

# AGENDA



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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 15 December 2022

TIME: 9:00AM

AT: Te Ruma Kaunihera (Council Chambers), Awarua, Fitzherbert Street, Gisborne

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# Council

<b>Chairperson:</b>	Mayor Stoltz
<b>Deputy Chairperson:</b>	Cr Wharehinga
<b>Membership:</b>	The Mayor and all Councillors
<b>Quorum:</b>	Half of the members when the number is even and a majority when the number is uneven
<b>Meeting Frequency:</b>	Six weekly (or as required)

## Terms of Reference:

The Council is responsible for strategic leadership, through the creation of policies based on the legislative mandate. The Council's terms of reference include the following powers which cannot be delegated to committees, subcommittees, officers or any other subordinate decision-making body which includes:

- a. the power to make a rate; or
- b. the power to make a bylaw; or
- c. the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan; or
- d. the power to adopt a Long-term Plan, Annual Plan, or Annual Report; or
- e. the power to appoint a Chief Executive; or
- f. 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; or
- g. the power to adopt a remuneration and employment policy; or
- h. Terms of Reference and Delegations for the 2016-2019 Triennium; or
- i. the power to approve or change a plan (RMA); or
- j. the power to approve or amend the Council's Standing Orders; or
- k. the power to approve or amend the Code of Conduct for elected members; or
- l. the power to appoint and discharge members of committees or;
- m. the power to establish a joint committee with another local authority or other public body; or
- n. the power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation.
- o. make those decisions which are required by legislation to be made by resolution of the local authority that are not listed in 1-14 above.
- p. carry out leadership functions including advocacy and facilitation on behalf of the community.
- q. exercise all non-delegatable and non-delegated functions and powers of the Council.
- r. consider any matters referred to it from any of the Committees.
- s. authorise all expenditure not delegated to staff or other Committees.

## **Financial**

1. To determine all financial matters not delegated.
2. To receive reports of the exercise of financial delegated authority pursuant to the Public Bodies Contracts Act 1959.
3. To approve Council's borrowing programme and treasury management strategy.
4. To undertake the statutory audit processes and to consider and approve the external audit arrangements, to receive the Auditor's reports and to approve the audited annual report.

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 and section 34A of Resource Management Act 1991.



### 3.1. Confirmation of non-confidential Minutes 17 November 2022

# MINUTES

## Draft & Unconfirmed



P O Box 747, Gisborne, Ph 867 2049 Fax 867 8076  
Email [service@gdc.govt.nz](mailto:service@gdc.govt.nz) Web [www.gdc.govt.nz](http://www.gdc.govt.nz)

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## MINUTES of the GISBORNE DISTRICT COUNCIL/TE KAUNIHERA

**Held in Te Ruma Kaunihera (Council Chambers), Awarua, Fitzherbert Street, Gisborne on Thursday 17 November 2022 at 9:00AM.**

### PRESENT:

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

### IN ATTENDANCE:

Chief Executive Nedine Thatcher Swann, Director Lifelines David Wilson, Director Internal Partnerships James Baty, Director Liveable Communities Michele Frey, Director Environmental Services & Protection Helen Montgomery, Director Engagement & Maori Responsiveness Anita Reedy-Holthausen, Chief Financial Officer Pauline Foreman, Chief of Strategy & Science Jo Noble, Te Kai Arataki – Tuia Whakapakari Gene Takurua, Democracy & Support Services Manager Heather Kohn and Committee Secretary Jill Simpson.

The meeting commenced with a prayer.

**Secretarial Note:** Cr Tupara attended the meeting via audio visual link.

Her Worship the Mayor welcomed all Councillors to the first official Council meeting and acknowledged staff for their assistance during the induction period.

### 1. Apologies

There were no apologies.

### 2. Declarations of Interest

There were no interests declared.

### **3. Confirmation of non-confidential Minutes 27 October 2022**

MOVED by Cr Foster, seconded by Cr Cranston

That the Minutes of 27 October 2022 be accepted.

**CARRIED**

### **3.2 Action Sheet**

Noted.

### **3.3 Governance Work Plan**

Noted.

### **4. Leave of Absence**

There were no leaves of absence.

### **5. Acknowledgements and Tributes**

There were no acknowledgements or tributes.

### **6. Public Input and Petitions**

There were no public input or petitions.

### **7. Extraordinary Business**

There was no extraordinary business.

### **8. Notices of Motion**

There were no notices of motion.

### **9. Adjourned Business**

There was no adjourned business.

### **10. Committee Recommendations to Council**

#### **10.1 22-245 Committee Recommendations to Council - September 2022**

MOVED by Cr Stoltz, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Adopts the recommendation from the Audit & Risk Committee:
  - a. Notes the position reached with Council's insurance brokers regarding insurance arrangements for wrecks and covering our responsibilities.

