new subsections 3.1.1, and 3.1.2 and amend subsequent subsection numbering accordingly]</p> <p>3.1.1 Te Whānau a Kai Customary Rights</p> <p>Te Whānau a Kai have the following customary rights in respect of the awa, roto, repo, puna, wainuku, ngutuawa and muriwai (“their Freshwater Resources”) that are situated within their Traditional Rohe, including, but not limited to, the right:</p> <ul style="list-style-type: none"> a. of kaitiakitanga; b. to maintain the mauri of their Freshwater Resources; c. to water quality d. to water quantity; e. of communal ownership or native title; f. to gain sustenance from their Freshwater Resources; g. to access and use textiles and materials situated in their Freshwater Resources; h. to recreational use, such as swimming and fishing; and i. of governance, including the right to 	<p><i>Rejected (para 8 -12 Annex. B), instead:</i></p> <p>[Create new subsection 3.1.3 and renumber subsequent subsections accordingly]</p> <p>3.1.3 Te Whānau a Kai perspective</p> <p>During development of the Freshwater Provisions, Te Whānau a Kai expressed to Council the need to recognise and provide for their ancestral relationship with freshwater resources situated in their traditional rohe, such as awa, roto, repo, puna, wainuku, ngutuawa and muriwai.</p> <p>Te Whānau a Kai has a clearly stated view that the Crown should recognise their proprietary interest in the freshwater resource, and that Council should provide for that interest.</p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision <i>version</i>)
	<p>manage their Freshwater Resources insofar as their right to manage concerns:</p> <ul style="list-style-type: none"> i. Te Whānau a Kai's kaitiakitanga; ii. the mauri of their Freshwater Resources; iii. water quality within their Traditional Rohe; iv. water quantity within their Traditional Rohe; v. The Whānau a Kai's communal ownership or native title; vi. Te Whānau a Kai's right to gain sustenance; vii. Te Whānau a Kai's right to recreational use; and viii. Te Whānau a Kai's right to impose rahui. <p>3.1.2 TRONPnui and Ngāti Porou needs [Remaining wording to be the same as that under the original section 3.1 Tangata Whenua and Freshwater – He Taonga Tuku Iho]</p>	
Section 3.0 RPS Freshwater 3.3 Objectives		
	[To amend “Objective 9 – The planning and management of the Region's freshwater resources is undertaken in a	Accepted. (paras 14-17 Annex. B) [Amend Objective 9] Objective 9

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
	<p>way that recognises the kaitiaki role of iwi and hapū and ensures that their values and interests are reflected in the decision-making processes”]</p> <p>The planning and management of the Region's freshwater resources is undertaken in a way that recognises and provides for their kaitiaki role of iwi and hapū and ensures that their values and interests are reflected in the decision-making processes.</p>	<p>The planning and management of the Region's freshwater resources is undertaken in a way that recognises and provides for their kaitiaki role of iwi and hapū and ensures that their values and interests are reflected in the decision-making processes.</p> <p>And</p> <p>[Amend Policy 3.2]</p> <p>Policy 3.2</p> <p>Collaborate with iwi and hapū to:</p> <ul style="list-style-type: none"> a. Recognise their kaitiaki role and; b. Provide mechanisms through which iwi and hapū may exercise their kaitiaki role; c. Identify their freshwater values and priorities, including the development of cultural assessment frameworks for mauri and other freshwater values; and d. Identify targets and methods for the restoration of the mauri of degraded waterbodies.
	<p>{To be inserted below “Objective 9 The planning and management of the Region's freshwater resources is undertaken in a way that recognises the kaitiaki role of iwi and hapū and ensures that their values and interests are</p>	<p><i>Rejected (para 18-20 Annex. B)</i></p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court’s decision (marked in red as changes to the Council’s Decision version)
	<p>reflected in the decision-making processes” section]</p> <p>With respect to Te Whānau a Kai, when planning and managing the Region’s freshwater resources the Gisborne District Council will:</p> <ul style="list-style-type: none"> a. adequately consult with Te Whānau a Kai; b. adequately resource Te Whānau a Kai with technical and financial assistance; c. provide any planning document to Te Whānau a Kai that affects their right of kaitiakitanga; and <p>recognise and provide for Te Whānau a Kai’s kaitiakitanga with respect to any planning document.</p>	
	<p>To be inserted below “Objective 10 – The mauri of waterbodies is recognised and provided for within freshwater and catchment planning and action is taken to restore the mauri of degraded waters” section]</p> <p>When restoring the mauri of degraded waters, the Gisborne District Council will:</p> <ul style="list-style-type: none"> a. adequately consult with Te Whānau a Kai; b. adequately resource Te Whānau a Kai with technical and financial assistance; 	<p><i>Rejected (para 21-22 Annex. B), instead:</i></p> <p>[Amend Objective 10]</p> <p>Objective 10</p> <p>The mauri of waterbodies is recognised and provided for and action is taken to sustain and restore the mauri of degraded waters. Actions taken to sustain and restore the mauri of degraded waters will:</p> <ul style="list-style-type: none"> b. Recognise and provide for the kaitiaki role of iwi and hapū;

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court’s decision (marked in red as changes to the Council’s Decision version)
	<p>c. provide any planning document to Te Whānau a Kai that affects the mauri of degraded waters or the major of any of their freshwater resources; and recognise and provide for Te Whānau a Kai’s mauritanga with respect to any planning document that affects the mauri of degraded waters or the mauri of any of their freshwater resources.</p>	<p>c. Recognise and provide for mauritanga.</p>
	<p>{To amend “Objective 11:— Mana Whenua values, mātauranga and tikanga are reflected in resource management processes and decision making”}</p> <p>Mana Whenua values, mātauranga and tikanga are reflected in resource management processes and decision making, in a manner consistent with the customary rights set out in section 3.1.1— Te Whānau a Kai Customary Rights.</p>	<p><i>Rejected (para 23-24 Annex. B), instead:</i></p> <p>[Amend Objective 11]</p> <p>Objective 11</p> <p>Mana whenua values, mātauranga and tikanga are reflected in resource management processes and decision making, in a manner consistent with the priorities and preferences of mana whenua within the limits of the Act.</p>
<p>Section 3.4 Strategic Policies</p> <p>3.4.1 Working Together</p>		
	<p>{To be inserted below Policy 3.2: Collaborate with iwi and hapu to recognise their kaitiaki role and identify their freshwater values and priorities,</p>	<p><i>Rejected (para 26-29 Annex. B), instead:</i></p> <p>[Insert Policy 3.1A to precede or follow Policy 3.1 and renumber subsequent subsections accordingly]</p> <p>Policy 3.1A</p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
	<p>including the development of cultural assessment frameworks for mauri and freshwater values}</p> <p>Collaborate with Te Whanau a Kai to recognise and give effect to their customary rights in freshwater as set out in section 3.1.1 Te Whanau a Kai Customary Rights.</p> <p>{To be inserted below "Policy 3.3 Have regard to the freshwater issues and outcomes identified in iwi and hapu planning documents, statutory acknowledgements and governance and partnership agreements." Section(sic)}</p> <p>With respect to Te Whānau a Kai's planning documents, governance and partnership agreements, the Gisborne District Council will:</p> <p>a. suitably resolve the freshwater issues and give effect to the outcomes identified therein by Te Whānau a Kai; and</p> <p>b. review and monitor all measures taken to suitably resolve the freshwater issues and give effect to the outcomes identified therein by Te Whānau a Kai.</p>	<p>Council will recognise and provide for the relationship of iwi and hapū with freshwater and will work to actively engage and collaborate with iwi and hapū in the planning, management and monitoring of freshwater resources.</p> <p>And [Amend Policy 3.3]</p> <p>Policy 3.3</p> <p>Decision makers will</p> <p>a. Have regard to the mana whenua values, interest and environmental outcomes sought for fresh water and freshwater ecosystems freshwater issues and outcomes identified in iwi and hapu planning documents, statutory acknowledgements and governance and partnership agreements; and</p> <p>b. Take reasonable steps to</p> <p>(i) Resolve issues identified by mana whenua and</p> <p>(ii) Reflect mana whenua values interest and environmental outcomes in the management of, and decision making regarding, freshwater and freshwater ecosystems in the region.</p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court’s decision (marked in red as changes to the Council’s Decision version)
	<p>{To be inserted below “Method 3.3 Consult with iwi and hapu to ascertain the nature of cultural and spiritual values they hold in relation to specific water bodies:}</p> <p>Adequately consult with and resource iwi and hapu to ascertain the nature and extent of their customary rights, cultural values and spiritual values in relation to their respective water bodies so that they may:</p> <ul style="list-style-type: none"> (a) identify and name the specific waterbodies within their respective Traditional Rohe; (b) prepare and present research materials on their respective relationships with their specific waterbodies; (c) discuss and agree on the boundaries of their respective Traditional Rohe; (d) determine their respective tikanga wai Maori; and <p>prepare and present research materials for the purpose of establishing the health and well-being of their respective waterbodies.</p>	<p><i>Rejected (para 30-34 Annex. B), instead:</i></p> <p>[Amend Method 3.3]</p> <p>Method 3.3</p> <p>Consult Work with iwi and hapū to ascertain the nature of cultural and spiritual values they hold in relation to specific waterbodies, for example:</p> <ul style="list-style-type: none"> a. Identify and name the specific waterbodies within their respective Traditional Rohe; b. Support research that results in a description of the relationship of iwi and hapū with their specific waterbodies; c. Ways to respect their respective tikanga wai Māori; and d. Establish the current and desired health and well-being of waterbodies.

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
<p>Section 4 Water Quantity and Allocation</p> <p>4.1 Abstraction and Use of Water</p> <p>Regional Rules</p> <p>Rule 4.1.1 General Rules</p>		
	<p>{To be inserted above "a. Fish are prevented from entering the water intake" as the new "a.", following lettering to be amended according}</p> <p>a. All permitted activities are to be conducted in accordance with the customary rights set out in section 3.1.1 Te Whānau a Kai Customary Rights</p>	<p><i>Rejected (para 35-36 Annex. B)</i></p>
<p>Other Methods</p>	<p>{To amend "Council will develop a Water Demand Management Plan for all takes by 1 July 2017."}</p> <p>In close consultation with Te Whānau a Kai, the Council will develop a Water Demand Management Plan for all takes by 1 July 2017.</p>	<p><i>Rejected (para 37-38 Annex. B)</i></p>

Section of Freshwater Plan	Specific Amendments Proposed by Te Whānau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
General Catchment Plans 2.0 Waipaoa Catchment Plan	<p>{To amend “The Waipaoa Catchment incorporates 12 major sub-catchment areas with a combined land area of 2,205km².”</p> <p>The Waipaoa Catchment incorporates 12 major sub-catchment areas with a combined land area of 2,205km², and includes the Traditional Rohe of Te Whānau a Kai.</p>	<p><i>Rejected (para 39-42 Annex.B), instead:</i></p> <p>[Amend the first paragraph of the Waipaoa Catchment Plan to include as a second sentence]</p> <p>The Waipaoa Catchment includes all or part of the traditional rohe of Rongowhakaata, Ngai Tāmanuhiri, Te Aitanga a Māhaki, Ngā Ariki Kaiputahi and Te Whānau a Kai.</p>
2.2 Waipaoa Hill Country Freshwater Management Unit – Freshwater Values	<p>{To be inserted within the table entitled “Freshwater Values being managed for” to the “Prominent values identified” column}</p> <p>Kaitiakitanga</p> <p>{To be transferred within the table entitled “Freshwater Values being managed for” to the “Prominent values identified” column and subsequently removed from the “Other values identified” column}</p> <p>Wai tapu</p> <p>Mahinga kai</p> <p>Mauri</p>	<p><i>Rejected (43-49 Annex.B), instead:</i></p> <p>[Amend Policy 3.7]</p> <p>Policy 3.7</p> <p>Identify freshwater values for each catchment plan area, including:</p> <ol style="list-style-type: none"> Compulsory national freshwater values identified in the National Objectives Framework; Other relevant freshwater values identified in the National Objectives Framework; Other freshwater values not provided for in the National Objectives Framework that reflect the social, cultural, economic and environmental

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court’s decision (marked in red as changes to the Council’s Decision version)
	<p>Irrigation and food production Human health (swimming)</p>	<p>circumstances of the catchment;</p> <p>d. Mauri and other tangata whenua values for freshwater and freshwater ecosystems, including Any specific tangata whenua values or guidance provided by iwi and hapū planning documents, statutory acknowledgements and governance and partnership agreements;</p> <p>e. Any values associated with outstanding waterbodies, regionally significant wetlands or other significant waterbodies to be included in the Freshwater Plan schedules.</p> <p>And</p> <p>[Insert new Policy 3.7A]</p> <p>Policy 3.7A</p> <p>Recognise that sustaining the mauri of a waterbody requires the following matters to be taken into account:</p> <ul style="list-style-type: none"> a. The water’s capacity to renew its groundwater and surface water flows and stocks; b. Maintenance of habitats, breeding, food sources and migratory areas and routes of mahinga kai and taonga species such as eels, flax and watercress in freshwater and coastal environments; c. Maintenance of natural flow variability; d. The exchange of freshwater and seawater at

Section of Freshwater Plan	Specific Amendments Proposed by Te Whanau a Kai (struck through where relief declined)	This Court's decision (marked in red as changes to the Council's Decision version)
		<p>the mouth, maintenance of freshwater flows in estuaries, and avoiding the unnatural closure of a river mouth;</p> <ul style="list-style-type: none"> e. Longstanding histories and traditional and cultural uses; and f. The potential adverse effects of the unnatural mixing of waters from different water bodies. <p>And</p> <p>[Amend Policy 3.14]</p> <p>Policy 3.14</p> <p>Recognise and take into account cultural and spiritual values and the mauri of water, when setting water quality and quantity objectives and methods limits and managing freshwater.</p>

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2017-WLG-000089)
DIRECTOR-GENERAL OF
CONSERVATION
(ENV-2017-WLG-000090)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

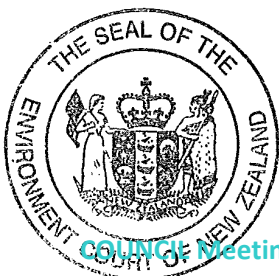
- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) the Gisborne Regional Freshwater Plan is amended as set out in Appendix 1 to this order.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

- [1] The Court has read the notices of appeal and the memorandum of the parties dated 7 August 2018.

HORTICULTURE NEW ZEALAND v GISBORNE DISTRICT COUNCIL



Other relevant matters

[2] Mr Murray Palmer, Federated Farmers of New Zealand, Royal Forest and Bird Protection Society of New Zealand and Rongowhakaata Iwi Trust have given notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought.

Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 11th day of December 2018



B P Dwyer
Environment Judge



Appendix 1

Amendments are shown in bold text, with additions underlined and deletions in strikethrough

Amend RPS Objective 7

The interactions between land, land use and development, freshwater, the coastal environment and associated ecosystems are recognised and provided for through the integrated management of freshwater and coastal water resources to maintain or improve their values.

Amend RPS Policy 3.34

Where consented activities may produce environmental effects such as groundwater or land contamination, or reduction in groundwater levels which can be slow to appear, monitoring of the consented activities' effects shall be required as part of resource conditions. The monitoring shall reflect the nature and scale of the activities with costs to be met by the resource consent holder.

Amend Regional Plan Policy 5.1.3

Manage the adverse effects of stormwater discharges through:

...

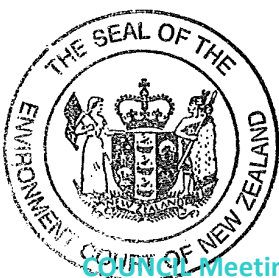
- b ~~To ensure~~ **Ensuring** water quality objectives, targets and limits for the receiving waterbodies, and the quality of coastal waters, will not be compromised by stormwater discharges:

...

Amend Regional Plan Policy 5.1.6

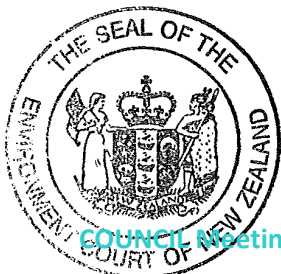
Where a water quality objective is not being met or a limit/target has been exceeded or the waterbody, including coastal waters, is identified as degraded:

...



Waipaoa Catchment Plan – Poverty Bay Flats Freshwater Management Unit
Section 2.4.4: Add new Method 13

GDC will engage with stakeholders in a process supporting the development of a GDC approved groundwater model to support the achievement of the freshwater quantity objectives.



**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2017-WLG-000089)
DIRECTOR-GENERAL OF CONSERVATION
(ENV-2017-WLG-000090)
FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2017-WLG-000091)
EASTERN FISH AND GAME COUNCIL
(ENV-2017-WLG-000093)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The appeal is allowed subject to the amendments to the Gisborne Regional Freshwater Plan set out in Appendix 1 to this order.
- [B] Under s 285 of the Act, there is no order as to costs.



HORTICULTURE NEW ZEALAND v GISBORNE DISTRICT COUNCIL

REASONS**Introduction**

[1] The Court has read the notice of appeal and the memorandum of the parties dated 15 January 2019.

Other relevant matters

[2] Mr Murray Palmer, Royal Forest and Bird Protection Society of New Zealand, Riversun Nursery Ltd and Mangatu Blocks Inc and Wi Pere Trust have given notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought.

[3] The Court notes that Rongowhakaata Iwi Trust is not a party to the consent memorandum, but has confirmed it does not intend to pursue any Topic 2 appeal points in the Environment Court.