**CARRIED**

## **11. Reports of the Chief Executive and Staff for DECISION**

### **11.1 22-250 Adoption of Standing Orders**

Discussions included:

- Tikanga Maori will also be part of the discussion when reviewing.
- Mataraki public holiday also to be considered.

MOVED by Cr Wharehinga, seconded by Cr Robinson

That the Council/Te Kaunihera:

1. Adopts the 2019 Gisborne District Council Standing Orders until a review has been completed in 2023.

**CARRIED**

### **11.2 22-249 Code of Conduct**

MOVED by Cr Ria, seconded by Cr Gregory

That the Council/Te Kaunihera:

1. Adopts the Code of Conduct until the full review is completed in 2023 subject to any amendments as required by Council.

**CARRIED**

### **11.3 22-228 Committee Structures and Appointments**

Questions of clarification included:

- The CV of the Independent Chair of the Audit & Risk Committee, Bruce Robertson will be emailed to all Councillors. It is best practice to have an independent Chair of this particular Committee.
- Recommendations 1 and 2 be amended to read 'unitary' authority not 'territorial' authority.

MOVED by Cr Wharehinga, seconded by Cr Foster

That, subject to amendments noted above, the Council/Te Kaunihera:

1. Confirms the establishment of committees and sub-committees of the unitary authority set out in Attachment 1.
2. Confirms the appointments of members and chairs to the committees and sub-committee of the unitary authority as set out in Attachment 2.
3. Appoints Councillors to the various roles outside of Council as set out in Attachment 3.
4. Confirms the appointment of Bruce Robertson as the Independent Chair of the Audit & Risk Committee.
5. Reaffirms the membership of the Waiapu Catchment Hearings Committee as per the Joint Management Agreement between Gisborne District Council and Te Runanganui o Ngāti Porou.
6. Confirms that the trustees for the Gisborne District Disaster Relief Trust will be the Mayor and Councillor Tibble with the Chief Executive and Civil Defence and Emergency Manager being administrative trustees.
7. Requests that the Delegation Manual be updated with changes in membership numbers and any changes to the structure that have been agreed to and reported back for adoption prior to the end of the calendar year.

**CARRIED**

Her Worship the Mayor acknowledged and thanked Bella Hawkins (Chair of Maraetaha Inc.) and kaumatua who were in attendance to support and welcome Cr Gregory and Cr Ria to the Maraetaha Joint Steering Committee.

#### **11.4 22-251 Meeting Schedule 2022**

Discussions included:

- The 2023 meeting schedule will be emailed to all Councillors. The 2023 meeting schedule will be adopted at the Council meeting on 15 December.
- In the new year the Finance & Performance Meeting and the Operations Meeting will be held over 2 days.

MOVED by Cr Foster, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Adopts the meeting schedule appended as Attachment 1 for the remainder of the 2022 year.

**CARRIED**

### 11.5 22-243 Temporary Alcohol Bans – December 2022 and January 2023

Compliance Monitoring & Enforcement Manager Gary McKenzie and Team Leader Environmental Health Vincenzo Petrella attended to answer questions of clarification:

- Rhythm & Vines welcome the alcohol bans that are in place.
- The cost to Council in implementing the alcohol bans fluctuates and is minimal in terms of signage, public notice, report writing.
- The intention of the bans has shown a decrease in rubbish and loitering. There is a greater police presence during that time.
- Tairāwhiti has a huge drinking culture which needs to be addressed and making our neighbourhoods safer all year round.

MOVED by Cr Ria, seconded by Cr Parata

That the Council/Te Kaunihera:

1. Exercise its power under clause 7.1 of the Gisborne District Alcohol Bylaw to prohibit the consumption, bringing into, or possession of alcohol:
  - a) From 8am on 27 December 2022 to 6pm on 1 January 2023, in the areas shown on the map at Attachment 2 (being area in the vicinity of R&V, around and including Gray's Bush Scenic Reserve and Carpark, Gray's Bush Lookout, Waimata Valley Road, Back Ormond Road from Hansen Road to Matawai Road [SH2], Waihirere Domain Road, Snowsill Road, Glenelg Road, Kawatiri Road and all the roads joining Matawai Road to Back Ormond Road and Lytton West Reserve).
  - b) From 8am on 27 December 2022 to 6pm on 1 January 2023, in the areas shown on the map in Attachment 3 being the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road and Midway Beach.
  - c) From 8am on 27 December 2022 to 6pm on 1 January 2023, in the areas shown on the map in Attachment 4 (being the area of Marina Park bounded by the two rivers, Ormond Road, Fitzherbert Street and Peel Street, and the whole of Kelvin Park bounded by the river, Peel Street, Stout Street and the Museum).
  - d) From 8am on 13 January 2023 to 8am on 15 January 2023 in the areas shown on the map in Attachment 3 being the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road, and Midway Beach.

**CARRIED**

## **11.6 22-242 Public Financial Report on Income and Expenses related to the Operation of the District Licensing Committee**

MOVED by Cr Wharehinga, seconded by Cr Tibble

That the Council/Te Kaunihera:

1. Adopts the Gisborne District Licensing Committee's Annual Report for the 2021/22 year.

**CARRIED**

## **12. Reports of the Chief Executive and Staff for INFORMATION**

### **12.1 22-231 Chief Executive Activity Report November 2022**

Chief Executive noted that since the report was produced two Bills have been introduced to the house being the Natural and Built Environment Bill and the Spatial Planning Bill. The Water Services Entities Bill will have its second reading soon. There was also an adverse weather event. To date Council is tracking on par with projected financials. In terms of the calendar year approximately \$8m of external grants have been received and major work streams are progressing.

#### **Central Government Updates**

- Acknowledgement of the amount of work staff are having to complete in terms of central government submissions.
- A workshop will be held in the new year with regard to the submission to the Finance & Expenditure Select Committee.
- The pleather of other plants and exotics that also sequest carbon can be included in the submission with regard to the National direction for plantation and exotic afforestation.
- Staff will be commenting on the submission period and the fact that it overlapped with local body elections and meant that many other Councils could not engage actively with their Councillors which was not satisfactory.
- Concern was raised that the protection of native and natural forest areas in Turanga, is potentially being overlooked in terms of the new Bills being introduced and also in the biodiversity statements of Council.

#### **Civil Defence Updates**

Her Worship the Mayor thanked Nedine and staff for the work during the last weather event and a full update will be given at the Civil Defence Emergency Management Group meeting on 23 November 2022.

## **Relationships**

- Continuation of Te Kahui Patu Kaikiri programme is encouraged as anti-racism is a huge kaupapa. There is a National Action Plan on anti-racism being prepared and whilst there is a large amount of work around tangata whenua and Treaty Partnerships, it's imperative that anti-racism is kept at the forefront.
- Need to be mindful the demand Council places as a local authority on our treaty relationships. Also need to be mindful of the amount of reform that is occurring at the moment. Council's treaty partners are stretched for time and it is a journey that we are going to have to walk in partnership with them. The Steering Group is very foundational built off the back of the journey the former Councillors committed to. It is about getting the right people together within the partnership spectrum that will allow Council to be able to progress. It was also noted that consistent engagement with iwi, hapu and community is ongoing. Part of the treaty partnership is understanding the pressures on iwi and treaty partners.

## **General Management**

- There is a lot more information around health and safety that is reported to the Audit & Risk Committee. All incidents are fully investigated. Staff work with contractors to mitigate any future risks around reported incidents.
- Council staff consistently work with contractors and ensure they have the correct qualifications in place to enable them to undertake the specified work.
- Council staff are insured for death, or an injury deeming them unable to work.

## **Focus Projects**

Mayor Stoltz acknowledged Lillian Ward, Council's Rural Area Liaison Manager for the wonderful way Lillian works with our communities and the awesome mahi Lillian completes on behalf of Council.

- A brief update was requested on the other community upgrades including what is spent and where.
- Every 5 years there will be a township upgrade. In terms of Matawai, 2 years ago the playground was decommissioned as it was unsafe so there is a need to work with the community and restore but more importantly plan with them what the community would like to achieve.
- With regard to the 'Early Wins' a collective update would be beneficial for the Councillors ie how are they tracking, what is about to commence etc.
- Further woody debris has accumulated on Uawa Beach following the last rainfall event, however fortunately Council had not begun the clean-up. The quantum of clean-up required is still to be assessed at Uawa.
- The opening date for the KIWA Pools will now be April 2023.

- Through the public consultation process for the Panuku Tu / Titirangi Summit there were a number of submissions including from Rongowhakaata. Council is working with Rongowhakaata through a process of engagement which was requested and are now at the point of moving forward. Council has requested an initial hui which should occur pre-christmas and timeframes should then be able to be set.
- It was noted that amazing feedback has been received from the Waiapu Community, Te Araroa, and Wharekahika for the work that has been completed in that area. It has not been an easy journey for the community with staff changes etc.
- In terms of clearing beaches further along the coast of woody debris including those where impact has occurred on waahi tapu sites and urupa, Councillors were informed that the situation of woody debris is complex. For that reason, a report has been commissioned to develop a Policy position which will set up the approach Council takes in managing woody debris. At this point the clean-up of woody debris has been reactive. Early in the new year a Reference Group will be engaged and will include mana whenua and discussions will be held on the key outcomes and the priorities for woody debris clean-up. The feedback on the coastal beaches is appreciated.
- Concern expressed around the amount of support for Waka Ama in Gisborne and simple help could be the removal of debris from under the bridges following a rain event along with the trimming of low hanging trees along the river. It is a health and safety issue for paddlers, rowers and swimmers when wastewater is flushed into the river.
- For clarification it is not Council holding up the resource consent process for the Panuku Tu/Titirangi Summit project.