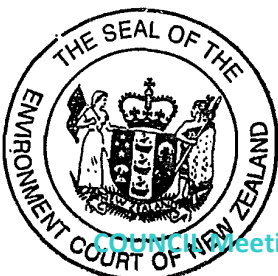
Orders

[4] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all remaining parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 7th day of March 2019


B P Dwyer
Environment Judge





Appendix 1

Amendments to the main body of the Freshwater Plan:

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

Amend definition of "*Allocation cap*" [consequential amendment to address Fish and Game's appeal point on Policy 4.1.11]

Allocation cap	The total amount of water allocated within A ₁ or B <u>or Survival Water</u> block which can be abstracted from a water quantity zone at any one time.
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Amend definition of "*Minimum flow*" [consequential amendment to address Fish and Game's appeal point on Policy 4.1.11]

Minimum flow	Is the minimum level, specified in Appendix 2 of the NPSFM or within a Catchment Plan, at which a freshwater objective may be set in order to provide for the associated national value. <u>Includes A Block minimum flows or water levels, B Block minimum flows or water levels and survival water minimum flows.</u>
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Amend definition of "*Paper allocation*"

Paper allocation	In relation to water quantity this is where water is allocated in a water permit, but is not being used by the permit holder, <u>under a reasonable use test.</u>
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Insert new definition of "Reasonable use test"

Reasonable use test	<p><u>Means a test of the technical efficiency of water use in the particular circumstances of the activity, including consideration of the water requirements for the intended land use activity; whether there are already existing resource consents for the use of water for the same area of land (either partially or totally); on-site physical factors such as soil water-holding capacity and climatic factors such as rainfall and evaporation.</u></p>
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Amend definition of "Recharge"

Recharge	<p>The addition of water to a zone of saturation; the amount of water added. <u>Recharge can be natural, induced or artificial. Recharge may be by deep percolation of rainwater through the unsaturated zone to an aquifer (natural) or from hydraulically connected lake or stream, or as leakage from an adjoining aquifer (induced).</u></p>
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Amend Policy 4.1.7

Where an allocation cap has been reached or exceeded:

- a. Renewals of existing water permits shall have priority over new applications provided that there is no increase in allocation;
- b. Renewals and transfers will be assessed against water meter records of actual past use, and any paper allocation not used will be removed;**
- ~~c. b.~~ Where a waterbody is over-allocated ~~in actual use, rather than paper only over-allocation~~, reductions of allocation will be undertaken at each ~~five-yearly~~ consent renewal until the water source is no longer over-allocated;
- c. Renewals and transfers will be assessed against water meter records of actual past use, and any paper allocation will be removed;**

...

Insert new Policy 4.1.7A [consequential amendment to address the appeals on Policy 4.1.7]

Where an application for recharge demonstrates significant positive social, cultural, and environmental effects; alongside a significant enduring reduction in over-allocation of freshwater resources; allowing an exceedance of the allocation cap may be considered



Amend Policy 4.1.9 [consequential amendment to address Fish and Game's appeal point on Policy 4.1.11]

The timing and procedures for the partial restriction of water permits will be implemented through the conditions of water permits on the following basis:

...

- f. Identification of horticultural and viticultural rootstock survival water requirements **and within** survival water allocations **and above minimum flows**; and
- g. Any specific restriction procedures identified in a catchment plan.

Amend Policy 4.1.10

When there is a water shortage declared under Section 329 of the Act, water use will **managed with particular regard to the following factors: be prioritised as follows (highest to lowest):**

- ~~a.~~ Human health and safety;
- ~~b.~~ Maintenance of animal **welfare health**;
- ~~c.~~ **The importance of A**voiding significant damage to instream ecosystems, lake ecosystems and wetlands; and
- ~~d.~~ **The desirability of providing for E**ssential use for continued operation of a business or industry.

Advice note: Section 14(3)(e) of the RMA applies despite this policy.



Guidance Policy 4.1.11

The taking and use of water to provide for the survival of horticultural or viticultural root stock may be applied to relevant water permits subject to the following criteria:

- a. The total amount of water available for survival water shall be identified in an **survival water** allocation block in the relevant catchment plan where root stock survival water is required;

b. A survival water minimum flow for the freshwater management unit, water quantity zone or river shall be set;

c. ~~b.~~ Survival water is not available:

i. beyond two weeks after A block minimum flows are reached; or

ii. if the survival water minimum flow is reached; or

iii. if there is a practicable alternative source of water available.

~~The water shall be available for up to two weeks after minimum flows are reached; and~~

~~c. There is no practicable alternative sources of water available.~~



Amend Policy 4.1.12

To help improve and maximise the efficient allocation and use of water, water permit transfers, including temporary transfers, shall be enabled provided that:

- a. The transfer of water is within the same water quantity zone;
- b. There is no increase in allocation;
- c. For over-allocated water quantity zones, there is no increase in **the water allocated beyond that assessed under the reasonable use test for the** current **actual** water use; and
- d. The transferee take and use is assessed against the relevant water permit criteria.

Amend Policy 4.1.13

In addition to the policies above, when considering applications to take and use water, the following assessment criteria shall be used:

...

- h. Access to survival water **within survival water blocks and above minimum flows, including rostering or application rates;**
- i. The effects the take or use has on any other authorised takes and uses;
- j. Whether and how fish are prevented from entering the water intake;
- k. The effects of the ~~take and use~~ **proposal** on the quantity and quality of all water resources that may be affected by the proposed activity;



by actual or potential ~~adverse~~ effects on significant indigenous biodiversity or aquatic ecosystem values identified in Schedule 1;

Amend Rule 4.1.4

Rule	Activity	Classification	Permitted Activity Standards and Matters for Control or Discretion
Rule 4.1.4	The taking and use of surface water, spring water or groundwater for the purpose of stock drinking water at rates of less than 5 litres/second per property <u>(or at not less than 1km from another take on the same property)</u> unless a Farm Environment Plan demonstrates that a larger abstraction is an efficient use of water that causes no adverse effects on any waterbodies and this has been certified by the Consent Authority.	Permitted Activity	



and Rule 4.1.6

Rule	Activity	Classification	Permitted Activity Standards and Matters for Control or Discretion
Rule 4.1.6	The renewal of water abstraction permits lawfully established before the date of notification of this Plan.	Restricted Discretionary Activity	<p>For the purpose of Rules 4.1.7 to 4.1.10 Council shall restrict its discretion, with guidance from the relevant polices, to matters a - q specified below:</p> <p>...</p> <p>k. Access to survival water, <u>within survival water blocks and above minimum flows, including rostering or application rates;</u></p> <p>...</p> <p>t. q. The requirement for an Irrigation Management Plan in accordance with Schedule 13</p>



Amend Rule 4.1.8

	Activity	Classification	Permitted Activity Standards and Matters for Control or Discretion
<p>Rule 4.1.8</p>	<p>The transfer of water permits, including temporary transfers, and partial transfers, provided that:</p> <ul style="list-style-type: none"> a. The transfer of water is within the same water quantity zone; b. There is no increase in allocation; c. For over-allocated water quantity zones, <u>the applicant demonstrates that</u> there is no increase in <u>the water allocated beyond that assessed under the reasonable use test for the</u> current <u>actual</u> water use. 	<p>Restricted Discretionary Activity</p>	<p>See matters a - t above</p>



Amendments to provisions in the Waipaoa Catchment Plan

Amend Water Quantity Objectives in the Waipaoa Catchment Plan at 2.3.2.2 (Poverty Bay Flats FMU, Waipaoa Catchment Plan)

Amend heading [consequential amendment; to correct numbering error]

~~2.4.2.2-2.3.2.2~~ Water Quantity Objectives

Amend Objective 4 [consequential amendment]

4. Allocations of water made through ~~within~~ resource consents in the Poverty Bay Flats reflects the reasonable use test. ~~actual water used by the consent holder.~~

Amend Objective 7 [consequential amendment to address Fish and Game's appeal point on Policy 4.1.11]

7. A survival water allocation block and minimum flow is provided for rootstock of permanent horticultural and viticultural crops.



2.4.3.2 Water Quantity Limits and Targets [consequential amendment to address Fish and Game's appeal point on Policy

Freshwater Management Unit	Water Quantity Zone	Monitoring Location	<u>Minimum Flow – Survival Water Block</u>	<u>Allocation Cap – Survival Water Block</u>	Minimum Flow -A Block	Allocation Cap - A Block	Minimum Flow -B Block	Allocation Cap -B Block	
Poverty Bay Flats	Waipaoa surface water	Kanakanaia	<u>1250 l/s</u>	<u>Up to 50 l/s at an application rate not exceeding 20 m³/ha/day and subject to a Council roster</u>	1300 l/s	2000 l/s	4000 l/s	2000 l/s	
			Reduction Targets: 1. Reduce A Block Allocation to 6,267,500 m ³ by 2020 2. Review minimum flows, allocation caps and total allocation in 2025						
					Root stock survival allocation for permanent horticultural and viticultural crops at an application rate not exceeding 20 m³/ha/day	Up to 50 L/s, not subject to minimum flows, but subject to a Council roster.	N/A		
		

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN MANGATU BLOCKS
INCORPORATED and WI PERE
TRUST
(ENV-2017-WLG-000087)
HORTICULTURE NEW ZEALAND
(ENV-2017-WLG-000089)
DIRECTOR-GENERAL OF
CONSERVATION
(ENV-2017-WLG-000090)
FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2017-WLG-000091)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER



[A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that the Gisborne Regional Freshwater Plan be amended as set out in Appendix 1.

[B] The appeals are otherwise dismissed.

[C] Under s 285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] The Court has read the notices of appeal and the memoranda of the parties dated 11 July 2019.

Other relevant matters

[2] The following persons gave notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought:

- Eastern Fish and Game Council;
- Mr Murray Palmer;
- Riversun Nursery Limited;
- Rongowhakaata Iwi Trust;
- Royal Forest and Bird Protection Society of New Zealand Incorporated; and
- Te Aitanga a Mahaki Trust.

Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the



relevant requirements and objectives of the Act including, in particular,
Part 2.

DATED at Wellington this 4th day of ~~November~~ December 2019

B P Dwyer
Environment Judge





Appendix 1

Amendments to the main body of the Freshwater Plan:

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

Amend definition of "Dairy Farming"

Dairy farming	Using any area of land greater than 1 ha for the farming of dairy cattle, <u>and</u> goats and sheep for milk production.
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Amend definition of "Drain" [consequential amendment]

Drain	Includes any artificial watercourse that has been constructed for the purpose of land drainage of surface or subsurface water, <u>and excludes modified watercourses.</u> and can be a farm drainage channel, an open race or subsurface pipe, tile or mole drain, or roadside water table.
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Amend definition of "Feedlot"

Feedlot	A contained area of land or yard principally used <u>principally</u> for feeding animals for intensive farming or finishing of stock. <u>keeping and feeding animals where there is limited or no dependence on natural soil quality on the</u>
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site and where feed is required to be brought to the site.

Amend definition of "Feedpad"

Feedpad	An area of artificially sealed land used principally for feeding animals <u>to which animals are brought for supplementary feeding on an occasional basis.</u>
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Amend definition of "Feed Crop"

Feed Crop	A crop <u>that is not annual or perennial grass / legume / herb pasture, which is grown as part of an animal farming operation: for the purpose of feeding animals on the same farm or farm enterprise; or to be taken off-farm.</u> <u>Note: species making up pasture are described in the Farm Technical Manual – Trafford, G. and Trafford, S. (Eds.); Lincoln University, 2011 grown as part of an animal farming operation for the purpose of feeding animals on the same farm or farm enterprise.</u>
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Amend definition of *"Intensively farmed stock"* [consequential amendment]

<p>Intensively farmed stock</p>	<p>1. Cattle or deer grazed on irrigated land or contained for breakfeeding of feed crops; 2. Dairy farming; and 3. Farming of more than 9 pigs per hectare of land; and 4. <u>Sheep farmed for milk production that are contained for breakfeeding of feed crops.</u></p>
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Delete definition of *"Intensive farming"*

<p>Intensive farming</p>	<p>Intensively farmed stock, commercial vegetable growing or cropping activities.</p>
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Amend definition of *"Modified watercourse"*

<p>Modified watercourse</p>	<p>A watercourse that meets any of following criteria:</p> <ol style="list-style-type: none"> 1. Is a river or stream that has been channelled or diverted; or 2. Is <u>or was a Drain (as defined in this regional plan)</u> constructed through a wetland or swamp, that generally follows the path of a historic natural watercourse or reasonably defined natural drainage channel; or
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- 3. Is a watercourse that has a natural headwater of either a channel or spring, and generally follows the path of a historic natural watercourse or reasonably defined natural **drainage** channel;; or:
- 4. Is the oxbow of a diverted river.

Amend Method 3.14 [consequential amendment]

Encourage and support the development of Farm Environmental Plans with priority given to intensively farmed stock, commercial vegetable growing or cropping activities. ~~more intensive farming activities.~~

Amend Rule 4.1.6 (renewal of water abstraction permits)

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 4.1.6	The renewal of water abstraction permits lawfully established before the date of notification of this Plan.	Restricted Discretionary Activity	For the purpose of Rules 4.1.7 to 4.1.10 Council shall restrict its discretion, with guidance from the relevant polices, to matters a - q specified below: ... q. The effects of the take and use on the quantity and quality



			of all water resources, <u>including wetlands</u> , that may be affected by the proposed activity;
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Amend Policy 5.1.6²

Where a water quality objective is not being met or a limit/target has been exceeded or the waterbody, including coastal waters, is identified as degraded:

- a. Targets, methods and timeframes for improvements in water quality will be identified through the catchment planning process;
- b. Ongoing monitoring will be undertaken to track the progress in water quality improvement;
- c. New discharges and renewals of existing discharge consents will be managed to:

i. Assist the improvement of water quality in the receiving waterbody bring the waterbody back within the and meet the relevant water quality limit targets; and/or to

ii. Better achieve the relevant freshwater water quality objective(s) for the receiving waterbody;

- d. No discharge consents for new point source discharges of contaminants of concern will be issued unless the contaminants of concern are reduced to a concentration that maintains or improves water quality after reasonable mixing;
- e. As existing discharge consents are renewed additional requirements for avoidance of contamination, recovery of contaminants, treatment, or alternative disposal methods will be required unless treatment reduces the contaminants of concern to a concentration that maintains or improves water quality after reasonable mixing; and
- f. Where a section 128 review of conditions of an existing discharge consent is undertaken additional conditions aimed at bringing the waterbody back within the limit, or to better achieve the freshwater quality objectives, may be placed on the consent.

² The proposed addition of "including coastal waters" to the first line of Policy 5.1.6 is an amendment that was agreed at the Topic 1 (RPS provisions) mediation in May 2018 and was reflected in the Topic 1 consent documentation, filed with the Court on 7 August 2018.



Amend Policy 5.1.8

When considering applications to discharge contaminants directly to land or water, assessment criteria are:

- a. The total contaminant load of the discharge [composition/flow rate] and how the water quality will be maintained within the limits for the waterbody, in a manner **consistent with achieving that achieves** the objectives;

Amend Rule 5.1.8

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.1.8	The discharge of water from rural field and tile drainage systems where no pumping occurs, groundwater pump tests and other temporary groundwater level lowering activities.	Permitted activity	... c. The discharge <u>after reasonable mixing</u> shall not contribute to elevated bacterial, nutrient or other chemical contaminant concentrations in the receiving waterbody into which the discharge shall occur.

Amend Rule 5.1.12



	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<p>Rule 5.1.12</p>	<p>The discharge of pumped rural tile drainage water except directly to Schedule 3: Regionally Significant Wetlands and Schedule 4: Outstanding Waterbodies provided that the discharge:</p> <p>...</p>	<p>Restricted Discretionary Activity</p>	<p>Council shall restrict its discretion to matters a-e specified below:</p> <p>...</p> <p>d. Measures to avoid, remedy or mitigate the adverse effects of the rural tile drainage water on:</p> <p>...</p> <p>iii. The water quality in the receiving watercourse, <u>in a manner that is consistent with ensuring including any measures to ensure</u> that the discharge does not lead to freshwater objectives not being met or an exceedance of instream limits</p>



Amend Policy 5.4.1

Discharges of solids and fertilisers to land should be managed so that **any relevant** freshwater objectives are met and water quality is maintained within ~~the~~ **any relevant** limits for that freshwater body or improved where degraded.

Amend Policy 5.4.6

When considering applications to discharge solid or fertiliser contaminants to land or water, assessment criteria are:

...

- d. Any effects of leachate and stormwater on groundwater, surface water and coastal water and whether it is maintained within ~~the~~ **any relevant** limits for the receiving waterbody, and **whether those effects are consistent with achieving the any relevant** objectives for that waterbody ~~are met~~;

...



Amend Rule 5.3.2

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.3.2	Diffuse discharges from dairy farming and intensively farmed stock activities lawfully established prior to 14 October 2015.	Permitted Activity	<p>a. From 1 May 2021, intensively farmed stock activities shall have prepared and submitted to the Consent Authority a Farm Environment Plan which has been certified by the Consent Authority as meeting the requirements outlined in Schedule 11. All dairy farming and intensively farmed stock activities shall be carried out in accordance with the actions and timeframes specified in the certified Farm Environment Plan. An annual report will be provided to the Consent Authority on the implementation of the Farm Environment Plan; except that</p> <p>b. Where the area of dairy farming or intensively farmed stock is less than 5 hectares, a Farm Environment Plan is not required provided that the activity complies with the following standards:</p> <p>...</p> <p>c. From 1 July 2017, where dairy farming or <u>Where the area of intensively farmed stock is 5 hectares or greater and</u></p>



			<p>intensively farmed stock activities are within a paddock adjoining a waterbody, all livestock shall be excluded from:</p> <p><u>5 metres from the top of the bank or edge of any permanently flowing stream, lake or wetland;</u> and</p> <p><u>i.</u> within 10 metres of the top of the bank or edge of:</p> <p><u>a.</u> any Aquatic Ecosystem Waterbody identified in Schedule 1; or</p> <p><u>b.</u> any Outstanding Waterbody identified in Schedule 4; or</p> <p><u>c.</u> any Regionally Significant Wetland identified in Schedule 3; <u>and</u></p> <p><u>ii. 5 metres from the top of the bank or edge of any other permanently flowing stream, lake or wetland;</u></p> <p>...</p> <p><i>Advisory Note:</i> Stock access to the beds of rivers and lakes including stock crossings <i>not addressed by this rule is are also</i> subject to Rules 6.3.2 and 6.3.3.</p>
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Amend the second advisory note to Rule 5.3.3

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.3.3	Diffuse discharges from commercial vegetable growing and cropping activities lawfully established prior to the 14 October 2015.	Permitted Activity	... <i>Advisory Note: Refer to the definitions of Intermittent Stream and Modified Watercourse as because many “drains” are likely to meet these definitions and the requirements of the rule.</i>

Amend Rule 5.3.4

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.3.4	Diffuse discharges from new commercial vegetable growing, cropping, dairy farming and intensively farmed stock	Permitted Activity	a. A Farm Environment Plan which has been certified by the Consent Authority as meeting the requirements outlined in Schedule 11 must be prepared and submitted to the Consent Authority prior to the commencement of the activity. All



<p>activities established after 14 October 2015 except where they are within 20 metres of an Outstanding Waterbody identified in Schedule 4.</p> <p><u>Commercial vegetable growing and cropping on land that has been used for that activity within the previous 10 years is not considered “new” for the purposes of this rule, and Rule 5.3.3 applies.</u></p>		<p>commercial vegetable growing, cropping, dairy farming and intensively farmed stock activities must be carried out in accordance with the actions and timeframes specified in the certified Farm Environment Plan. An annual report shall be provided to the Consent Authority on the implementation of the Farm Environment Plan. <u>Farm Environment Plans are only required under this activity standard for the area of land where the activity classified as “new” under this rule is being undertaken;</u></p> <p>b. ...</p> <p>c. All permanent and intermittent streams and rivers that are crossed by formed stock crossings crossings as part of the intensively farmed stock activity shall be bridged or culverted. This must be done by 1 July 2019 or when the activity is established if after this date. However, cattle, deer and pigs are able to enter waterbodies for the purpose of crossing from one side to the other provided:</p> <p>...</p> <p><u>Advisory Note: The discharge of dairy farm effluent to land is a discretionary activity in accordance with Rule 5.1.14.</u></p> <p><u>Advisory Note: Stock access to the beds of rivers and lakes</u></p>
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including stock crossings not addressed by this rule is subject to Rules 6.3.2 and 6.3.3.

Insert new Rule 5.3.7A [consequential amendment] (to resolve Federated Farmers' appeal point on Rule 5.3.7)

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<u>Rule 5.3.7A</u>	<u>Diffuse discharges from the use of feedpads.</u>	<u>Permitted Activity</u>	<p>a. <u>The feedpad is not located in a flood hazard overlay;</u></p> <p>b. <u>The base of the feedpad is no less than 0.5m above the highest level of the water table;</u></p> <p>c. <u>The feedpad is not located within 50 metres of:</u></p> <ul style="list-style-type: none"> i. <u>a surface waterbody, sub-surface drain, lake or artificial watercourse,</u> ii. <u>a bore used for water abstraction</u> iii. <u>a Protection Management Area identified in the Combined</u>



			<p><u>Plan;</u></p> <ul style="list-style-type: none"> iv. <u>the Coastal Marine Area</u> v. <u>the boundary of the site</u> vi. <u>another feed pad on the same property;</u> <p>d. <u>The feedpad is not located within 250 metres of the intake point of a community water supply;</u></p> <p>e. <u>The feedpad is constructed with an impermeable base that has a permeability no greater than 10⁻⁹ m/s (0.000000001 m/s).</u></p> <p>f. <u>Any liquid animal effluent or stormwater containing animal effluent discharging from the feed pad is collected in an animal effluent storage system for which consent has been granted under Rule 5.1.14 or Rule 5.1.15.</u></p> <p>g. <u>Any material scraped from the feedpad, including solid animal waste, is collected and if applied to land is applied in accordance with Rule 5.4.5;</u></p> <p>h. <u>The overland flow of stormwater or surface runoff from surrounding land is prevented from entering the feed pad and any area of pugging/treading damage/soil and pasture</u></p>
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			<u>damage around the feedpad.</u>
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Insert new Rule 5.3.7B [consequential amendment] (to resolve Federated Farmers' appeal points on Rules 5.3.2 and 5.3.4)

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<u>Rule 5.3.7B</u>	<u>Diffuse discharges from intensively farmed stock activities lawfully established prior to 14 October 2015 that cannot meet permitted activity standard (b) or (c) of Rule 5.3.2.</u>	<u>Restricted Discretionary activity</u>	<u>Council shall restrict its discretion to the matters specified below:</u> <ul style="list-style-type: none"> <u>a. Location of the activity;</u> <u>b. Timing and duration of activity;</u> <u>c. Effects on bank erosion;</u> <u>d. Effects on fisheries and ecosystem health including 'threatened' or 'at-risk' species;</u> <u>e. Effects on water quality and the values of scheduled waterbodies;</u> <u>f. Effects on mauri, wāhi tapu and any cultural values identified by tangata whenua;</u>



			<u>g. Effects on natural character, landscape and amenity values.</u>
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Insert new Rule 5.3.7C [consequential amendment] (to resolve Federated Farmers' appeal points on Rules 5.3.2 and 5.3.4)

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<u>Rule 5.3.7C</u>	<p><u>Diffuse discharges from new commercial vegetable growing, cropping and intensively farmed stock activities established after 14 October 2015 that are:</u></p> <p>a. <u>Not located within 20 metres of an Outstanding Waterbody identified in Schedule 4; and</u></p> <p>b. <u>Cannot meet permitted activity standard (b)</u></p>	<p><u>Restricted Discretionary activity</u></p>	<p><u>Council shall restrict its discretion to the matters specified below:</u></p> <p>a. <u>Location of the activity;</u></p> <p>b. <u>Timing and duration of activity;</u></p> <p>c. <u>Effects on bank erosion;</u></p> <p>d. <u>Effects on fisheries and ecosystem health including 'threatened' or 'at-risk' species;</u></p> <p>e. <u>Effects on water quality and the values of scheduled waterbodies;</u></p> <p>f. <u>Effects on mauri, wāhi tapu and any cultural values identified</u></p>



for Rule 5.3.4.

by tangata whenua;

g. Effects on natural character, landscape and amenity values.

Amend Rule 5.3.7

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.3.7	The discharge of runoff from feedlots and feedpads.	Discretionary Activity	

Amend Rule 5.4.1

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.4.1	Discharges from application of fertiliser	Permitted Activity	a. Fertiliser shall be stored or discharged in accordance with good management practices as identified in the Fertiliser Association of New Zealand's Code of Practice for Nutrient Management (2013) <u>or in the case of commercial vegetable cropping, Horticulture</u>



			<p><u>NZ's Code of Practice for Nutrient Management (August 2014, Version 1.0);</u></p> <p>b. ...</p> <p>c. For activities that require a Farm Environmental Plan under section 5.3, the magnitude and timing of fertiliser applications throughout the year and the total annual application must be specified in a Farm Environment Plan that has been certified by the Council. The Farm Environment Plan must demonstrate that the timing and magnitude of fertiliser applications is managed to maximiz<u>e</u> plant uptake and to minimiz<u>e</u> loss of nutrients to <u>freshwater, whether directly or indirectly the environment. In catchments where waterways are degraded due to nutrient related effects, the Farm Environment Plan must demonstrate how a meaningful improvement in nutrient related effects will be achieved in order for their Farm Environment Plan to be certified.</u></p> <p>...</p>
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Amend Rule 5.4.5 [consequential amendment]

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.4.5	The discharge of solid animal waste (excluding any discharge directly from an animal to land), or vegetative material, including from <u>intensively farmed stock, commercial vegetable growing or cropping activities</u> intensive farming , into or onto land, or into or onto land in circumstances where a contaminant may enter water.	Permitted Activity	...



Amend Method 5.3.1 [consequential amendment]

Council will work with industry organisations such as HortNZ, Dairy NZ, Foundation for Arable Research, Fertiliser Association of NZ, and Beef and Lamb New Zealand to ensure that good management practice guidelines for different types of **intensively farmed stock, commercial vegetable growing or cropping activities** ~~intensive farming~~ in Gisborne conditions are available.

Amend Method 5.3.4

Require Farm Environment Plans **by 1 July 2021** where intensively farmed stock, commercial vegetable growing and cropping activities are undertaken and encourage their development for all primary production and horticultural land use activities. **Council will endeavour to undertake a sub-catchment-based approach to the development of Farm Environment Plans and will work collaboratively with sector organisations and other stakeholders to implement Farm Environment Plans.**



Amendments to Schedule 11 to the Freshwater Plan: Requirements of Farm Environment Plans (Schedule 11 is reproduced below in its entirety):

~~Schedule 11: Requirements of Farm Environment Plans~~

Schedule 11: Requirements of Farm Environment Plans (FEPs)

Part A — Farm Environment Plan (FEP) Requirements

1.0 ~~An FEP plan~~ shall be prepared for:

- a. ~~a~~**An individual** property or farm enterprise; or
- b. ~~f~~**For an individual** property as part of a collective such as a community irrigation scheme or an Industry Certification Scheme;

2.0 For properties or farm enterprises greater than 5,000 ha in area, where the requirement for an FEP is triggered by Rules 5.3.2, 5.3.3 and/or 5.3.4, the FEP may, at the landowner's option, be limited to either:

- a. **the property or properties as defined by the certificate(s) of title for the area within which intensively farmed stock, commercial vegetable growing or cropping activities are occurring; or**
- b. **the farm enterprise.**

3.0 The ~~FEP plan~~ must identify the relevant environmental issues for each land use activity **within the area covered by the FEP** and the methods that will be used to manage each activity to avoid, remedy or mitigate adverse environmental effects. **Except where clause 2.0**



applies, ~~the FEP plan~~ must cover the whole property or farm enterprise farm but only needs to provide sufficient detail in terms of the issues relevant to the effect(s) that is managed by the rule(s) triggering the FEP that are most relevant; and

4.0 Shall be prepared using a Gisborne District Council template or based on an industry prepared template that has been approved by the Council in its capacity as Consent Authority.

5.0 The FEP plan shall contain as a minimum:

5.1 Property or farm enterprise details:

- a. Physical address
- b. Owner(s), manager and name of a contact person;
- c. Farm name(s) and legal description(s) of the land;
- d. Farm Enterprises and size of operation (hectares);
- e. Existing farm management policy, including stock types and classes, numbers wintered, feed supplement inputs, fertiliser input and winter management;
- f. Annual and permanent crops grown;
- ~~g. Goals and Objectives of the business.~~

5.2 A map(s) or aerial photograph of the area that is the subject of the FEP at a scale that clearly shows:

- a. The boundaries of the area that is the subject of the FEP; ~~the property or land areas comprising the farm enterprise~~;



- b. The boundaries of the following main land management units ~~on the property or within the farm enterprise~~:
- Irrigated areas
 - Flat to easy rolling land
 - Rolling to medium steep land
 - Steep land
 - Cropping
 - Effluent irrigation area
 - Run-off
- c. The location of permanent and intermittently flowing rivers, streams, lakes, drains, ponds, dams and wetlands;
- d. The location of riparian vegetation and fences (permanent and temporary) adjacent to water bodies;
- e. The locations on all waterways where stock access or stock crossing occurs i.e. bridges and culvert crossings;
- f. The location of any areas within or adjoining the property that are identified in the District Plan as “Protection Management Areas”.

[The amendments to 5.2 above are consequential amendments]

5.3 Nutrient Budget for the area that is the subject of the FEP



- a. A basic nutrient budget for nitrogen and phosphorus which indicates how nitrogen and phosphorus are coming onto the farm, where they are going and the levels that may be lost by leaching or run-off; except for
- b. Dairy Farms, properties that operate feedlots and properties that collect effluent, the nutrient budgets shall be prepared by a suitably qualified person, using the OVERSEER™ nutrient budget model, or equivalent model approved by the Shared Services Science Manager of the Gisborne District Council, ~~for each of the identified land management units and the overall farm or farm enterprise.~~

[The amendments to 5.3 above are consequential amendments]

5.4 A list of all Gisborne District Council resource consents held for the property or farm enterprise.

5.5 For the following objectives, the **FEP plan** shall provide an assessment of the adverse environmental effects and risks associated with the farming activities and how the identified effects and risks will be managed:

- a. Nutrient management: to maximise nutrient use efficiency while minimising nutrient losses to water in order to **contribute to maintaining** and **enhancing** water quality e.g. phosphorus loss, nitrogen leaching and weed control.
- b. Irrigation management: to operate irrigation systems efficiently and ensuring that the actual use of water is monitored and is efficient.
- c. Soils management: to maintain or improve the physical and biological condition of soils in order to ensure the sustainability of the soil resource and minimise the movement of sediment, phosphorus and other contaminants into waterways in order to **contribute to maintaining and enhancing** ~~maintain and enhance~~ water quality e.g. drainage, erosion control, sediment ponds and soil compaction prevention.

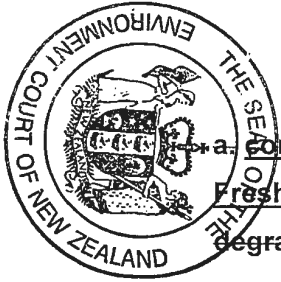


- d. Collected animal effluent management: to manage the risks associated with the operation of effluent systems in order to maintain and enhance water quality and to ensure effluent systems are compliant with Gisborne District Council standards at all times.
- e. Livestock management: To manage wetlands and water bodies to maintain and enhance water quality, so that stock are excluded from water, to avoid damage to the bed and margins of a water body, and to avoid the direct input of nutrients, sediment and microbial pathogens.
- f. Offal pits: To manage the number and locations of pits to minimise risks to health and water quality.
- g. Field drains: to assess potential contamination through field tiles and to manage activities and discharges to **contribute to improving** improve the quality of degraded waterbodies, and to **contribute to maintaining or improving** ~~maintain or improve~~ other waterbodies.

5.6 For each of the objectives listed in section 5.5, the FEP plan shall include for each objective above:

- a. detail appropriate with the scale of the environmental effects and risks;
- ~~b. defined measurable actions or targets (as relevant) that clearly set a pathway and timeframe for achievement;~~
- ~~e. b.~~ a description of the good management practices **proposed to be undertaken** together with defined measurable **actions and/or targets in the FEP (as relevant) actions required** and the timeframes for implementation/**achievement**;
- ~~d. c.~~ the records required to be kept for measuring performance and achievement of the **actions and/or targets in the FEP**.

6.0 The **FEP plan** shall contain a schedule of actions that will be undertaken to:



~~a. Contribute to freshwater objectives, limits or targets being met in a waterbody that is currently degraded (as defined in the Freshwater Plan). Improve the relevant water quality parameters where the activities on the property or farm impact on a degraded waterbody identified in a catchment plan; or~~

~~b. Maintain or improve water quality in all other waterbodies that may be affected by the activities on the property or farm.~~

7.0 The **FEP Farm Environment Plan** shall be certified as meeting all of these requirements by ~~the Shared Services Science Manager of~~ the **Consent Authority Gisborne District Council** to ensure that key issues have been identified, and that appropriate actions are planned to address those issues.

8.0 Achievements shall be recorded yearly, and changes in freshwater quality, soil condition, and natural biodiversity (if relevant) are to be monitored every five years.

9.0 The **FEP Farm Environment Plan** and all associated records shall be reviewed by the Shared Services Science Manager of the Gisborne District Council every five years.

Part B—Schedule for Farm Environment Plan's

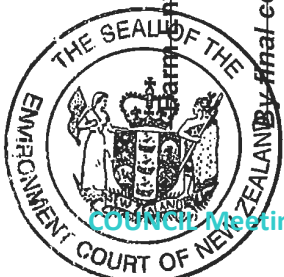
By 30 June 2018

~~– Farm Environment Plans for pastoral properties with >20 hectares of intensively farmed stock – this includes the 5 dairy farms and is estimated at a total of 10 plans required.~~

~~– Farm Environment Plans for arable and cropping properties with >50 hectares of crops – this will include Leaderbrand, JuddCo and other major suppliers of vegetables as well as the largest arable farms and is estimated at a total of 50 plans required.~~

By 30 June 2019

~~– Farm Environment Plans for pastoral properties with >10 hectares of intensively farmed stock – estimate 30 plans required~~



~~Farm Environment Plans for arable and cropping properties with >20 hectares of crops. Estimate a total of 100 plans required.~~

~~Final compliance date 2020~~

~~Farm Environment Plans for all other properties with intensively farmed stock—estimate 15 plans.~~

~~Farm Environment Plans for all other arable and cropping properties.~~



Amendments to the provisions in the Waipaoa Catchment Plan:

Amend Table 2.2.1.1 Water Quality Objectives table (Waipaoa Hill Country FMU, Waipaoa Catchment Plan) [consequential amendment]:

2.2.1.1 Water Quality Objectives

Attribute	Limit	Target
...
Physical habitat	Rivers and their riparian margins continue to provide good and diverse habitat for the naturally occurring range of native invertebrate, fish and bird species. Fish are able to utilise their full range of habitats, including spawning and migratory habitat, unimpeded by artificial barriers, <u>artificial increases in water temperature,</u> or adverse land use impacts.	
...



Amend Table 2.2.2.1 Water Quality Limits and Targets table (Waipaoa Hill Country FMU, Waipaoa Catchment Plan):

2.2.2.1 Water Quality Limits and Targets

Attribute	Limit	Target
Temperature	Annual summer 1 day hottest day temperatures are $\leq 21^{\circ}\text{C}$	Improve the annual summer 1 day hottest temperature levels in the Waingaromia River to $\leq 21^{\circ}\text{C}$ by 2030
Suspended sediment and/or Turbidity	Sediment inputs from land use are managed through FEPs and consent conditions to achieve clarity and deposited fine sediment objectives Numeric limits to be defined when sufficient monitoring data becomes available ⁴	Numeric targets To be defined when sufficient monitoring data becomes available ⁴ <u>Until the numeric targets are defined the narrative target is to improve the median suspended sediment levels in the Waingaromia, Upper Waipaoa and Mangatu Rivers by 2067.</u>
Dissolved Inorganic Nitrogen	DIN inputs from land use are managed through FEPs and consent conditions to achieve the periphyton objective Numeric limits to be defined when	To be defined when sufficient monitoring data becomes available ⁴ DIN to be controlled through FEPs and resource consents to achieve periphyton objective in Waingaromia Catchment by 2030 and MCI objective in



	sufficient monitoring data becomes available ⁴	both the Waingaromia and Mangatu Rivers by 2030
Dissolved Reactive Phosphorus	<p>DRP inputs from land use are managed through FEPs and consent conditions to achieve the periphyton objective</p> <p>Numeric limits to be defined when sufficient monitoring data becomes available⁴</p>	<p>To be defined when sufficient monitoring data becomes available⁴</p> <p>DRP to be controlled through FEPs and resource consents to achieve periphyton objective in Waingaromia Catchment by 2030 and MCI objective in both the Waingaromia and Mangatu Rivers by 2030</p>

⁴ It is preferable for the plan to set numeric limits for DIN, DRP, suspended sediment, ~~turbidity~~ and river flow as these have impacts on achieving the objectives that have been set. However, at the time of plan preparation there is insufficient data to justify numeric limits that relate to those objectives. Consequently, monitoring and reporting is proposed in the Methods to establish appropriate limits by 2025. ~~In the absence of numeric limits the policies and rules of the plan, and in particular the requirement for FEPs, provide mechanisms to achieve the objectives.~~



Amend Method 1(c) for Waipaoa Hill Country FMU (Waipaoa Catchment Plan, at 2.2.3) [consequential amendment]:

1. Council will:

...

- c) Review the freshwater objectives and associated limits, with a view to establishing appropriate limits, as part of scheduled plan review in 2025.

Amend Method 2(c) for Waipaoa Hill Country FMU (Waipaoa Catchment Plan, at 2.2.3) [consequential amendment]:

2. Council will:

...

- c) Review the freshwater objectives and associated limits, with a view to establishing appropriate limits, as part of scheduled plan review in 2025.