#### **Biodiversity, Grant Funding & Regional Roading Activities**

- Staff have met with contractors around the commencement date for the 1000 Year Bridge Project and groundworks should commence early 2023. Completion date should be known once the timeframe around steel fabrication has been confirmed.
- Better off Funding contract has been received and a Working Group is finalising the design for the Hawaiki Turanga Project. Once finalised it will be submitted for resource consent and commencement date should be early in 2023. Remediation of the site is taking a minimilistic approach and a lot of the work will be around lifting the landscaping and the improvements above the ground surface.
- Updates on the compostable waste collection and waste energy options will be given at the Operations Committee.
- Under the Better off Funding Agreement, consideration should be given to supplying free water tanks to those Maraes and halls essentially looking after communities should an adverse event occur. Iwi Chief Executives are working through The Marae Sustainability Programme and this is a project that has been identified as one of their priorities.



- Staff will provide Councillors with the number of Farm Environmental Plans that have not been received.
- Confirmation of the successful applicants for funding from MPI for the Land Use Capability Mapping should be received shortly.

Councillors commended the Chief Executive's report and found it informative, and it was asked if the outcomes of the workstreams could be included along with the impact of the work that is being carried out.

Staff were thanked for the work being done on the East Cape Road following the extreme weather events and acknowledged whanau who are still without a road to Whareponga.

MOVED by Cr Wharehinga, seconded by Cr Pahuru-Huriwai

That the Council/Te Kaunihera:

1. Notes the contents of this report.

**CARRIED**

Her Worship the Mayor and Councillors extended a big thank you to Helen Montgomery Director Environmental Services and Protection as this is Helen's last Council meeting and wished Helen the best of luck in her new endeavours.

### **13. Close of Meeting**

There being no further business, the meeting concluded at 10:28 am.

Rehette Stoltz

**MAYOR**

### 3.2. Action Sheet

Meeting Date	Item No.	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
17/11/2022	14.1	Additional Action Items	In progress	<b>22-231 Chief Executive's Activity Report</b> Provide Councillors with a collective update on the 'Early Wins' under the heading 'Focus Projects' ie how they are tracking, what is about to commence etc.	Denise Williamson, Michele Frey		08/12/2022
17/11/2022	14.3	Additional Action Items	In progress	<b>22-231 Chief Executive's Activity Report Biodiversity</b> Provide Councillors with the number of Farm Environmental Plans (FEPs) that have not yet been received as to date only 82 have been received by Council and they were required by 31 May 2021.	Tom Porter		16/01/2023
17/11/2022	14.4	Additional Action Items	Not yet started	<b>22-231 Chief Executive's Activity Report</b> In future Activity Reports provide details on the outcome of the workstreams along with the impact of the work that is being carried out.	Jade Lister-Baty		09/01/2023
17/11/2022	14.2	Additional Action Items	In progress	<b>22-231 Chief Executive's Activity Report Focus Projects</b> Provide feedback to Councillors regarding the support for the Waka Ama group in Gisborne along with some easy help ideas such as removal of debris from under the bridges, trimming of overhanging trees on the riverbanks and noting that when wastewater is flushed into the river it becomes a health and safety issue for their paddlers.	David Wilson, Gael Alderton		08/12/2022
17/11/2022	12.1	22-231 Chief Executive Activity Report November 2022	In progress	Provide Councillors with a brief update on the community township upgrades including what is being spent and where.	Lillian Ward		07/12/2022

COUNCIL						15-Dec
Group Activity	Activity	Name of agenda item	Purpose	Report type	Owner	
Community Lifelines	Journeys Infrastructure	22-79 Barton Street	The purpose of this report is to approve the transfer of 1,019m2 of land on Barton Street for educational purposes.	Decision	Dave Hadfield	
Environmental Services and Protection	Compliance and Enforcement	22-281 Annual Report Dog Control Policy and Practices	Council is required to report on statistical aspects of its dog control policy responsibilities.	Decision	Gary McKenzie	
Internal partnerships	Democracy and Support Services	Council & Committee Meeting Schedule 2023		Decision	Penny Lilburn	
Internal partnerships	Democracy and Support Services	Remuneration Authority Determination - Positions of Additional Responsibility and Elected member Allowances		Decision	Heather Kohn	
Liveable communities	Community Projects	KIWA POOLS - Fees and Charges Hearing Report		Decision	Michele Frey	
Strategy and Science	Bylaw	Keeping of Animals Bee's and Poultry Bylaw	Adopting of SOP for Consultation	Decision	Abi Wiseman	
Strategy and Science	Strategy and Science	Climate Change Update Report	Update on progress to date	Information	Dr Magnus Abraham-Dukuma	15-Dec
Strategy and Science	Bylaw	Dog Control Policy & Bylaw	Adopting of SOP for Consultation	Decision	Makarand Rodge	