Amend Method 3 for Waipaoa Hill Country FMU (Waipaoa Catchment Plan, at 2.2.3) [consequential amendment]:

- 3. Undertake a ~~Waingaromia~~ riparian planting programme to address periphyton and temperature levels ~~in the river~~. The programme will, as a priority, target the Waingaromia River catchment and small streams across the Waipaoa Hill Country FMU.



Insert new Method 13 for Waipaoa Hill Country FMU (Waipaoa Catchment Plan, at 2.2.3) [consequential amendment]:

13. In the absence of numeric limits the policies and rules of the plan, and in particular the requirement for FEPs, provide mechanisms to minimise loss of DIN, DRP and suspended sediment from individual properties (through good practice water, nutrient, soil and stock management), and thus contribute to achieving the objectives defined for periphyton, MCI, clarity and deposited fine sediment.

Amend Table 2.4.2.1 Water Quality Objectives table (Poverty Bay Flats FMU, Waipaoa Catchment Plan) [consequential amendment]:

2.4.2.1 Water Quality Objectives

Attribute	Limit	Target
...
Physical habitat	Physical habitat, riparian margins and flow are modified but provide areas for some invertebrates and birds, and for some native fish species to spawn and live. Habitat primarily provides for less sensitive species such as shortfin and longfin eel (tuna) and inanga, including inanga spawning habitat.	



	<p>Other native fish are more likely to move through to the upper reaches where they live, and are able to do so unimpeded by artificial barriers or adverse land use impacts. The retention or restoration of suitable littoral and riparian vegetation can greatly enhance the values of the lowland river reaches for upstream juvenile fish migration and freshwater eel downstream spawning migration.</p> <p><u>Fish are able to utilise their full range of habitats, including spawning and migratory habitat, unimpeded by artificial increases in water temperature.</u></p>	
<p>...</p>	<p>...</p>	<p>...</p>

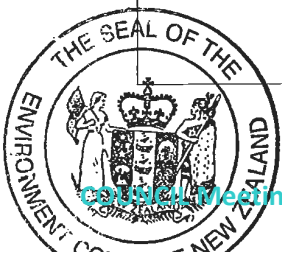


Amend Table 2.4.3.1 Water Quality Limits and Targets table (Poverty Bay Flats FMU, Waipaoa Catchment Plan):

2.4.3.1 Water Quality Limits and Targets

Attribute	Limit	Target
Temperature	Annual summer 1 day hottest day temperatures are $\leq 25^{\circ}\text{C}$	
Suspended sediment	<p>Sediment inputs from land use are managed through FEPs and consent conditions to achieve clarity objective</p> <p>Numeric limits to be defined when sufficient monitoring data becomes available⁷</p>	<p><u>To be defined when sufficient monitoring data becomes available.</u>⁷</p> <p>Sediment inputs from land use are managed through FEPs to achieve clarity and deposited fine sediment objectives⁷</p>
Dissolved Inorganic Nitrogen	<p>DIN inputs from land use are managed through FEPs and consent conditions to achieve periphyton and MCI objectives</p> <p>Numeric limits to be defined when sufficient monitoring data becomes</p>	<p><u>To be defined when sufficient monitoring data becomes available.</u>⁷</p> <p>DIN inputs from land use are managed through FEPs and resource consents to achieve the periphyton objective⁷</p> <p>DIN to be controlled through FEPs and resource</p>

<p>consents to achieve MCI objective by 2035 and periphyton, DO, nitrate toxicity and ammonia toxicity objectives in the Taruheru Water Quantity Zone by 2035</p>	<p>available</p>	
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<p>Dissolved Reactive Phosphorus</p>	<p>DRP inputs from land use are managed through FEPs and consent conditions to achieve periphyton and MCI objectives</p> <p>Numeric limits to be defined when sufficient monitoring data becomes available⁷</p>	<p><u>To be defined when sufficient monitoring data becomes available.</u>⁷</p> <p>DRP inputs from land use are managed through FEPs and resource consents to achieve the periphyton objective⁷</p> <p>DRP to be controlled through FEPs and resource consents to achieve MCI objective by 2035 and periphyton, DO, nitrate toxicity and ammonia toxicity objectives in the Taruheru Water Quantity Zone by 2035</p>
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⁷ It is preferable for the plan to set numeric limits for DIN, DRP, suspended sediment, ~~turbidity~~ and river flow as these have impacts on achieving the objectives that have been set. However, at the time of plan preparation there is insufficient data to justify numeric limits that relate to those objectives. Consequently, monitoring and reporting is proposed in the Methods to establish appropriate limits by 2025. ~~In the absence of numeric limits the policies and rules of the plan, and in particular the requirement for FEPs, provide mechanisms to achieve the objectives.~~



Amend Method 1(c) for Poverty Bay Flats FMU (Waipaoa Catchment Plan, at 2.4.4) [consequential amendment]:

1. Council will:

...

c) Review the freshwater objectives and associated limits, with a view to establishing appropriate limits, as part of scheduled plan review in 2025.

Amend Method 2(c) for Poverty Bay FMU (Waipaoa Catchment Plan, at 2.4.4) [consequential amendment]:

2. Council will:

...

c) Review the freshwater objectives and associated limits, with a view to establishing appropriate limits, as part of scheduled plan review in 2025.

Insert new Method 13 for Poverty Bay Flats FMU (Waipaoa Catchment Plan, at 2.4.4) [consequential amendment]:

13. In the absence of numeric limits the policies and rules of the plan, and in particular the requirement for FEPs, provide mechanisms to minimise loss of DIN, DRP and suspended sediment from individual properties (through good practice water,



efficient soil and stock management), and thus contribute to achieving the objectives defined for periphyton, MCI, clarity and deposited fine sediment.

Insert new Method 14 for Poverty Bay Flats FMU (Waipaoa Catchment Plan, at 2.4.4) [consequential amendment]:

14. Undertake a riparian planting programme to address temperature levels in the river. The programme will, as a priority, target small streams across the Poverty Bay Flats FMU.

Delete the following tables set out on pages 386 to 394 of the Decisions Version of the Freshwater Plan, in the Waipaoa Catchment Plan:

- "Water Quality Limits: pH";
- "Water Quality Limits: Temperature";
- "Water Quality Limits: Dissolved Oxygen";
- "Water Quality Limits: Ammonia Toxicity";
- "Water Quality Limits: Nitrate toxicity" [consequential amendment];
- "Water Quality Limits: Dissolved Reactive Phosphorus";



- "Water Quality Limits: Sediment";
- Water Quality Limits: E. Coli"; and
- "Freshwater Quality Limits – Summary Table" **[consequential amendment]**



Amend "Summary of Numeric Objectives" table (pages 395 to 397 of Decisions Version of the Freshwater Plan, in the Waipaoa Catchment Plan) to delete each column with the heading "Objective Status"

Summary of Numeric Objectives⁹

Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
Periphyton (trophic state)	Chlorophyll A ≤ 120mg chl-a/m ² (NOF Band B)	Current state¹⁰	Chlorophyll A ≤ 50mg chl-a/m ² above Pykes Weir (NOF Band A) and ≤ 120mg chl-a/m ² below Pykes Weir (NOF Band B),	Current state¹⁰	Chlorophyll A ≤ 120mg chl-a/m ² (NOF Band B) In the Whakaahu Stream and in the Taruheru River Chlorophyll A ≤ 200mg chl-a/m ² (NOF Band C)	Not met at this time in Whakaahu Stream and Taruheru River¹⁰	N/A	
Macroinvertebrate Community Index (MCI)	MCI >100	Current state except in Waingaromia and Mangatu Rivers¹⁰ where the Objective is not currently met	MCI ≥100 above Pykes Weir. MCI ≥ 80 below Pykes Weir	Not currently met below Pykes Weir¹⁰	MCI ≥ 80	Not currently met¹⁰	N/A	
Dissolved Oxygen	Summer 1-day	Expected to	Summer 1-	Expected	Waipaoa	Expected	Summer 1-	Expected



Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
INTERIM OBJECTIVE (a default position until sufficient monitoring data has been collected to confirm the current state)	minimum \geq 7.5mg/L Summer 7-day minimum \geq 5.0mg/L (NOF Band C)	be current state ¹⁰	day minimum \geq 5mg/L Summer 7-day mean minimum \geq 5.0mg/L (NOF Band C)	to be current state ¹⁰	Water Quality Zone Summer 1-day minimum \geq 7.5mg/L Summer 7-day minimum \geq 5.0mg/L (NOF Band C)	to be current state ¹⁰	day minimum \geq 5mg/L Summer 7-day mean minimum \geq 5.0mg/ (NOF Band C)	to be current state ¹⁰
					Taruheru Water Quality Zone Summer 1-day minimum \geq 4mg/L Summer 7-day minimum \geq 5.0mg/L (NOF Band C)	Not currently met ¹⁰	In the Waikanae Stream and Awapuni Moana Summer 1-day minimum \geq 4mg/L Summer 7-day mean minimum \geq 5.0mg/ (NOF Band C)	Not currently met ¹⁰
Ecosystem toxicity - nitrate	Annual median \leq 1.0mg/L	Current state	Annual median	Current state	Waipaoa Water Quality Zone	Current state	Annual median \leq 1.0mg/L	Current state ¹⁰



Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
	Annual 95 th Percentile ≤1.5mg/L (NOF Band A)		≤1.0mg/L Annual 95 th Percentile ≤1.5mg/L (NOF Band A)		Annual median ≤1.0mg/L Annual 95 th Percentile ≤1.5mg/L (NOF Band A)		Annual 95 th Percentile ≤1.5mg/L (NOF Band A)	
					Taruheru Water Quality Zone Annual median ≤ 1.0 mg/L Annual 95 th Percentile ≤3.5 mg/L (NOF Band B)	95 th Percentile Objective not currently met	Awapuni Moana Annual median ≤2.4mg/L Annual 95 th Percentile ≤3.5mg/L (NOF Band B)	
Ecosystem toxicity - ammonia	Annual median ≤0.03mg/L NH ₄ -N/L Annual Maximum ≤0.05 mg/L NH ₄ -N/L (NOF Band A)	Current state	Annual median ≤0.03mg/L NH ₄ -N/L Annual Maximum ≤0.05 mg/L NH ₄ -N/L (NOF Band A)	Current state	Waipaoa Water Quality Zone Annual median ≤0.03mg/L NH ₄ -N/L Annual Maximum ≤0.40 mg/L NH ₄ -N/L (NOF Band	Current state	Annual median ≤1.3mg/L NH ₄ -N/L Annual Maximum ≤2.20 mg/L NH ₄ -N/L (NOF Band C)	Current state



Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
					B)			
					Taruheru Water Quality Zone Annual median $\leq 0.24\text{mg/L}$ NH4 -N/L Annual Maximum $\leq 0.40\text{ mg/L}$ NH4 -N/L (NOF Band B)	Objective not currently met		
E.coli	Annual median and 95 th percentile $\leq 260\text{ cfu/100mL}$ (NOF Band A)	Current state	Annual median and 95 th percentile $\leq 540\text{ cfu/100mL}$ (NOF Band B)	Current state	Annual median and 95 th percentile $\leq 540\text{ cfu/100mL}$ (NOF Band B)	Current state	N/A	
	In the Wharekopae River Annual median $\leq 260\text{ cfu/100mL}$ and Annual 95 th Percentile $\leq 540\text{ cfu/100mL}$	Objective not currently met						



Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
	(NOF Band B)							
Enterococci	N/A						Annual median ≤ 280 cfu/100mL Annual 95th percentile ≤ 500 cfu/100mL	Not currently met
Clarity	With the exception of the Waingaromia, Upper Waipaoa and Mangatu Rivers, visual clarity ≥0.5m at less than median flows	Current state⁴⁰	visual clarity ≥0.5m at less than median flows	Current state⁴⁰	Except for the Waipaoa River mainstem visual clarity ≥0.5m at less than median flows	Current state⁴⁰	Visual Clarity in freshwater streams ≥ 0.5m at less than median flows	Current state⁴⁰
Physical Habitat	Narrative Objective	Current state⁴⁴	Narrative Objective	Current state⁴⁴	Narrative Objective	Objective not currently met⁴²	Narrative Objective	Current state⁴⁴
Deposited fine sediment	No numeric objective set at this time	Thought to be met — more monitoring needed	No numeric objective set at this time	Thought to be met — more monitoring	No numeric or narrative objective set at this time	N/A		



Objective Attribute	Waipaoa Hill Country FMU		Te Arai FMU		Poverty Bay Flats FMU		Gisborne Urban FMU	
	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status	Numeric Objective	Objective Status
				needed				
Fish	Narrative Objective	Current state⁴⁴	Narrative Objective	Current state⁴⁴	Narrative Objective	Objective not currently met⁴²	Narrative Objective	Current state⁴⁴
Birds	Narrative Objective	Current state⁴⁴	Narrative Objective	Current state⁴⁴			Narrative Objective	Current state⁴⁴

⁹ This is a summary of the metric however the full objective should be read in the relevant section of the Waipaoa Catchment Plan

⁴⁰ ~~Based on limited monitoring data currently held, however more monitoring will be needed to confirm this~~

⁴⁴ ~~The narrative objective is considered to be currently met at this time~~

⁴² ~~The narrative objective is not considered to be met at this time~~

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2017-WLG-000089)
FEDERATED FARMERS OF NEW
ZEALAND
(ENV-2017-WLG-000091)
EASTERN FISH AND GAME COUNCIL
(ENV-2017-WLG-000093)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

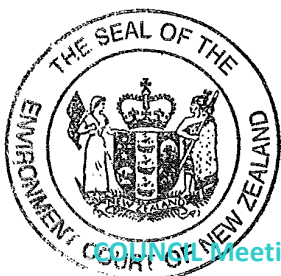
CONSENT ORDER

[A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:

(1) The appeal is allowed subject to the amendments to the Gisborne Regional Freshwater Plan set out in Appendix 1 to this order.

[B] Under s 285 of the Act, there is no order as to costs.

REASONS



HORTICULTURE NEW ZEALAND v GISBORNE DISTRICT COUNCIL

Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties dated 7 August 2018.

Other relevant matters

[2] Mr Murray Palmer, Royal Forest and Bird Protection Society of New Zealand, Rongowhakaata Iwi Trust and Mangatu Blocks Inc and Wi Pere Trust have given notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought.

Orders

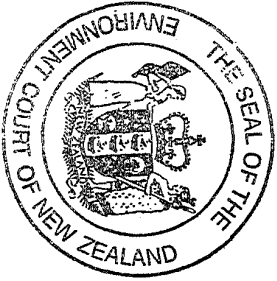
[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 23rd day of November 2018


B P Dwyer
Environment Judge





Appendix 1

Amendments to the Freshwater Plan

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

Amend Policy 6.1.1

Structures within streams, rivers and lakes should be managed so that:

- a. Sediment generation is minimised to **achieve support achieving** freshwater objectives **and limits.** ~~and to be within the water quality limits for that waterbody~~

...

Amend Policy 6.1.2

Improve fish passage in the region by:

...

Advisory Note: Since 1983, under the Freshwater Fisheries Regulations 1983, culverts, fords, dams and diversion structures that impede fish passage require approval from the Department of Conservation. This is a separate statutory process that applies in addition to the requirements of the Freshwater Plan.



Amend Policy 6.1.3

Provide for new structures and activities in streams, rivers and lakes where:

...

- g. There is no damage to heritage items, waahi tapu, taonga and areas of cultural significance;

...

- l. The health of ~~the waterbody~~ **iesy affected by the proposed activity** is maintained or improved.

Amend Policy 6.5.5

Any new damming and diversion activities, or changes to existing (at plan notification) damming and diversion activities should ensure that fish passage is maintained or enhanced, and a residual flow, and appropriate flow variations for freshes and floods are retained within the waterway, which: ~~maintains instream habitat values including the ability of native fish to migrate, provides for existing surface water takes and allows for existing assimilative requirements associated with existing discharges of contaminants to water in downstream areas.~~

- a. maintains instream habitat values including the ability of native fish to migrate;
- b. provides for existing surface water takes; and
- c. allows for existing assimilative requirements associated with existing discharges of contaminants to water in downstream areas.



Advisory Note: Since 1983, under the Freshwater Fisheries Regulations 1983, culverts, fords, dams and diversion structures that impede fish passage require approval from the Department of Conservation. This is a separate statutory process that applies in addition to the requirements of the Freshwater Plan.

Amend Rule 6.1.1 (General Rules)

The following standards shall apply to all permitted activities in the beds of lakes, rivers and streams:

...

Advisory Note 2: Since 1983, under the Freshwater Fisheries Regulations 1983, culverts, fords, dams and diversion structures that impede fish passage require approval from the Department of Conservation. This is a separate statutory process that applies in addition to the requirements of the Freshwater Plan.

Insert new Rule 6.1.9A

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 6.1.9A	<p><u>Use, erection and placement of game shooting structures in, on or under the bed of a lake or river where the structure:</u></p> <p>(a) <u>Is less than 5m² in floor area;</u></p> <p>(b) <u>Does not protrude into the water flow in excess of 5% of the average river channel width;</u></p>	<p><u>Permitted</u></p> <p><u>Activity</u></p>	<p>(a) <u>The structure shall be open piled and not impede the free flow of water;</u></p> <p>(b) <u>The structure shall be located at least 20 metres from any flood gate, culvert, bridge, stopbank or confluence;</u></p> <p>(c) <u>The floor of the structure shall be no higher than 0.5 metres above maximum water level;</u></p>



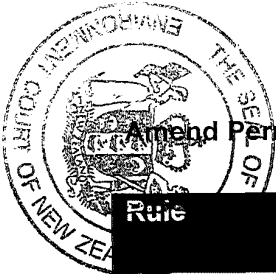
(c) Is not located in an Outstanding Waterbody.

- (d) The overall (maximum) height of the structure shall not exceed 2.5 metres from the floor height;
- (e) The structure shall not cause a hazard to navigation;
- (f) All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body during the activity;
- (g) The structure shall at all times be maintained in a structurally sound condition for the purpose for which it was constructed, and be kept clear of accumulated debris;
- (h) All equipment and surplus construction materials shall be removed from the site on the completion of that activity;
- (i) The structure shall not be used as a temporary dwelling or for camping.

Advice Note:

On land held or administered by the Department of Conservation additional requirements and permits may be required.

The Department of Conservation Office should be contacted prior to undertaking works on Public Conservation Land.