## 10. Reports of the Chief Executive and Staff for DECISION



**22-244**

**Title:** 22-244 Kiwa Pools Fees and Charges Deliberations Report

**Section:** Community Projects

**Prepared by:** Ally Campbell - Executive Policy Advisor

**Meeting Date:** Thursday 15 December 2022

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Legal: Yes

Financial: Yes

Significance: **Medium**

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### Report to COUNCIL/TE KAUNIHERA for decision

#### PURPOSE – TE TAKE

The purpose of this report is to assist the Council to determine the final fees and charges for the Kiwa Pools Complex, informed by the outcome of consultation on a draft set of fees and charges and associated submissions.

#### SUMMARY – HE WHAKARĀPOPOTOTANGA

Council resolved to establish a new set of fees and charges for the Kiwa Pools Complex on 11 August (**Report 22-97**). Staff presented three options for Council to consider, and the recommended option to adopt a 'balanced model' was approved. The balanced model included slight increases across the majority of fees in recognition of the increased cost to Council and ratepayers of operating the new Kiwa Pools, whilst also remaining below the national benchmarked average for fees across similar facilities.

Consultation on the proposed draft fees and charges was undertaken for a period of one month between 14 September and 13 October 2022. 119 submissions were received. Swimming club members and regular users of the current pool complex made up most submitters.

Submitters were mostly concerned about:

- Affordability, particularly for lower income families
- Lane hire fees
- Annual passes / variety of pass options available
- Spectator fees

A Hearing was held on **7 December** and a Hearings report [**22-174**] summarising the submissions received was presented to the Finance & Performance Committee. Following the Hearing, staff have analysed the submissions further and collated options for consideration by Council. The full list of submissions received were presented within the Hearings report (report **22-174**).

The balanced model, which was approved by Council and consulted on, balances ratepayer and user costs to fund the operation of the facility, whilst ensuring the fees and charges remain within reach for a wide spectrum of the community. At this time, staff recommend that Council adopts the proposed balanced model for the fees and charges with minor changes as listed below. The full list of proposed fees and charges is included in **Attachment 1**.

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 Committee:**

- 1. Adopts the fees and charges for the Kiwa pools complex as presented on 11 August (Report 22-97), with changes to the following:**
  - a. Reinstating the option of an annual pass for frequent users of the pool complex and introducing the option to pay this monthly in advance. Setting the annual pass fee at \$460.00 and the monthly in advance annual pass fee at \$45.00/month.**
  - b. Setting the spectator fee to \$1.50 but restricting its application to spectators for regional or national events, and for all non-swimmers using the outdoor pool complex in summer.**
  - c. Introducing a new Family Pass C – two adults and two children for \$15.00.**
  - d. Community Services Card holders and children - 10 pass cost of \$35.**
  - e. Approve Kiwa Pool's to initiate 4 grant/scholarship awards based on affordability of the users, for competitive sports for under 18 year olds.**
  - f. Retaining the proposed lane hire fees as presented. Approve that discounts can be applied for by sports codes and schools with long term annual lane rental following the principles of the Rates Remissions Policy;**
    - i. Year 1 – Long term hire (annual lane hire) 30%.**
    - ii. Year 2 - Long term hire (annual lane hire) 15%.**

*Authorised by:*

**Michele Frey - Director Liveable Communities**

**Pauline Foreman - Chief Financial Officer**

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**Keywords:** Kiwa pools, fees and charges, submissions, hearing

## BACKGROUND - HE WHAKAMĀRAMA

1. With financial assistance from Central Government, Council is building a new pool complex for the community of Tairāwhiti. Construction on the new Kiwa Pools began in August 2021 and is anticipated to be completed early 2023.
2. In anticipation of the opening of the new pool complex, Council resolved to review the current fees and charges and commissioned an analysis to help inform decision-making on the best approach to setting the fees and charges.
3. Analysis of the current fees and charges was undertaken with key considerations in mind such as the desire for the facility to be affordable and accessible for the Tairāwhiti community, while being financially sustainable, and minimising the impact on rates.
4. The current fees and charges being applied to the Olympic Pool complex were determined overly complex and inequitable, which had led to it being inconsistently applied to users. Development of the new Kiwa Pools complex was seen as offering an opportunity to set a new fees and charges structure that is more streamlined and aligns with Council's key assumptions for the complex into the future, as outlined below.
5. At its 11 August 2022 meeting, Council resolved to consult on the draft fees and charges ("draft fees") for Kiwa Pools (refer to report **22-97**).
6. Consultation on the draft fees was undertaken for a period of one month, from 14 September to 13 October 2022. The Hearings report held at Finance & Performance Committee on 7 December 2022 (refer to report **22-174**), summarises the main themes and submitters concerns. It also includes all of the submissions received.

### Overview of submissions received on Kiwa Pools draft fees

7. 119 submissions were received. Swimming club members and regular users of the current pool complex made up most submitters.
8. The key themes and issues raised by the submitters are:

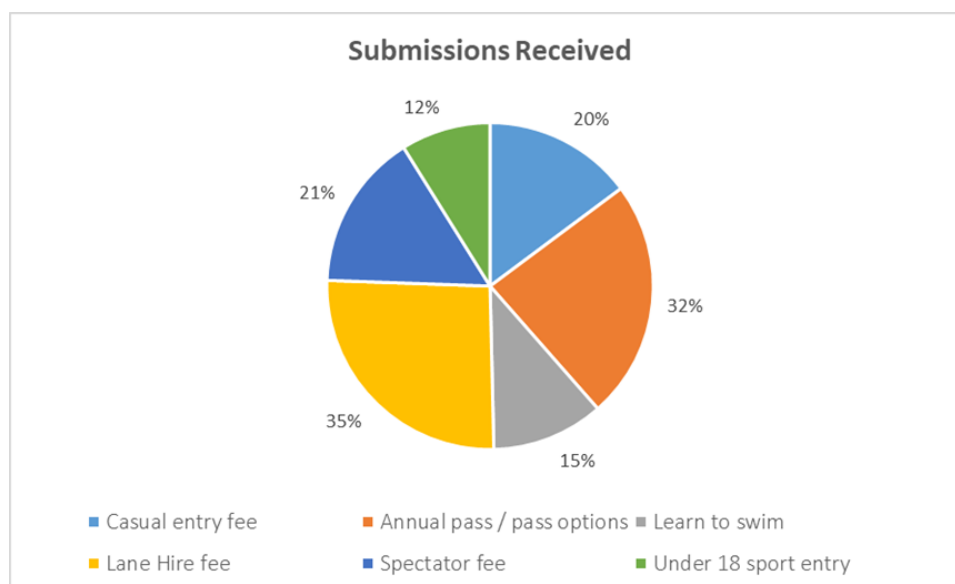
#### Theme

- Affordability:
  - Improving water safety skills in an affordable way.
  - Encouraging the health benefits of swimming through affordable access.
  - Learning to swim becoming inaccessible due to affordability.
  - Competitive sports to be affordable.

#### Issues regarding specific fees

- Admission fees
- Lane hire fees
- Learn to Swim fees
- Spectator fees
- Sport Fees for under 18 years

9. These are briefly summarised in Pie Chart below but for the full summary and all the submissions received refer to the Hearings Report **[22-174]**.
10. Of the 119 submissions received, lane hire fees, annual passes and the variety of pass options available, and the spectator fee was highlighted most frequently.



**Chart 1 – Summary of the 119 submissions**

11. The 119 submissions were mostly from the users of the pool. There were limited submitters from the wider community, such as ratepayers who do not use the pool. This latter group within the community may not be directly impacted from user fees but they will be impacted by charges to their rates.
12. Within the 2021-2031 Long Term Plan (LTP), as part of the LTP consultation, while most of the community supported the development of the pool, there was tension around who should pay for it. This included the rural community, where the rural ratepayers contribute to lowering costs of pool entry fees but will not receive the same benefit as to those in the city, in closer proximity to the Kiwa Pool complex. Other submitters supported increased user fees, whereby ratepayers should only pay for the services that they receive<sup>1</sup>.

## **DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA**

13. The following section is structured by overarching theme, and associated issues about specific fees as raised within the 119 submissions.
14. Staff have considered the submissions received, provided further analysis and discussion of the submission points raised, and provided specific recommendations below. At the time of this report being compiled, the Hearing on 7 December 2022 had not occurred.
15. Any additional material presented at the Hearing by submitters may alter some of those recommendations.

<sup>1</sup> Long Term Plan Deliberations report 19-5-2021 [21-75], [21-81] and [21-72].

## Theme - Affordability

16. Of the 119 submissions received, fifty-two (43%) raised the issue of affordability. Of these, forty-three (36%) stated that the fees were generally too high, and nine (7.5%) were concerned with the price of only one fee.
17. Submitters highlighted the limitations for lower income families to access and use the new facility, noting that Tairāwhiti has a lower socio-economic status in comparison to most other regions. Several submitters who raised this issue noted that Tairāwhiti's socio-economic status should be considered when making comparisons to the fees and charges for facilities in other regions.
18. The health benefits of swimming and the importance of improving water safety skills within the community were cited as key reasons why Council should reduce the cost of entry.
19. Six submitters felt the fees were fair and reasonable and a further three stated that they agreed with some of the fees.