Amend Permitted Activity Standards in Rule 6.1.13

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<p>Rule 6.1.13</p>	<p>The maintenance, repair, alteration and reconstruction of lawfully established structures in, on or under the bed of a lake, river or stream (including river control works, but excluding the extension of dams which act to impound water) which have been identified that the structure:</p> <ul style="list-style-type: none"> a. Prevents the passage of migrating fish, or b. Is causing more than minor adverse flooding effects on land, property owned or occupied by another person, buildings or accessways. <p>But the activity otherwise complies with all the Permitted Activity standards of Rule 6.1.3</p>	<p>Controlled Activity</p>	<p>Council shall limit its control to the matters specified below:</p> <ul style="list-style-type: none"> a. <u>The ability to provide for the passage of:</u> <ul style="list-style-type: none"> i. <u>migrating native fish; and</u> ii. <u>migrating trout, where the structure is within a river or stream listed in Schedule 1E;</u> b. <u>methods necessary to reduce flooding effects.</u> <p>Advisory Note</p> <p><u>Since 1983, under the Freshwater Fisheries Regulations 1983, culverts, fords, dams and diversion structures that impede fish passage require approval from the Department of Conservation. This is a separate statutory process that applies in addition to the requirements of the Freshwater Plan.</u></p> <p><u>Under the Freshwater Fisheries Regulations 1983</u></p>



			<p><i>culverts and fords may not be built to impede fish passage without a permit from the Department of Conservation.</i></p>
--	--	--	--

Amend Rule 6.3.2

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
<p>Rule 6.3.2</p>	<p>Stock access and associated disturbance of the bed of any lake, river or stream by livestock access resulting from a formed stock crossing provided that:</p> <p>a. The stock crossing is not within an Outstanding Waterbody as identified in Schedule 4, or in a wetland.</p> <p><u>This rule does not apply to stock access permitted under Rules 5.3.2, 5.3.4 or 5.3.5</u></p>	<p>Permitted Activity</p>	<p>...</p> <p>Advisory Notes:</p> <p>...</p> <p>4. This rule applies to activities not covered by Rules 5.3.2, 5.3.4 and 5.3.5.</p>

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN HORTICULTURE NEW ZEALAND
(ENV-2017-WLG-000089)
DIRECTOR-GENERAL OF
CONSERVATION
(ENV-2017-WLG-000090)
EASTERN FISH AND GAME COUNCIL
(ENV-2017-WLG-000093)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

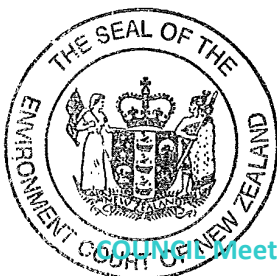
Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) The appeal is allowed subject to the amendments to the Gisborne Regional Freshwater Plan set out in Appendix 1 and Appendix 2 to this order.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS



HORTICULTURE NEW ZEALAND v GISBORNE DISTRICT COUNCIL

Introduction

[1] The Court has read the notice of appeal and the memorandum of the parties dated 7 August 2018.

Other relevant matters

[2] Federated Farmers of New Zealand, Mr Murray Palmer, Royal Forest and Bird Protection Society of New Zealand, Riversun Nursery Ltd, Mangatu Blocks Inc and Wi Pere Trust and Rongowhakaata Iwi Trust have given notice of an intention to become parties under s 274 to the aspects of the appeals resolved by this consent order and have signed the memorandum setting out the relief sought.

Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 20th day of December 2018



B P Dwyer
Environment Judge





Appendix 1

Amendments to the Freshwater Plan

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

Insert new definition of "*Biodiversity Offsets*" [New definition]

<i>Biodiversity offsets</i>	<p><u>Measurable conservation outcomes resulting from actions designed to compensate for ecologically significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground.</u></p> <p><u>Advice Note: Refer to the NZ Government Guidance on Good Practice Biodiversity Offsetting in New Zealand August 2014 (or any successor national guidance and standards) for guidance on principles to be applied when proposing and considering Biodiversity Offsets.</u></p>
------------------------------------	--

Insert new RPS Policy 3.28A [New policy]

In addition to measures to avoid, remedy or mitigate adverse environmental effects, consider the use of:

- a. **Biodiversity Offsets in circumstances where there are ecologically significant residual adverse effects; and/or**
- b. **Any proposed environmental compensation or other measures that will result in positive environmental effects**



Amend Policy 7.1.6

When assessing resource consents for activities within wetlands and their margins have regard to the following matters:

~~(c) Any off setting of actual and potential adverse effects through the enhancement or creation of additional wetland area;~~

(c) Any Biodiversity Offsets of ecologically significant residual adverse effects through the enhancement, restoration, or creation of wetland area;

(ca) Any proposed environmental compensation or other measures that will result in positive effects on wetland values;

...

Amend Rule 7.2.4

Rule	Activity	Classification	Permitted Activity Standards Matters for Control / Discretion
Rule 7.2.4	Establishment and harvest of agricultural and horticultural crops within the Riparian Management Area of an Aquatic Ecosystem Waterbody within Schedule	Permitted Activity	<p>...</p> <p><i>Advice note:</i> This rule applies to activities not covered by section 5 (Diffuse Discharges) rules relating to Commercial Vegetable Growing and Cropping <u>or the establishment of feed crops to support intensively farmed stock or winter intensive grazing. In practice, this rule is likely to apply only to permanent horticulture and</u></p>



1.

viticulture crops.

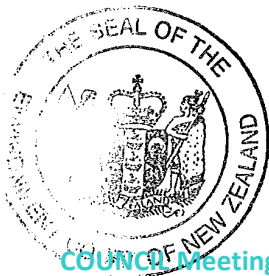
Amend Schedule 1: Aquatic Ecosystem Waterbodies, C. Habitats of Threatened Indigenous Flora and Fauna

Catchment	River or Stream	Lake, Wetland or River Mouth	Species Present
Waipaoa		Matawhero Loop (Te Maungarongo o Te Kooti Rikirangi Reserve) <u>Formerly known as Matawhero Loop</u>	Bittern, New Zealand Dabchick





Amend Schedule 3: Regionally Significant Wetlands

Catchment	Site	PMA	Key Values
Waipaoa	Te Maungarongo o te Kooti		Old Waipaoa Riverbed. <u>Formerly known as Matawhero Loop.</u> Kahikatea forest, open water, raupo reedland, sedge and carex. Habitat for bittern, NZ dabchick, grey teal, grey duck pied stilt. Important as one of the largest wetlands remaining on the Poverty Bay Flats.


Appendix 2
Amendments to Map r96 of the Freshwater Plan
(see attached)



Legend

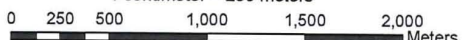
-  Scheduled Rivers and Streams (Schedules 1, 4 & 6)
-  Scheduled Water Bodies (Schedules 1, 3, 4 & 6)
-  Other Rivers and Streams
-  District Boundary




 Date: Monday, 11 June 2018
 Path: X:\Projects\plan\UniPlan\Series_D_Freshwater_Rmaps.mxd
 Produced by the Gisborne District Council Land Information Section
 Copyright © 2018 by the Crown in Right of New Zealand
COUNCIL Meeting 10 August 2018

TAIRAWHITI Resource Management Plan

To refer to the digital web mapping version of the plan see www.gdc.govt.nz/tairawhiti-plan

Scale 1:25,000
 1 centimeter = 250 meters


Freshwater

MAP r96

282 of 326

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN FIRE AND EMERGENCY NEW ZEALAND
(ENV-2017-WLG-000092)
MINISTER OF DEFENCE
(ENV-2017-WLG-000094)
Appellants
AND GISBORNE DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

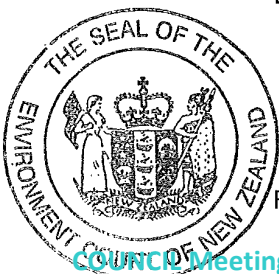
In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that:
- (1) the following provisions of, and tables in, the Freshwater Plan imposed in the decision the subject of the Appeals be amended in accordance with the provisions annexed to this order at **Appendix 1**:
 - a. Definition of "*Firefighting training*"
 - b. Rule 4.1.6 [**to become Rule 4.1.6A**]
 - c. Rule 5.1.7A [**New Rule**].
 - (2) The appeals are otherwise dismissed.
- [B] Under s 285 of the Act, there is no order as to costs.

REASONS

FIRE AND EMERGENCY NEW ZEALAND v GISBORNE DISTRICT COUNCIL



Introduction

[1] The Court has read the notices of appeal and the memorandum of the parties received 29 June 2018.

Other relevant matters

[2] The Director-General of Conservation, Federated Farmers of New Zealand Incorporated and Mr Murray Palmer gave notice of intention to become a party to the appeals under s 274, and have signed the consent memorandum setting out the relief sought.

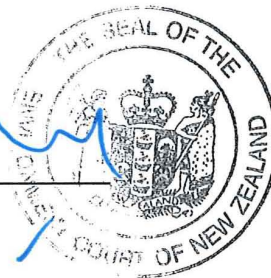
Orders

[3] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 2nd day of November 2018


B P Dwyer
Environment Judge





Appendix 1

Amendments to the Freshwater Plan

Amendments are shown in bold text, with additions underlined and deletions in ~~strikethrough~~

Amend definition of "Firefighting training"

Firefighting training	The activities that <u>Fire and Emergency New Zealand (FENZ)</u> the New Zealand Fire Service, Rural Fire Authorities and others fire brigades undertake to train their personnel for emergency preparedness. Such activities include pump training in surface waterbodies.
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Amend Rule 4.1.6 [to become Rule 4.1.6A]

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 4.1.6A	<p>The take and use of surface water for firefighting training and defence training purposes.</p> <p><u>Advisory note: Takes and use of water for firefighting training are generally permitted in accordance with section 14(3)(e) of the RMA.</u></p>	<p>Controlled Activity <u>Permitted</u> Activity</p>	<p>a. The location of the take and use of the water; b. The rate, volume and timing of the take; c. In-stream flow requirements; d. The effects the take or use has on any other authorised takes and uses; and e. The prevention of fish entering any intake.</p> <p><u>a. In respect of takes from rivers and streams, the take shall not occur when the river or stream flow is at less than 90% of MALF;</u></p>



- b. All equipment used in the waterbody shall be cleaned prior to the activity to prevent the spread of freshwater pests;
- c. The resource user shall notify Council of locations and quantity to be taken three working days before the activity.

Insert new Rule 5.1.7A [New Rule]

Rule	Activity	Classification	Permitted Activity Standards Matters for Control/Discretion
Rule 5.1.7A	<u>The discharge of water for firefighting training purposes, except discharges into Outstanding Waterbodies identified in Schedule 4 and Regionally Significant Wetlands identified in Schedule 3.</u>	<u>Permitted Activity</u>	<ul style="list-style-type: none"> <u>a. The discharge shall not contain hazardous substances;</u> <u>b. The Consent Authority is notified at least 48 hours prior to any such discharge;</u> <u>c. The discharge shall not cause any erosion at, upstream of, or downstream of, the discharge point;</u> <u>d. The discharge does not alter the natural course of the river or stream;</u> <u>e. The discharge shall not give rise to any flooding of land or assets upstream or downstream of the discharge point under any conditions.</u>

Title: 23-145 Electoral Decision
Section: Democracy & Support Services
Prepared by: Heather Kohn - Democracy & Support Services Manager
Meeting Date: Thursday 10 August 2023

Legal: Yes

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to consider and adopt the electoral system for the 2025 local authority elections.

SUMMARY - HE WHAKARĀPOPOTOTANGA

The Local Electoral Act 2001 provides for local authorities in 2023/24 to consider for the 2025 elections:

- 1) the electoral system to be used,
- 2) for some, to undertake a representation arrangements review – a review is mandatory every six years, with the next representation review for Gisborne District Council not due until 2027.

The review of the electoral system must be completed by 12 September 2023 and is to consider whether:

- The Single Transferable Voting (STV) electoral system is retained; or
- The First Past the Post (FPP) electoral system is introduced; or
- A poll of electors is held on which electoral system is to be used for the next two triennial elections.

A representation arrangements review is not required to be undertaken until 2027 for the 2028 elections. However, a further representation arrangements review can be undertaken in 2024 as can minor boundary alterations, if considered appropriate by Council but should not be an issue as there are currently two district-wide wards.

The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. Pursuant to section 27 of the Local Electoral Act 2001 resolves for the 2022 Gisborne District Council triennial elections to *either*:
 - a. Retains the Single Transferable Voting electoral system; or
 - b. Changes to the First Past the Post electoral system; or
 - c. Undertakes a poll of electors on the electoral system to be used for the 2025 and 2028 elections.
2. Gives public notice by 19 September 2023 of the decision and of the right of electors to demand a poll on the electoral system to be used.

Authorised by:

Anita Reedy-Holthausen - Director Engagement & Maori Partnerships

Keywords: electoral, decisions, 2025, election, system of voting, STV. FPP

BACKGROUND - HE WHAKAMĀRAMA

1. The Local Electoral Act 2001 (LEA) provides for greater flexibility and local choice in several electoral matters. The principal matters requiring consideration by local authorities in 2023 for the 2025 elections are (i) the choice of electoral system (STV or FPP) and for some (ii) to undertake a representation arrangements review.
2. Consideration of the electoral system is required by 12 September 2023. Council established a Māori ward in 2020 triggering a representation review for the 2022 and 2025 local authority elections. This resulted in two district-wide wards, the Tairāwhiti Māori Ward and the Tairāwhiti General Ward.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

Legislative Requirements

3. The LEA requires a local authority, when considering certain electoral matters, to comply with set requirements and timeframes (these are detailed in **Attachment 1**).

Electoral System

4. Council is required under section 27 of the LEA to consider the electoral system to be used every three years. For the 2025 elections this consideration must be completed by 12 September 2023.
5. In 2020 Council introduced the STV electoral system for the 2022 elections. This is not binding for the 2025 elections as it was a resolution of Council not as the result of a poll of electors.
6. The option of STV was first offered for the 2004 local government elections. In 2004 ten city/district councils used STV. In 2022 15 councils used STV for the local government elections - of those 15 there are six councils from 2004. Further analysis of STV in local government can be found in **Attachment 2**.

What is the difference between the two electoral systems?

7. ⁷FPP is a "plurality" electoral system; this means that to get elected a candidate must win the most votes but not a majority of the votes. In multi-member constituencies, like local government elections, voters cast multiple votes. This means that one voter can help to elect multiple candidates to represent him/her, and another voter may not elect any candidate to represent him/her. As a plurality system, many votes can be "wasted" in FPP elections; "waste" votes do not help elect a candidate. FPP is often described as a simple system for voters to use, but it is widely recognised as producing disproportional results; that is results that do not reflect the preferences of the broad community of voters.

⁷ Taituara (SOLGM) Electoral Systems – Code of Good Practice for the management of local authority elections and polls 2019. Part 4 Appendix – The local government electoral option 2017. Prof. Janine Hayward, Department of Politics, University of Otago.

8. STV is a “proportional” electoral system; this means that to get elected a candidate must win a proportion of the overall votes cast (or meet the “quota”). In multi-member constituencies like local government elections, a voter casts a single vote by ranking his/her preferred candidates. That single vote can transfer according to the voter’s preferences to ensure that the voter has a good chance of helping to elect one candidate to represent the voter. As a proportional system, STV minimises “wasted” votes; in other words, more votes help elect candidates. STV is often described as a complex system for voters to use but is widely recognised to produce proportional results that reflect the preferences of the broad community of voters.
9. The full guide written by Professor Hayward is attached to this report as **Attachment 3**.
10. A table comparing FPP and STV approved by the Department of Internal Affairs follows:

COMPARING FPP AND STV	
<p>A typical FPP voting document could look like this</p>	<p>A typical STV voting document could look like this</p>
FPP	STV
FPP has long been widely used in New Zealand, is familiar and is generally easy to understand.	STV is currently used in Australia, United States, Ireland and Malta. Along with all the DHBS it is also being used by eleven New Zealand Councils in 2019. STV is also used by companies like Fonterra, to select board members.
Each voter is able to cast one vote for each vacancy to be filled. Voters place a tick beside the name of the candidate or candidates they wish to vote for.	Each voter gets one vote, no matter how many vacancies. Voters rank candidates in order of preference - “1” beside their most preferred candidate “2” beside the second-most preferred candidate, and so on. Voters do not have to rank all candidates, but must use consecutive numbers.
The candidate who receives the most votes is elected. Where there is more than one vacancy, the candidates (equal to the number of vacancies) who receive the most votes are elected.	A candidate must reach the quota to be elected. Where there is more than one vacancy, the candidates (equal to the number of vacancies) who reach the quota are elected.
FPP is not a form of proportional representation. Each tick is counted as a vote for that candidate and the candidate or candidates with the most votes are elected. A candidate may be elected by a small margin.	STV is a proportional electoral system. Proportional systems are intended to provide more effective representation for all significant points of view, although it cannot be guaranteed that STV will provide an increased diversity of representation.
A candidate may receive more votes than they need to get elected.	A candidate would not receive more votes than they would need to get elected, as surplus votes are transferred to the next preference.
Some voters may not have supported any of the candidates who get elected.	If voters rank every candidate, they are likely to have supported at least one successful candidate.
Where political parties or organised political groupings contest the elections, and there are say 3 vacancies, voters can vote for the 3 candidates representing a political party or organised political group (“block” voting). This can result in all candidates from a political party or organised political group being elected.	STV can moderate “block” voting as voters can rank every candidate therefore making it more difficult for all candidates from a political party or organised political group to be elected.

11. The process that Council can follow to determine its electoral system is:
 - a. Council can resolve which electoral system is to be used, with a required public notice;
 - b. Five percent of electors can demand a poll at any time;
 - c. Council can choose to hold a poll, irrespective of whether or not a poll is demanded by electors.

Council to resolve which ELECTORAL SYSTEM is to be used

12. Council can resolve to retain the current electoral system (STV) or resolve to change the electoral system to FPP such a resolution must be made no later than 12 September 2023 (two years prior to the next triennial election) unless it decides to hold a poll of electors prior to the 2025 elections.
13. Any such resolution changing the electoral system would take effect for the 2025 elections, and continue in effect until either Council resolves otherwise, or a poll of electors is held (section 27 LEA).

Electors' right to DEMAND a POLL

14. Under section 28 of the LEA, Council **must** give public notice by 19 September 2023, of the right of electors to demand a poll on the electoral system to be used for the 2025 elections. If Council passes a resolution under section 27 of the LEA to change the electoral system from STV to FPP the public notice must include:
 - a. Notice of that resolution; and
 - b. A statement that a poll is required to countermand that resolution.
15. Section 29 of the LEA allows at least 5% of the electors enrolled at the previous triennial election to demand a binding poll be held on which electoral system is to be used for the next two triennial elections. The poll must be made in writing to the Chief Executive by a number of electors equal or greater than 5% of the electors (1,697 electors) and can be made at any time, but to be effective for the 2025 elections, must be made by 21 February 2024.
16. If a valid demand for a poll is received after 21 February 2024, a poll must be held after 21 May 2024 (eg. with the 2025 elections); the outcome being effective for the 2028 and 2031 elections.