### Discussion/comment

20. The draft fees for Kiwa Pools were to address concerns of affordability for the user but also balancing the ratepayers ("public good") component.
21. The rationale for the draft fees was based on benchmarking across similar sized pools, similar demographics to the Tairāwhiti region and similar operations to how the pool will be used. This first started with the Business Case in 2020 where significant benchmarking<sup>2</sup> was completed; both in terms of use and type of pools. Further benchmarks were completed based on regional and socio-economic areas (Marlborough, Nelson-Tasman, Hastings, Taranaki and Southland).
22. These comparative benchmarks were considered in the development of the current fee structures, but then also extended to include Porirua, Whangarei, New Plymouth, Cambridge, Te Awamutu; as well as Wellington, Napier, Hamilton, Tauranga, Palmerston North and Rotorua. This enabled a cross section of pool complexes that were used predominantly for leisure use, and those that were also sporting (and/or competitive) use. The "draft fees" have been benchmarked against each proposed fee.
23. Responses below to the specific fees and charges issues, not only include the average rate (taken on comparable lower socio-economic areas, or region) but also comparatively with similar leisure use (Porirua) or more competitive sports use (Rotorua).
24. In nearly all cases, proposed draft fees were either less than the average benchmark or met the average. Predominantly the draft fees proposed were less than benchmark comparatives.

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<sup>2</sup> The Business Case used the New Zealand Treasury approved Better Business Case methodology and incorporated benchmarking across similar facilities, and used the Sport New Zealand Facilities Guide



25. In approaching the proposed fees and charges, the overarching consideration balanced;
  - Discounts for those on lower incomes and families.
  - Ensuring cost is not a significant barrier to participation – where council is committed to improving the water safety skills of Tairāwhiti's young people.
  - Equitable and consistent charges need to be applied to all aquatic based, junior/youth sports codes.
  - Providing the aquatic facilities in the most cost-effective way, considering whole of life costs so as it is financially sustainable for the community.
  - Ongoing operational and maintenance costs.
26. The Long Term Plan provided that the Pool costs, when they were fully funded, the ratepayers contribution would be 60%, in line with the Revenue and Financing policy. Fees collected from the users fund the balance, being 40% of the costs of the pool's operation.
27. The user fees contribution of 40% is in line with benchmarks from other councils (ranging from 25% to 100%) but on average user fees contribute to 55% of the total funding for pools operations.<sup>3</sup>
28. The draft fees and charges proposal was to strike a balance between the users (fees) and the impacts to ratepayers (rates).

### **Conclusion on Affordability Theme**

29. Staff still support the admission fees and most of the draft fees for the reasons noted above – being:
  - a. Comparable to other councils and regions (mostly under other benchmarks, the same or very close).
  - b. It has a measured balance between users and ratepayers.
  - c. It falls within what we consulted with the wider community within the 2021-2031 LTP and is within the Revenue & Financing Policy.
  - d. It considers the whole of life costs so as it is financially sustainable for the community.
30. Staff acknowledge that affordability is not universally applied to all of our community and as such staff do not consider it appropriate to provide blanket reduction in fees.
31. However, after analysing the responses and further review of what other communities provide, we have considered some additional ways to address affordability that is targeted and focuses on:
  - a. Low-income users.
  - b. Families.
  - c. High users or regular uses of the complex.
  - d. Learn to Swim.
  - e. Encouraging competitive swimmers from low income groups.
32. Staff considers that it is critical to strike a healthy balance between setting fees and charges that are affordable for the community and generating sufficient revenue through user fees to keep the impact on rates at a minimum. In summary, the less users of the pool are charged to access and utilise the facility, the bigger the impact will be on rates to fund its operation.

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<sup>3</sup> Business Case – benchmarks; "The Sport NZ facilities guide fees range from 25% to 100%, with a mean at around 55%"

33. Responses below to the specific fees and charge issues, not only include the average rate (taken on comparable lower socio-economic areas, or region) but also comparative facilities with similar leisure use (Porirua) or more competitive sports use (Rotorua). The options below take into account our focus on affordability and making our facilities accessible, while endeavouring to account for the whole of life costs of the Kiwa complex.

## Issues – Specific Fees

### 1. Casual Entry Fees

34. Overall, 20% of submitters said the casual entry fees for adults, children and families were out of reach for many in the community.
35. One submitter recommended that children under the age of three, should be free.

#### Discussion/comment

Current		Draft GDC	Benchmark	Porirua
\$4.60	Adult	\$5.80	\$7.00	\$6.30
\$3.50	Child (up to 16)	\$4.00	\$4.50	\$4.00
\$3.50	Senior Citizen	\$4.00	\$4.50	\$3.20

36. The proposed casual entry fees, while slightly increased from the original fees, strike a healthy balance between charging those who are using the facility against raising rates for everyone in the community.
37. It also is comparable to other swimming complexes across within New Zealand.