Council may decide to hold a POLL of ELECTORS

17. Council can decide to hold a poll of electors at any time (section 31 of the LEA) but, to be effective for the 2025 elections, must decide no later than 21 February 2024 irrespective of whether a valid demand has been received, or the time has expired for electors to demand a poll.
18. Public notice of the poll must be given as soon as practicable after the resolution and the poll itself must be completed by 21 May 2024 (to be effective for the 2025 elections).

19. The result of the poll is binding and will determine whether STV or FPP is to be used for at least the next two triennial elections (2025, 2028) and for all subsequent elections, until either a further resolution takes effect, or a further poll is held.
20. The estimated cost of a stand-alone poll is in the order of \$90,000 + GST.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Low Significance

This Report: Low Significance

The effects on individuals or specific communities

Overall Process: Low Significance

This Report: Low Significance

The level or history of public interest in the matter or issue

Overall Process: Low Significance

This Report: Low Significance

21. The decisions or matters in this report are considered to be of **Low** significance in accordance with Council's Significance and Engagement Policy.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

22. There has been no engagement with Tangata Whenua/ Māori on the matters contained in this report.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

23. There has been no community engagement on the matters contained in this report.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

24. There are no implications or impacts on climate change arising from the decision in this report.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

25. There is no budget set aside for stand-alone polls.

Legal

26. The Local Electoral Act 2001 determines the need and framework for the decisions in this report.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

27. There are no policy or planning implications arising from this report.

RISKS - NGĀ TŪRARU

28. There are no major risks associated with this report.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - 2023 Election Timetable [**23-145.1** - 1 page]
2. Attachment 2 - Gavin Beattie STV elections 2004 to 2022 [**23-145.2** - 5 pages]
3. Attachment 3 - Taituara The local government electoral option 2023 [**23-145.3** - 12 pages]



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2023 ELECTORAL SYSTEM REVIEW TIMETABLE

CURRENT LEGISLATIVE REQUIREMENTS

By 12 September 2023*	A local authority MAY resolve to change the electoral system (from the system it used at the 2022 general election) for the next two triennial elections.	Section 27 of LEA
By 19 September 2023*	A local authority MUST give public notice that electors may at any time demand that a poll be held on the future electoral system to be used by the local authority for the next two triennial elections, and if a poll outcome is to apply to the next triennial election, a demand for a poll must be received by 21 February 2024. If a resolution has been made by a local authority by 12 September 2023, this must be included in the notice.	Section 28 of LEA
By 21 February 2024*	IF a demand for a poll that a specified electoral system be used for the next two triennial elections is received by 21 February 2024, a poll must be held by 21 May 2024.	Sections 29 and 30 of LEA
By 21 February 2024*	A local authority MAY also resolve to undertake a poll of electors that a specified electoral system be used for the next two triennial elections.	Section 31 of LEA
By 21 May 2024*	If a successful demand for a poll has been received by 21 February 2024, or a resolution for a poll has been made by a local authority by 21 February 2024 (that a specified electoral system be used for the next two triennial elections), then a poll MUST be held within 89 days of notification.	Section 33 of LEA

* may be earlier than but not later than

Dale Ofoske, January 2023

Analysis of STV elections 2004 – 2022

Adoption of the STV option

The option for councils/communities to adopt the STV electoral system, as an alternative to FPP, has been in place since 2004.

A total of 10 councils adopted STV for the 2004 elections and this number had grown to 15 at the time of the 2022 elections. Of these 15 councils, six had used STV since 2004.

Of the current 15 STV councils, 13 adopted STV as the result of a council decision. The other two councils (Dunedin and Wellington) introduced STV as the result of a poll held prior to the 2004 elections, with Wellington conducting a further poll prior to the 2010 elections.

The impact of STV

Given the relatively small number of councils (15 out of 78) currently using STV, the basis on which most councils are using STV, and the lack of comprehensive candidate profile surveys, it is difficult to identify clear impacts resulting directly from the adoption of STV.

However, the following analysis is provided with a view to assisting councils with future decisions on either retention or adoption of the STV option. The data is taken from the Department of Internal Affairs' triennial elections reports. While these reports initially provided a useful breakdown between STV and FPP councils, unfortunately this has not been the case since 2010.

The analysis covers:

- numbers of election candidates
- voter turnout
- informal and blank voting documents.

Numbers of election candidates

TABLE 1 shows for each STV council, the number of wards/constituencies, total number of candidates and candidates per position, since STV was adopted.

In relation to numbers of candidates per position, it appears this has not been affected by the adoption of STV.

It is noted that as at the 2022 elections, only four STV councils held their council elections at-large (Dunedin) or with one district-wide general ward and one district-wide Māori ward (Gisborne, Ruapehu and Palmerston North). This is important, as it is only with at-large or large ward elections that the benefits of proportional representation are achieved.

Understanding of this point by councils, during their representation review, is an important first step towards achieving more diverse representation on councils.

Councils then need to promote understanding of how STV operates within their communities, with a view to encouraging candidates representing the true diversity of those communities, to stand for election. This needs to include awareness of what is likely to be seen as the relatively small 'quota of votes' needed to be elected, given current levels of voter turnout. This in turn should have a positive impact on the number and diversity of candidates standing at local elections.

Voter turnout

TABLE 2 shows overall voter turnout for the 15 STV councils since their adoption of STV, compared to average turnout for all NZ councils. For the nine councils that have adopted STV more recently, their turnout at their last FPP election is also shown.

Again it appears that generally, the adoption of STV has not had a significant impact on council turnout. In short, turnout at some STV council elections has been higher than the average NZ council turnout, and at some it has been lower.

This indicates factors other than the adoption of STV are more important in influencing turnout at local elections. These factors include whether there is a mayoral election and the nature of the mayoral contest, the number and profile of council candidates, and any important local issues.

It should also be noted that concerns about the impact on turnout of a relatively high number of candidates in at-large or large ward STV elections, appear not to be justified. Dunedin, for example, had 40 candidates standing in their at-large council election in 2022, and had a turnout of 50%, well above the NZ average for cities of 39%.

Informal and blank votes

TABLE 3 shows the percentages of informal and blank votes at STV elections since 2004.

It is noted that the informal votes figures shown for some STV councils in 2022 are different from those in the Department of Internal Affairs' election statistics report. The corrected figures have been provided by Election Services.

There may still be a perception that because STV requires a change to the way voters vote for candidates, from ticking boxes to the ranking of candidates, voters will find this difficult and this will result in an increase in the number of informal and blank votes.

While there may be a slight increase in the number of informal and blank votes at the first election using STV, the figure is still small i.e. very low single figure percentages.

Analysis has also shown that the most significant factor contributing to the number of informal and blank voting documents is likely to be the need for voters to change between electoral systems on the combined voting document.

This was best demonstrated when Greater Wellington Regional Council adopted STV in 2013. Prior to those elections, informal and blank votes in that council election (with this issue typically placed after the territorial authority election issues on the voting document) were higher in the three territorial authority areas using STV, and lower in the areas using FPP. This was reversed in 2013, with the regional council's adoption of STV, with there then being fewer informal and blank votes in the STV territorial authority areas (i.e. voters did not have to change system) and higher in the FPP areas (voters had to change from FPP to STV).

Any suggestion that voters find it significantly harder to use STV than FPP, was rebutted in a Local Government Commission survey in 2008, after just two STV elections. The commission found "a large majority of respondents (79%) who had heard of STV and voted in the district health board elections, found the system 'easy to understand and use'. Also, 84% agreed or strongly agreed 'it was easy to fill in the form and rank the candidates'".

TABLE 1: Wards/candidates/candidates per position in STV councils

Council	2004	2007	2010	2013	2016	2019	2022
Kaipara	4/22/2.2	3/17/2.1	3/25/3.1	No election	3/15/1.9	3/16/2.0	3 general/19/2.4 1 Māori/5/5.0
Kapiti Coast	5/34/3.4	5/28/2.8	5/35/3.5	5/27/2.7	5/26/2.6	5/27/2.7	5*/26/2.6
Marlborough	4/29/2.4	4/29/2.2	3/31/2.4	3/28/2.2	3/18/1.9	3/30/2.3	3 general/24/1.8 1 Māori/2/2.0
New Plymouth	-	-	-	-	<i>(3/35/2.5)</i>	3/38/2.7	4*general/39/3.0 1 Māori/2/2.0
Ruapehu	-	-	-	-	<i>(4/17/1.5)</i>	3/19/1.7	1 general/12/2.0 1 Māori/6/2.0
Far North	-	-	-	-	-	<i>(3/42/4.7)</i>	3 general/25/4.2 1 Māori/18/4.5
Gisborne	-	-	-	-	-	<i>(5/35/2.7)</i>	1 general/25/3.1 1 Māori/13/2.6
All NZ districts	-/-/1.9	-/-/2.0	-/-/2.0				
Porirua	3/29/2.2	3/24/1.8	3/24/1.8	3/25/2.5	3/37/3.7	3/20/2.0	2 general/23/2.5 1 Māori/2/2.0
Wellington	5/37/2.6	5/38/2.7	5/44/3.1	5/49/3.5	5/32/2.3	5/35/2.5	5 general/51/3.6 1 Māori/3/3.0
Dunedin	6/36/2.6	6/44/3.1	3/47/3.4	3/39/2.8	1/43/3.1	1/37/2.6	1/40/2.9
Palmerston Nth	-	-	<i>(5/33/2.2)</i>	1/33/2.2	1/28/1.9	1/27/1.8	1 general/33/2.5 1 Māori/2/2.0
Tauranga	-	-	-	-	<i>(4/32/3.2)</i>	4/43/4.3	-
Hamilton	-	-	-	-	-	<i>(2/39/3.3)</i>	2 general/37/3.1 1 Māori/6/2.0
Nelson	-	-	-	-	-	<i>(1/31/2.6)</i>	3*general/33/3.0 1 Māori/2/2.0
All NZ cities	-/-/2.7	-/-/3.0	-/-/3.0				
GWRC	-	-	<i>(6/30/2.3)</i>	6/21/1.6	6/32/2.5	6/45/3.5	6/30/2.3
All NZ regions	-	-	-				

* Mixed system, with at-large component treated as a ward

N.B. The figures italicised in brackets relate to the last FPP election.

TABLE 2: Overall voter turnout in STV councils

Council	2004	2007	2010	2013	2016	2019	2022
Kaipara	51%	43%	53%	No election	48%	45%	48%
Kapiti Coast	51%	53%	49%	51%	48%	47%	46%
Marlborough	62%	52%	57%	55%	54%	49%	44%
New Plymouth	-	-	-	-	(48%)	45%	45%
Ruapehu	-	-	-	-	(48%)	51%	51%
Far North	-	-	-	-	-	(48%)	42%
Gisborne	-	-	-	-	-	(50%)	43%
All NZ districts	51%	49%	50%	48%	47%	48%	45%
STV districts	51%	52%	53%				
FPP districts	51%	48%	50%				
Porirua	43%	39%	39%	37%	39%	41%	37%
Wellington	42%	40%	40%	42%	46%	41%	46%
Dunedin	53%	47%	53%	43%	46%	47%	50%
Palmerston North	-	-	(43%)	39%	39%	38%	39%
Tauranga	-	-	-	-	(38%)	41%	-
Hamilton	-	-	-	-	-	(39%)	29%
Nelson	-	-	-	-	-	(53%)	53%
All NZ cities	43%	41%	46%	39%	40%	39%	39%
STV cities	46%	42%	44%				
FPP cities	43%	40%	47%				
Greater Wellington	-	-	(43%)	42%	44%	43%	43%
All NZ regions	-	-	47%	43%	44%	45%	43%
FPP regions	-	-	-				

N.B. The figures italicised in brackets relate to the last FPP election.

TABLE 3: Informal/blank voting documents in STV councils

Council	2004	2007	2010	2013	2016	2019	2022
Kaipara	1.58%/2%	0.06%/0.66%	1.70%/1.30%	No election	0.6%/3.5%	0.8%/2.1%	0.8%/2.1%
Kapiti Coast	2.45%/5%	0.47%/4.42%	0.66%/5.09%	0.7%/5.9%	0.3%/4.5%	0.5%/4.0%	0.3%/3.8%
Marlborough	1.25%/2%	0.63%/3.46%	1.34%/0.57%	1.4%/1.1%	0.6%/1.2%	0.6%/1.3%	0.6%/1.3%
New Plymouth	-	-	-	-	<i>(0.3%/1.8%)</i>	3.7%/1.8%	4.5%/4.6%
Ruapehu	-	-	-	-	<i>(0.2%/1.6%)</i>	1.5%/1.2%	1.1%/3.0%
Far North	-	-	-	-	-	<i>(0.4%/2.7%)</i>	3.6%/2.0%
Gisborne	-	-	-	-	-	<i>(0.7%/1.4%)</i>	2.0%/1.2%
All NZ districts	0.67%/2%	0.37%/2.10%	0.45%/2.02%				
STV districts	1.88%/3%	0.77%/3.45%	1.11%/2.58%				
FPP districts	0.42%/2%	0.33%/1.96%	0.38%/1.96%				
Porirua	2.76%/3%	1.61%/1.57%	0.95%/2.44%	0.9%/2.0%	0.7%/2.2%	0.9%/2.8%	0.7%/1.3%
Wellington	1.05%/3%	0.94%/2.81%	0.80%/2.79%	0.4%/3.6%	0.3%/6.2%	0.3%/2.9%	0.4%/2.8%
Dunedin	1.41%/4%	0.80%/2.81%	1.58%/1.98%	1.9%/1.2%	1.2%/1.5%	0.9%/1.2%	2.0%/1.8%
Palmerston North	-	-	<i>(0.3%/3.1%)</i>	2.6%/1.6%	1.9%/1.2%	1.9%/0.9%	2.4%/0.5%
Tauranga	-	-	-	-	<i>(1.9%/1.2%)</i>	1.5%/4.6%	No election
Hamilton	-	-	-	-	-	<i>(0.4%/1.9%)</i>	2.6%/1.6%
Nelson	-	-	-	-	-	<i>(0.4%/0.8%)</i>	2.2%/5.5%
All NZ cities	0.44%/4%	0.50%/3.75%	0.62%/4.11%				
STV cities	1.40%/3%	0.97%/2.66%	1.13%/2.42%				
FPP cities	0.29%/4%	0.42%/3.95%	0.44%/4.70%				
Greater Wellington	-	-	<i>(2.5%/5.7%)</i>	1.9%/5.8%	0.9%/8.4%	1.2%/7.5%	1.0%/6.6%
All NZ regions	n.a.	n.a.	n.a.				

N.B. The figures italicised in brackets relate to the last FPP election.

Appendix: The local government electoral option 2023

Code of good practice for the management of local authority elections and polls 2025



leadinglearninglinking

APPENDIX: THE LOCAL GOVERNMENT ELECTORAL OPTION 2023

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Introduction

The Local Electoral Act 2001 offers the choice between two electoral systems for local government elections: first past the post (FPP) and single transferable voting (STV).

Councils now have the option to decide, by 12 September 2023, whether to stay with their current electoral system (either FPP or STV), or whether to change to the alternative system for the 2025 elections.

Whether or not a council passes a resolution by 12 September 2023, it must give public notice by 19 September 2023 of the right for 5% of electors to demand a poll on the electoral system to be used at the 2025 local elections. Note that in certain cases the requirement to give public notice does not apply.

The option was first offered for the 2004 local government elections. As a result of that option, 10 city/district councils used STV at the 2004 elections (Kaipara, Papakura, Matamata-Piako, Thames-Coromandel, Kāpiti Coast, Porirua, Wellington, Marlborough, Dunedin and the Chatham Islands). After the 2004 election, two councils (Papakura and Matamata-Piako) resolved to change back to FPP. The remaining eight councils used STV at the 2007 elections. For the 2010 council elections, Chatham Islands and Thames-Coromandel councils resolved to change back to FPP. Waitakere City Council resolved to change to STV, although the council was subsequently absorbed into the Auckland Council. Six councils used STV in 2010 (Kaipara, Kāpiti Coast, Porirua, Wellington, Marlborough, Dunedin). For the 2013 elections, five of these councils used STV again (Kaipara was governed by a commission so no election was held), Palmerston North City Council resolved to change to STV and Greater Wellington Regional Council became the first regional council to change to STV. In 2016, eight councils used STV (Dunedin, Kaipara, Kāpiti Coast, Marlborough, Porirua, Wellington, Palmerston North and Greater Wellington Regional Council). For the 2019 elections, Ruapehu, Tauranga and New Plymouth also changed to STV, bringing the total to 11 councils. A further four councils moved to STV for the 2022 elections which were Far North, Gisborne, Hamilton and Nelson bringing the total to 15 councils, although Tauranga did not have elections in 2022 being under commissioners.

This guide has been developed to help councils reach their decision. It is also intended to provide a basis for information to help local communities understand the issues. Communities have an important role to play in the decision. They must be consulted by way of public notice and may be polled on their preferred electoral system or demand a poll themselves.

The guide includes:

1. a brief description of the two electoral systems including important differences
2. some commonly identified advantages and disadvantages of each electoral system
3. responses to common concerns and questions councils and the public have raised about each electoral system and the electoral option.

This guide does not intend to influence councils either way in their decision-making. It presents arguments for and against both systems and encourages councils and communities to make an informed choice.

1. The Choice: First Past the Post (FPP) or Single Transferable Voting (STV) ?

(a) How do the two electoral systems work?

FPP	STV
<p>FPP: casting a vote You place ticks equal to the number of vacancies next to the candidate(s) you wish to vote for.</p> <p>In multi-member wards/constituencies you cast one vote for each vacancy to be filled, as above.</p> <p>In single-member wards/constituencies you cast one vote.</p>	<p>STV: casting a vote You cast a single vote regardless of the number of vacancies. You cast this single vote by consecutively "ranking" your preferred candidates beginning with your most preferred candidate ('1') your next preferred candidate ('2') and so on.</p> <p>In multi-member wards/ constituencies you cast a single vote by ranking as few or as many candidates as you wish, as above.</p> <p>In single-member wards/constituencies you cast a single vote by ranking as few or as many candidates as you wish.</p>
<p>FPP: counting votes The candidate(s) with the most votes win(s). A winning candidate might not have a majority of votes, just the largest number of votes cast.</p>	<p>STV: counting votes The candidate(s) are elected by reaching the "quota" (the number of votes required to be elected).³ Vote counting is carried out by computer.⁴ First preference votes ('1s') are counted. Candidates who reach the quota are "elected". The "surplus" votes for elected candidates are transferred according to voters' second preferences. Candidates who reach the quota by including second preferences are "elected". This process repeats until the required number of candidates is elected.⁵</p>
	<p>In multi-member constituencies, despite voters casting only a single vote, a voter may influence the election of more than one representative (if part of their vote is transferred to another candidate according to the voter's preferences).</p>

³ The quota is calculated by dividing the total number of valid votes cast by the number of vacancies to be filled plus one

⁴ The New Zealand method of STV uses the 'Meek method' of counting votes. Because this method transfers proportions of votes between candidates, it requires a computer program (the STV calculator).

⁵ If at any point there are no surplus votes left to transfer, the candidate with the lowest number of votes is excluded and their votes redistributed according to voters' next preferences. For further information on the details of vote counting, see, for example, STV Taskforce, 'Choosing Electoral Systems in Local Government in New Zealand: A Resource Document', (May 2002).

FPP	STV
<p>FPP: announcing results FPP preliminary results can usually be announced soon after voting ends.</p> <p>Official results are announced and published showing the total votes received by each candidate.</p>	<p>STV: announcing results Because all votes must be processed before counting can begin, STV results might take longer to announce.</p> <p>Official results are announced and published showing elected candidates in the order they reached the quota and unsuccessful candidates in the order they were excluded.</p>

(b) What is the difference between the two electoral systems?

FPP is a “plurality” electoral system; this means that to get elected a candidate must win the most votes, but not necessarily a majority of the votes. FPP is a simple system for voters to use. In multi-member constituencies, like local government elections, voters cast multiple votes. As a plurality system, FPP is not designed to produce proportional results; that is, the election results do not necessarily reflect the preferences of the broad community of voters.

STV is a “proportional” electoral system; this means that to get elected a candidate must win a proportion of the overall votes cast (or “meet the quota”). In multi-member constituencies like local government elections, a voter casts a single vote by ranking his/her preferred candidates. As a proportional system, STV is designed to produce proportional results that reflect the preferences of the broad community of voters.

2. What are the Advantages and Disadvantages of Each System?

No electoral system is perfect, and different people will have different views on what is ‘fair’. Both FPP and STV have advantages and disadvantages.

The advantages of FPP relate to its characteristics as a plurality voting system: the simplicity of the voting process including the ways votes are cast, counted and announced.

The disadvantages of FPP relate to:

- disproportional election results, including the generally ‘less representative’ nature of FPP councils
- the obstacles to minority candidate election that do not help to elect a candidate
- the number of “wasted votes” (that is, votes that do not help to elect a candidate).

The advantages of STV, on the other hand, relate to its characteristics as a proportional voting system: a potential reduction in the number of “wasted votes” and majority outcomes

in single-member elections.⁶ Research shows that STV increases the chances for women to get elected.⁷

The disadvantages of STV relate to:

- the public might be less familiar with the system and voter education might be required
- matters of process such as the way votes are cast and counted (for example perceived complexity may discourage some voters)
- the way election results are sometimes communicated.

Deciding which electoral system is best for your community may come down to deciding which is more important: process, or outcome. Unfortunately, neither electoral system can claim to achieve well in both.

(a) More detailed advantages and disadvantages

FPP	STV
<p>FPP: casting votes FPP is a straightforward system of voting. FPP is familiar to most people.</p> <p>"Tactical" voting is possible; votes can be used with a view to preventing a candidate from winning in certain circumstances.</p>	<p>STV: casting votes STV is a less straightforward system of voting. There is a need for more information for people to understand the STV ranking system of candidates.</p> <p>It is virtually impossible to cast a "tactical" vote under STV. As a result, voters are encouraged to express their true preferences.</p>
<p>FPP: counting votes FPP is a straightforward system for counting votes. Votes can be counted in different locations and then aggregated. Election results are usually announced soon after voting ends.</p>	<p>STV: counting votes STV vote counting requires a computer program (the STV calculator). Votes must be aggregated first and then counted in one location. Election results will usually take a little longer to produce.</p>

⁶ For further discussion, see Graham Bush, 'STV and local body elections – a mission probable?' in J. Drage (ed), *Empowering Communities? Representation and Participation in New Zealand's Local Government*, pp 45--64 (Wellington: Victoria University Press, 2002).

⁷ Jack Vowles & Janine Hayward (2021) 'Ballot structure, district magnitude and descriptive representation: the case of New Zealand local council elections', *Australian Journal of Political Science*, 56:3, 225-244, DOI: [10.1080/10361146.2021.1935449](https://doi.org/10.1080/10361146.2021.1935449)

FPP	STV
<p>FPP: election results Official results show exactly how many people voted for which candidates.</p> <p>Results are easy to understand.</p> <p>A “block” of like-minded voters can determine the election of multiple candidates in multi-member wards/ constituencies, without having a majority of the votes, thereby ‘over-representing’ themselves.</p> <p>The overall election results might not be proportional to voters’ wishes, and might not reflect the electoral wishes of the majority of voters, only the largest group of voters who may not be the majority.</p> <p>In single-member elections, the winner does not need to have the majority of votes, just the largest group of votes.</p> <p>There might be more “wasted” votes (votes that do not contribute to the election of a candidate).</p>	<p>STV: election results Official results will identify which candidates have been elected and which have not and in which order. They do not show how many votes candidates got overall, as all successful candidates will have the same proportion of the vote (the quota). This information, at stages of the count, can still be requested.</p> <p>Results can be easy to understand if presented appropriately.</p> <p>STV moderates “block” voting as each voter casts only one single vote, even in multi-member wards/constituencies.</p> <p>The overall election results are likely to reflect the wishes of the majority of voters in proportion to their support for a variety of candidates.</p> <p>In single-member wards/constituencies, the winner will have the majority of votes (preferences).</p> <p>Every vote is as effective as possible (depending on the number of preferences indicated) meaning there are likely to be fewer “wasted” votes (votes that do not contribute to the election of a candidate).</p>

3. Common Questions and Concerns

(a) FPP ain't broke: so why fix it?

For councils that are used to voting with FPP, it can appear that there is nothing wrong with this system and there is no need for change. But the Local Electoral Act 2001 requires councils to engage in this process in good faith, and encourages councils to consult with their communities about the electoral system they prefer.

(b) FPP is easy to understand. I can't trust a complicated system like STV.

It is often said that FPP is easy and STV is complex. A post-election survey has found, however, that most people have found it easy to fill in the STV voting document and rank

their preferred candidates.⁸ The way STV votes are counted is complicated. That is why it requires a computer program (STV calculator). The STV calculator has been independently certified and voters can trust that it only transfers a vote according to a voter's preferences ranked on his/her voting documents. Nothing (and no person) can influence the transfer of votes set out on voting documents.

(c) Won't voters be put off if the voting system is too complicated?

Voter turnout (the number of people voting) in STV local body elections has been mixed. Some councils' turnout was higher than the national average, and some lower.⁹ Turnout for District Health Board (DHB) elections (which had to use STV) was seen to be influenced by a range of factors including elections being at large for seven vacancies, the number of candidates (who are often less well-known than council candidates) and the fact this issue is usually at the end of the voting document.

Overall, voter turnout has been on the decline for many years. It is possible that more voters would turn out to local elections in the future if they feel with STV they have a better chance of electing a representative who better represents them than FPP has in the past.

(d) Won't there be more blank and informal votes under STV, which is not good for democracy?

Despite voters saying in the Local Government Commission survey that they generally found STV an easy way to vote, some voters did cast an invalid vote in STV elections (including DHB elections). A small proportion of these voters seemed confused by the voting system. But most blank and informal votes are thought to be due to two different voting systems (FPP and STV) appearing on the same voting document and to other factors, rather than being due to the way STV votes are cast.¹⁰

(e) STV won't work for our council because of our ward/at large system.

There is no 'rule' about the need or otherwise for wards or constituencies, but STV can be seen to provide the greatest benefit in wards or constituencies electing between three and nine candidates. If there are fewer than three candidates, the benefits of the transferable vote in terms of proportionality are not likely to be evident. In single member constituencies (mayoral elections) STV ensures that the winning candidate has a majority of the votes. If voters have a very large number of candidates to choose from when ranking their preferences, they may find it a more difficult task (although there is no need to rank all candidates).

⁸ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), p 14

⁹ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), p 13

¹⁰ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), pp 13–18

(f) STV hasn't made any difference to the diversity of representation in STV councils

Until a greater variety of people stand for local body election and a wide diversity of people vote, no representation system will be able to improve the diversity of representatives elected. There has been some change in the gender, ethnicity and age of some members elected by STV.¹¹ Recent research shows that STV increases the chances for women to get elected.¹² But it will take some time for a diversity of candidates to see the opportunities of standing in an STV election and more voters to see the potential benefits of voting under a proportional representation system.

¹¹ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), pp 18–1

¹² Jack Vowles & Janine Hayward (2021) "Ballot structure, district magnitude and descriptive representation: the case of New Zealand local council elections", *Australian Journal of Political Science*, 56:3, 225–244, DOI: [10.1080/10361146.2021.1935449](https://doi.org/10.1080/10361146.2021.1935449)

USEFUL RESOURCES

Jack Vowles & Janine Hayward (2021) "Ballot structure, district magnitude and descriptive representation: the case of New Zealand local council elections", Australian Journal of Political Science, 56:3, 225-244, DOI: [10.1080/10361146.2021.1935449](https://doi.org/10.1080/10361146.2021.1935449)

Graham Bush, "STV and local body elections -- a mission probable?" in J. Drage (ed), Empowering Communities? Representation and Participation in New Zealand's Local Government, pp 45-64 (Wellington: Victoria University Press, 2002).

Christine Cheyne and Margie Comrie, "Empowerment for Encumbrance? Exercising the STV Options for Local Authority Elections in New Zealand, Local Government Studies, 31(2), April 2005: pp 185-204.

Justice and Electoral Committee, "Inquiry into the 2004 local authority elections" reported to Parliament in August 2005.

Local Government Commission, "Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation" (February 2008)

(Note: this paper has now been withdrawn from the Commission's website but its contents may be found in the Commission's main report on its review of the above legislation which will be posted on its website in the near future at www.lgc.govt.nz.)

STV Taskforce (The Department of Internal Affairs, Ministry of Health, SOLGM, Electoral Commission and Local Government New Zealand), "Choosing Electoral Systems in Local Government in New Zealand: A Resource Document", (May 2002).
[\[http://www.dia.govt.nz/Pubforms.nsf/URL/STV.pdf/\\$file/STV.pdf\]](http://www.dia.govt.nz/Pubforms.nsf/URL/STV.pdf/$file/STV.pdf)

Jack Vowles, "STV and the 2004 local elections: Disaster or success?", Public Sector, 28(3), 2005: 17



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Title: 23-169 Update of Council Delegations

Section: Legal & Risk

Prepared by: JT Tanner - Legal Counsel

Meeting Date: Thursday 10 August 2023

Legal: No

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek minor amendments to the Council's statutory delegations to staff under the Resource Management Act 1991 ("RMA").

SUMMARY - HE WHAKARĀPOPOTOTANGA

Council's statutory delegations to staff need to be amended to incorporate new and anticipated statutory powers under the RMA, and to reflect the recent changes to the organisational structure, including:

- (a) New position titles (including for three Directors).
- (b) Transition of functions performed by the previous position of Director and Environmental Services and Protection Hub to the positions of Director Sustainable Futures and the Director of Internal Partnerships and Protection.
- (c) The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. **Agrees to make the delegations and revocations specified in the Instrument of Delegation in Attachment 1 to this report.**
2. **Agrees the Mayor can sign the Instrument of Delegation in Attachment 1 of this report to confirm the delegations have been made.**

Authorised by:

James Baty - Director Internal Partnerships & Protection

Keywords: delegations, updated delegations

BACKGROUND - HE WHAKAMĀRAMA

1. Council delegates authority to the Chief Executive and staff to enable administrative efficiency and ensure timeliness in the conduct of Council's daily business activities. Most Acts allow the Chief Executive to sub-delegate her powers to staff. The RMA and Local Government Rating Act (LGRA) do not allow sub-delegation. Any delegations of the Council's powers to staff must be made directly by the Council.
2. Since the current Instrument of Statutory Delegation was approved on 23 June 2022, the Council's organisation structure has had some minor changes in reporting lines and position titles. With the departure of the Director of Environmental Services & Protection in November 2022, responsibility for the performance of RMA functions was split between the Director of Internal Partnerships, and the Chief of Science and Strategy. The Chief Executive appointed the persons performing these roles as Acting Director of Environmental Services and Protection for the purposes of the exercise of RMA statutory delegations. This was as an interim arrangement to enable time for a decision on the permanent structure.
3. Under the new permanent structure, the same persons will retain responsibility for the RMA functions, with minor updates to their position titles (now Director of Internal Partnerships and Protection and Director of Sustainable Futures).
4. It is appropriate for the statutory delegations to be updated to reflect the permanent structure and ensure certainty as to the delegated authority held by each position.
5. Part 4 of the 1st Schedule of the Resource Management Act was repealed and replaced on 1 July 2020 by section 103(3) of the Resource Management Amendment Act 2020 - which amendment provided a new framework for the Freshwater Planning Process. Certain powers under the Part 4 have not yet been delegated to officers and certain existing delegations under the repealed Part 4 need to be removed.
6. Section 331B of the Resource Management Act (introduced by amendment on 20 March 2023) provides a new power to Council as the owner and occupier of rural land, to undertake works necessary for the purposes of recovery from Cyclone Gabrielle. This power has not yet been delegated to officers.
7. The Severe Weather Emergency Legislation Act 2023 (SWERL Act, introduced on 12 April 2023) enables new Orders in Council under the Resource Management Act to be made within short timeframes. New Orders in Council may create new statutory functions for the Council.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

8. An updated Instrument of Statutory Delegation to Chief Executive and Officers is included as **Attachment 1** ("New Instrument of Delegation").
9. The New Instrument of Delegation reflects changes to the existing delegations to officers under the RMA, as outlined below. The delegation to the Chief Executive, and the LGRA delegations to officers included in that Instrument remain unchanged.

Amendments to RMA delegations

10. The New Instrument of Delegation will:
 - a. allow the new positions of Director Sustainable Futures and Director of Internal Partnerships and Protection to exercise the RMA powers which were previously held by the Director Environmental Services & Protection.
 - b. enable certain Directors to exercise the new power under the section 331B of the RMA, and new powers that may be created by Order in Councils under the SWERL Act.
 - c. reflect updated position titles.
11. These amendments will ensure that staff have the delegations necessary to perform their roles and enable greater efficiency and certainty in Council's RMA decision-making.
12. The New Instrument of Delegation omits references to the position of Principal Advisor, Environmental Services & Protection, as the position has been disestablished.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Low Significance

This Report: Low Significance

The effects on individuals or specific communities

Overall Process: Low Significance

This Report: Low Significance

The level or history of public interest in the matter or issue

Overall Process: Low Significance

This Report: Low Significance

13. The decisions or matters in this report are considered to be of **Low** significance in accordance with Council's Significance and Engagement Policy.
14. Delegations are an internal operational matter.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

15. No Tangata Whenua or Māori engagement is required.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

16. No community engagement is required.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

17. There are no implications for climate change.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

18. The financial impact of making the delegations will be negligible.

Legal

19. Council has the power to delegate pursuant to Clauses 32 and 32A of Schedule 7 of the Local Government Act 2002. Exercising the power to delegate will ensure that Council staff have the legal authority necessary to perform their role.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

20. Updated delegations support the strategic objective of a high performing culture.

RISKS - NGĀ TŪRARU

21. There are no major risks associated with the decision. The risk of not updating the RMA delegations is that decision-making will be unnecessarily delayed by the need to seek approval from staff currently holding the relevant delegations, or the need to seek a Council resolution.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
10 August	Mayor to sign the Instrument of Delegation	

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Council Report Delegations August 2023 [23-169.1 - 10 pages]

Instrument of Statutory Delegation

General Delegation to Chief Executive, and Delegation to Officers under Resource Management Act 1991 and Local Government (Rating) Act 2002

By resolution at a meeting on **10** August 2023 the Gisborne District Council:

1. Delegated to its Chief Executive all responsibilities, functions and powers to act on any matter, excluding those matters in respect of which delegation is prohibited by legislation; and
2. Delegated specific powers and functions under the Resource Management Act 1991 (RMA), and the Local Government (Rating) Act 2002 (LGRA), to the officers specified alongside those powers and functions in Schedules 1 and 2 of this Instrument; and
3. Determined not to impose any conditions, limitations, restrictions or prohibitions in the delegations; and
4. Revoked all previous statutory delegations to the Chief Executive, and all delegations to other officers under the RMA and LGRA.

These delegations are made under clauses 32 and 32A of Schedule 7 of the Local Government Act 2002.

For the avoidance of doubt, the delegation to the Chief Executive includes the ability to issue warrants to enforcement officers and to affix the seal.

The General Principles of Delegation set out below apply to these delegations.

General Principles of Delegation

Acting

Functions or powers delegated to holders of an office may be exercised by a person who has been appointed to act in the office.

Changes to team or office name

A specified office or class of office includes an office that carries the same, or substantially the same responsibility as the specified office and is intended to replace, or substantially replace the specified office.

Other parties able to act

The delegation of authority does not prevent another authorised party from exercising the function, power or duty. For example, the Chief Executive may refer a matter to the Council or a Committee for decision.

Non-discretionary duties

The Schedules list only those functions, powers and duties or which involve discretionary decision-making. All staff have authority to perform non-discretionary duties (those not listed) on behalf of the Council, within the general scope of their role.

Expectations

In exercising the delegated authority, the delegates are expected to:

1. act in accordance with their Financial Delegations and within budgetary constraints.
2. comply with Council policies and procedures relating to the exercise of the functions and powers.

For the avoidance of doubt, these expectations are not intended as legal conditions or limitations in the scope of the powers delegated.

Council resolution confirmed by:

Rehette Stoltz

Mayor

Date: August 2023

Schedule 1

Delegation to Officers of powers and functions under the Resource Management Act 1991

Key

BSM	Building Services Manager
BTL	Biosecurity Team Leader
CAM	Cultural Activities Manager
CARM	Community Assets and Resources Manager
CCTL	Consents Coordination Team Leader
CM	Consents Manager
CMEM	Compliance Monitoring & Enforcement Manager
DEMP	Director Engagement and Māori Partnerships
DIPP	Director Internal Partnerships and Protection
DLC	Director Liveable Communities
DLL	Director Lifelines
DP	Duty Planner
DSF	Director Sustainable Futures
EHTL	Environmental Health Team Leader
EMSM	Environmental Monitoring and Science Manager
FWIM	Four Waters Infrastructure Manager
ICM	Integrated Catchments Manager
IRCP	Intermediate Resource Consents Planner
JIM	Journeys Infrastructure Manager
JOM	Journeys Operations Manager
LSM	Liveable Spaces Manager
MCTL	Monitoring and Compliance Team Leader
	Principal Advisor, Environmental Services and Protection
PP	Principal Planner
RCTL	Resource Consents Team Leader
SPM	Strategic Planning Manager
SRCP	Senior Resource Consents Planner
WM	Water Manager

Note that the Council has delegated all of the powers and functions listed below to the Chief Executive, in addition to the listed officers.

Section	Summary of function or power	Delegates
s 10(2)	Decision on application for extension of existing use rights	DSF, CM, CMEM, BSM, RCTL, PP
s 34A(1)	Appointment of Hearing Commissioners (not power of delegation)	DSF, P (Expectation of consultation with CE)
s 36(5) to (7) and 36AA	Power to set additional charges, provide estimates, and make decisions on non-performance pending payment of charge.	DSF, DIPP, SPM, CM, CMEM, RCTL, PA, BSM
s 36AAB	Powers to remit the whole or part of any charge, and to not commence or continue processing resource consent applications or private plan change applications if insufficient money has been paid as required by Council's schedule of charges	DSF, DIPP, DCL, SPM, CM, CMEM, RCTL
s 37	Waive requirements or extend time limits.	DSF, SPM, CM, CMEM, RCTL, BSM, PP, SRCP, IRCP

s 38	Authorisation and warranting of enforcement officers (including ability to affix seal)	DIPP
s 41B	Directions to provide evidence within time limits	DSF, SPM, CM, RCTL, PP
s 41C	Directions and requests before hearing	DSF, SPM, CM, RCTL, PP
s 41D	Strike out a submission	DSF, SPM, CM, RCTL, PA, PP
s 42	Order to protect sensitive information	DSF, DIPP, CM, CMEM, RCTL, BSM, SPM, PP
s 42A	Require or commission a report	DSF, DIPP, CM, CMEM, SPM, RCTL, BSM
s 42A(5)	Waive requirement to send officer report	DSF, CM, RCTL, BSM, SPM, PP
s 44A	Local Authority recognition of national environmental standards	DSF, SPM, RCTL, PP
s 58	If so directed by a national planning standard, power to amend any planning document.	DSF
s 80A	Powers and functions relating to the Freshwater Planning Process	DSF, SPM
s 86D(2)	Make application to Environment Court for a rule to have legal effect	DSF, SPM
s 87BA	Power to decide and give notice on boundary activities	DSF, DIPP, CM, CMEM, CSS, SPM, RCTL, PP
s 87BB	Power to decide and give notice on deemed marginal or temporary permitted activities	DSF, CM, SPM, RCTL, PP, BSM
s 87E	Decision to return, decline or grant a request to transfer an application for resource consent or application for a change or cancellation of consent condition to the Environment Court	DSF
s 87F	Prepare a report and suggest conditions to the Environment Court.	DSF, CM, SPM, RCTL, PP
s 88	Determine that an application for resource consent is incomplete and provide reasons	DSF, CM, RCTL, BSM, SPM, PP, SRCP, IRCP, DP, CCTL
s 88H	Power to exclude time periods relating to non-payment of administrative charges	DSF, DIPP, CM, CMEM, SPM, RCTL, PP, BSM
s 91	Deferral of application pending additional applications	DSF, CM, RCTL, BSM, SPM, PP
s 91F	Return or continue to process a suspended application	DSF, CM, RCTL, BSM, SPM, PP, SRCP, IRCP, DP, CCTL
s 92(1)	Requirement for further information from applicant	DSF, CM, RCTL, BSM, SPM, PP, SRCP
s 92(2)	Commission a report in relation to an application	DSF, P, CM, RCTL, BSM, SPM, PP
s 92A	Set time limit for applicants to provide information.	DSF, CM, RCTL, BSM, PP
s 95, ss 95A to 95G	Powers to make all relevant determinations	DSF, CM, SPM, RCTL, PP, BSM
s 97(4)	Adopt an earlier closing date	DSF, CM, RCTL, BSM, SPM, PP
s 99(1) to (3)	Arrange pre-hearing meetings for the purpose of clarifying, mediating or facilitating resolution of any matter or issue.	DSF, CM, CMEM, RCTL, BSM, SPM, PP

s 99(4)	The authority to decide if staff who have the power to make a decision on an application may attend and participate in a pre-hearing meeting.	DSF, CM, SPM, RCTL
s 99(8)	Decline to process an application or consider a submission.	DSF, CM, SPM, RCTL, PP
s 99A	Powers relating to mediation	DSF, CM, SPM, RCTL
s 100	Determination whether hearing necessary	DSF, CM, SPM, RCTL, BSM
s 101	Fix hearing date, time and place	DSF, CM, SPM, RCTL, PP, BSM
s 102(1)	Determination for a joint hearing	DSF
s 103	Determination not to hold a combined hearing	DSF
ss 104, 104A to 104D, 105 to 108, 405A, 406, 407, 409	Decisions on applications for resource consents that are not notified, or for which no hearing is to be held.	DSF, CM, SPM, RCTL, PP, BSM, SRCP
s 109	Make decisions in relation to bonds or covenants	DSF, DIPP, CM, CMEM, RCTL, BSM, SPM
s 110	Power to authorise refund of money when activity does not proceed	DSF, DIPP, CM, CMEM, RCTL, SPM
s 114	Decisions relating to notification of decision	DSF, CM, RCTL, BSM, SPM, PP
s 124	Decision as to whether operations can continue under original resource consent pending determination of replacement consent	DSF, DIPP, CM, CMEM, RCTL, BSM, SPM, PP
s 125	Decision whether to extend period before a resource consent lapses	DSF, CM, SPM, RCTL
s 126	Cancellation of consents unexercised for more than five years	DSF, DIPP, CM, CMEM, SPM, RCTL
s 127 & 149Z	Decision on an application to change or cancel a resource consent condition	DSF, CM, SPM, RCTL, PP, BSM
s 128 to 132	Initiate, approve and determine review of consent conditions	DSF, CM, SPM, RCTL, PP, BSM
s 132(3) & (4)	Determine resource consent should be cancelled.	DSF, DIPP
s 133A	Correct minor mistakes or defects in a resource consent	DSF, DIPP, CM, CMEM, BSM, SPM, RCTL, PP
s 136	Authority to approve transfer of water permits	DSF, CM, RCTL, SPM, PP, BSM
s 137	Authority to approve transfer of discharge permits	DSF, CM, RCTL, SPM, PP, BSM
s 138	Decision to accept or refuse part or full surrender of a resource consent	DSF, DIPP, CM, CMEM, SPM, PP
s 138A	Consider special provisions relating to coastal permits for dumping and incineration	DSF, CM, RCTL, SPM, PP
s 139	Issue of certificate of compliance	DSF, CM, SPM, RCTL, PP, BSM
s 139A	Issue existing use certificate	DSF, CM, SPM, RCTL, PP, BSM
s 142 to 149ZD	All powers and function of the Council in Part 6AA Proposals of National Significance Request Minister call in a matter lodged with the Council	DSF

s 149G	Prepare a report on the key planning issues on a resource consent application that has been called in	DSF, CM, RCTL, BSM, CSS, SPM, PP
s 165D	Refuse to receive an application for a coastal permit	DSF, CM, RCTL, SPM, PP
s 165E(2)	Determination of an application for a coastal permit	DSF
s 165L	Request Minister to approve allocations of authorisations for space	DSF
s 165O	Request Minister to revoke or amend an approval to use a public tender	DSF
ss 165X to 165ZFE	Powers relating to authorisations and applications for coastal permits	No delegation to officers
ss 168A & 149Z	Determine whether to notify notice of requirement for designation	DSF, CM, RCTL, BSM, SPM, PP
s 169	Process Notice of Requirement to Council.	DSF, CM, RCTL, BSM, SPM, PP
s 171	Recommendation on Notice of Requirement to Council when:	DSF, CM, SPM, RCTL, PP, BSM
	• No submissions have been received, or	
	• No request is made for a hearing, or	
s 171	• The need for a hearing has been averted by all submitters giving written agreement with conditions of consent proposed, and therefore they no longer want to be heard	
s 174	Appeal decisions on Notices of Requirement (not Councils)	DSF, CM, SPM
s 176A	Powers in relation to Outline Plan	DSF, CM, RCTL, BSM, SPM, PP
ss 181 & 149Z	Alteration of designation	DSF, CM, RCTL, BSM, SPM, PP
s 182(5)	Decline to remove part of a designation	DSF, CM, RCTL, BSM, PP, SPM
s 184	Determination that lapsing time for designation can be extended beyond five years	DSF, CM, RCTL, BSM, PP, CSS, SPM
s 184a	Determination that lapsing time for Council's own designation can be extended beyond five years	DSF, CM, RCTL, BSM, PP, SPM
s 186(4)	Consent for setting apart of Council held land for work of a network utility operator – (asset management)	DSF
ss 189A, 190, 191, 149Z	Powers relating to notice of requirement for a heritage order.	DSF, CM, RCTL, PP, BSM
s 193	Consent to do anything that would wholly or partly nullify the effect of a heritage order (where Council is the relevant heritage protection authority)	No delegation to officers
s 195A & 149Z	Alter heritage order (applies to both applications to and those by Council)	DSF, CM, RCTL, BSM, PP, SPM
s 198C	Determine request	DSF, CM, RCTL, BSM, PP, SPM
s 198D	Prepare and serve report on requirement	DSF, SPM, CM
s 198E(4)	File s 274 notice in respect of a notice of motion lodged with the Environment Court	DSF, SPM, CM

s 198H	Decision to refer a requirement to the Environment Court for decision	DSF, SPM, CM
s 198J & 198M	Determine requirement; Prepare report and suggested conditions; and Serve submitters	DSF, SPM, CM
s 198K	Lodge and serve notice of motion and supporting affidavit with the Environment Court	DSF, SPM, CM
s 205	Authority to make submissions on a proposed water conservation order	DSF
s 209	Authority to make submissions to the Environment Court on a proposed water conservation order	DSF
S 217K	Appoint a certifier or auditor	DIPP, CMEM
s 221	Issue, vary or cancel consent notice	DSF, CM, RCTL, BSM, PP
s 222	Allowing a bond binding the owner to complete work or make a financial contribution as required by condition of subdivision consent	DSF, CM, RCTL, BSM, PP
s 223, 237, 240, 243	Approval or declining of survey plan Issue a certificate that a survey plan has been approved under this section?	DSF, CM, RCTL, BSM, PP
s 224(c)	Issue a completion certificate that all conditions of a subdivision consent are complied with	DSF, CM, RCTL, BSM, PP
s 224(f)	Sign certificate for purpose of s 224(f)	DSF, CM, RCTL, BSM, PP
s 226(1)(e)	Issue a certificate confirming allotments are in accordance with provisions of district plans and statutory documents	DSF, CM, RCTL, BSM, PP
s 234	Vary or cancel instrument creating esplanade strip	DSF, CM, RCTL, BSM, SPM, PP
s 235	Creation of esplanade strip by agreement	DSF, CM, RCTL, BSM, SPM, PP
s 237	Approval of survey plans where esplanade reserves or esplanade strips required	DSF, CM, RCTL, BSM, PP
s 237B	Agreement to acquire easement for access strip	DSF, CM, RCTL, BSM, PP
s 237C	Closure of strips to public	DSF, DIPP, CM, CMEM, RCTL, BSM, PP
s 237D	Transfer of esplanade reserve to the Crown	CE only
s 237H(2)	Acceptance or objection to registered valuer's determination of compensation	DSF
s 240, 241, 243	Powers relating to conditions as to amalgamation of land and easements	DSF, CM, RCTL, BSM, PP
s 245	Approve survey plans for reclamation	DSF, CM, CMEM, BSM, RCTL, PP
s 274	Give notice of intention to become party to proceedings	DSF, DIPP (Expectation of consultation with CE)
s 294	Application to Environment Court to order a rehearing of proceedings by the Court	DSF, DIPP (Expectation of consultation with CE)
s 299, 300	Initiate and file notice of appeal to High Court	DSF, DIPP (Expectation of consultation with CE)
s 308G	Commence proceedings for declaration person/persons in contravention of Part 11A	DSF, DIPP (Expectation of consultation with CE)
s 308I	Commence proceedings for damages in the High Court	DSF, DIPP (Expectation of consultation with CE)

s 311	Application to Environment Court for declaration	DSF, DIPP
s 316	Application to Environment Court for enforcement order	DIPP, CMEM
s 320	Application to Environment Court for interim enforcement order	DIPP, CMEM
s 325A	Cancellation or change of Abatement Notice	DIPP, CMEM, MCTL
s 329	Issue of water shortage directions	DSF, DIPP, CM, CMEM
s 330	Authority to take preventative or remedial action where adverse environmental effects, or a sudden event likely to cause loss of life, injury or serious damage to property, threatens any public work for which Council has financial responsibility, or any natural or physical resource or areas	DSF, DIPP, CM, CMEM, RCTL, BSM, SPM, DLC, DCL, ICM, FWIM, WM, JIM, JOM, CARM, LSM, CAM, MCTL, SRCP
s 331	Seek an enforcement order from Environment Court to recover costs	DIPP
s 331B	Owner or occupier of rural land may take emergency preventive or remedial measures	DSF, DLL, DLC
s 332	Authorise entry by enforcement officer	DSF, DIPP, CM, CMEM, CMTL, RCTL, BSM
s 334	Application for warrant for entry for search	DSF, DIPP, CM, CMEM, RCTL, BSM, CMTL, Enforcement Officers
s 336(2)	Determination on return of property seized under ss 323 and 328	DSF, DIPP, CM, CMEM, MCTL, EHTL
s 338	Decide whether to commence a prosecution for an offence	DIPP, CMEM (Expectation of consultation with CE)
s 343C	Decide whether or not to commence proceedings for an infringement offence	DIPP, CMEM
s 353	Extension of period fixed	DSF, CM, CMEM, RCTL, BSM, SPM
s 355	Application for vesting of reclaimed land in Council	DSF
s 357 & 357D	Authority to consider any objection to an officer's decision when the objection can be wholly upheld or agreement is reached with applicant on partial upholding of the objection.	DSF, CM, CMEM, BSM, RCTL
s 388	Request for information regarding exercise of resource consent	DSF, DIPP, CM, CMEM, RCTL, BSM, SPM, PP
1st sch cl 3	Determining who to consult	DSF, SPM
1st sch cl 4	Respond as to whether the Council requires the designation to be included in that district's proposed plan, with or without modification.	DSF, SPM
1st sch cl 4a	Power to provide copies of planning documents to iwi and determine time for advice	DSF, SPM
1st sch cl 6	Make a submission	DSF, SPM
1st sch cl 5, 5A and 11	Determining which persons are directly affected and so need to be notified	DSF, SPM
1st sch cl 7	Power to summarise submissions made in respect of a policy statement or plan or a change or variation thereto.	DSF, SPM
1st sch cl 8	Make a further submission	DSF, SPM
1st sch cl 8AA	Resolution of disputes	DSF, SPM

1st sch cl 10	Power to publicly notify decisions on provisions and matters raised in submissions	DSF, SPM
1st sch cl 10A	Power to apply for extension of time if local authority is unable, or likely to be unable, to meet decision making obligations under Clause 10(4)(a)	DSF, SPM
1st sch cl 11	Power to decide which landowners or occupiers are directly affected by the Council's decisions under Clause 9(2).	DSF, SPM
1st sch cl 16	Minor amendment of proposed policy statement or plan	DSF, SPM
1 st sch cl 20A	Minor correction of operative policy statement or plan	DSF, SPM
1st sch cl 23	Requirement to provide further information and commissioning of reports (private plan changes)	DSF, SPM
1st sch cl 24	Modify request for plan change	DSF, SPM
1st sch cl 32	Power to certify as correct material incorporated by reference into plan following decision	DSF, SPM
1 st sch cl 37	Submit freshwater planning documents and give nominations	DSF
1 st sch cl 52(5)	Power to publicly notify decisions on recommendations from the freshwater hearings panel	DSF
1 st sch cl 54	Notify the Chief Freshwater Commissioner of variations to freshwater planning instruments	DSF
1st sch cl 88 and 90	Power to publicly notify Minister's decisions under the streamlined planning process	DSF, SPM
Regional Plan	Powers and functions relating to Farm Environment Plans	DSF, DIPP, CM, EMSM
Severe Weather Emergency Legislation Act 2023 (SWERLA)	Powers and functions relating to Resource Management Act 1991 under SWERLA	DSF, DIPP, DLC, DLL, DEMP, CM, CMEM, MCTL

Schedule 2

Delegation to Officers under the Local Government (Rating) Act 2002

Key

CFO	Chief Financial Officer
FM	Finance Manager
RTL	Revenue Team Leader
RA	Revenue Accountant

Note that the Council has delegated all of the powers and functions listed below to the Chief Executive, in addition to the listed officers.

Section	Summary of function or power	Delegates
s 28(3)	Determine a fee for being supplied a copy of Rating Information Database data.	CFO, FM, RTL
s 63	Power to commence court proceedings for the recovery of rates that are in default	CE only
s 67	Power to commence rating sale or lease provisions	CE only
s 72	Consent to sell or lease by private treaty.	CE only
ss 77 to 83	Powers relating to the sale of abandoned land	CE only
s 85	Remit rates	CFO, FM, RTL, RA
s 87	Postpone requirement to pay rates	CFO, FM, RTL, RA
s 90(1) and (4)	Register a notice of charge or notice of release of charge on a rating unit if requirement to pay rates has been postponed under s 87(1)	CE only
ss 99 and 108	Apply to the Maori Land Court to obtain a charging order to administer the land for the purpose of recovering the rates. Conditional on consultation with the Chief Executive.	CE only
s 114	Remit rates on Maori freehold land	CFO, FM, RTL, RA
S 114A	Remit rates on Māori freehold land under development	CFO, FM, RTL
s 115	Postpone requirement to pay rates on Maori freehold land	CFO, FM, RTL, RA
s 117N(2)	Power to cancel election for lump sum contribution payment or recover amount owing in a situation of late or non-payment	CFO, FM, RTL
s 135	Power to sign documents as correct copies for legal proceedings.	CFO, FM, RTL