#### Conclusion

38. The potential impact on rates, by lowering fees must be considered alongside affordability and other factors when fees are being set. A blanket lowering of fees does not consider that affordability impacts everyone the same.
39. It is recommended that other targeted fees address affordability, rather than reducing the admission fee across the board (see options below).
40. Therefore, staff recommend that Council retains the casual entry fees for adults/children as proposed in the balanced model option.
41. While Porirua charges all children whatever the age (0-4 years \$4 but supervisors with the child are free of charge), staff believe that there is a benefit to introducing 0-2 years old to the water with minimal impact to other users and operating costs of the pool. As children become more active, supervision from pool staff will become more which is why the recommendation remains children 0-2 years of age have free entry.

#### 42. Recommendation

- Adopt the admission fees as per the draft proposal.

## 2. Admission Fees - Annual Pass / Pass options

43. Thirty-eight submissions (32%) requested that an annual entry pass be offered to make swimming more affordable for regular users.
44. Of these, fourteen submissions (11.7%) were from Comet Swimming Club (Comet) families, twenty-four (20%) were from other regular swimmers and surf lifesavers in training.
45. Three requests were received for Council to introduce an additional family pass for 2 adults and 2 children.

### Discussion/comment

46. The range of pass options previously offered by the Pool were overly complex and in need of simplification. The draft proposed fees and charges aim was to make it more streamlined and consistent with overall objectives of affordability and "user pays".
47. However, while simplifying fees staff acknowledge that both affordability for low income users, families and high end users could be addressed by offering further options to the fees and charges.

### Family

Current	Family Passes	Draft GDC	Porirua
\$13.90	1 Adult & 2 children	\$10.00	
\$13.90 (1 adult and up to 5 children)	2 Adults & up to 4 children	\$20.00	\$20 (up to 3 children)

\*Benchmarks for average councils were not included, as there was no consistent approach.

48. Staff also propose that in response to the feedback from submitters, a third family pass option for two adults and two children is introduced (Family Pass C), and the fees for existing family passes should be reduced. This would be at a cost of \$15.

### Annual Passes or Frequent Use

Current	Frequent users	Draft GDC	Proposed	Porirua
\$241.20	Child, pensioner annual pass	Nil	Nil	
Nil	Annual Pass	Nil	\$460.00	
Nil	Annual Pass paid monthly	Nil	\$45.00	
5% discount	10 pass adult or smart card	\$55.00	\$55.00	\$58.20
\$35.00	10 pass child or community services card	\$35.00	\$35.00	\$30.70-\$33.9

\*Benchmarks for average councils were not included, as there was no consistent approach.

49. After reviewing the submissions staff recommend reinstating the annual passes, but propose that it is simplified, as an annual pass for all users. The annual pass fee is recommended to be set at \$460, allowing unlimited use. For a regular user (at 3 times per week), the cost of admission reduces to \$2.95 per entry.

50. This unlimited use option is also offered based on a monthly payment at \$45 (or around \$3.75 per entry for up to 3 times per week).
51. The current price for children 10 pass at \$35, is recommended to remain unchanged. However, as was indicated from Council at the 11 August 2022 Council meeting, that rather than a blanket discount for all pensioners the pass should be targeted to lower income users. As such, the fees for a 10 pass are for children or community services card holders (including community services "gold card" as opposed to just "gold card" holders).

### Recommendations:

Add new fees:

- Annual Pass (unlimited use)
  - a. \$460
  - b. Monthly in advance pass \$45 per month
- Family Pass
  - a. \$15 for 2 adults and 2 children
- 10 Pass concession card
  - a. Community services card holders or children \$35

### 3. Learn to swim fees

52. Eighteen submissions (15%) were concerned that the proposed fees would make Learn to Swim (LTS) unaffordable.
53. Fifteen of these (12.6%) were specifically concerned that Comet's Learn to Swim programme would become too expensive because of the increase in lane fees, and that the children's sport entry fee would be passed on to LTS participants.
54. Many submitters cited the importance of learn to swim lessons in helping to improve the water safety skills of tamariki in the region.

### Discussion/comment

#### Learn to swim (LTS)

	Per term
Comet (10 lessons)	<b>\$130 (\$13 per lesson)</b>
Enterprise (9 lessons)	<b>\$120 (\$13.33 per lesson)</b>
Porirua Council (10 Lessons)	<b>\$155 (\$15.50 per lesson)</b>

55. The LTS is a programme that will be delivered through a provider at the new Kiwa Pools. A competitive tender process is currently underway to find a provider for this programme and is progressing well.
56. While the price per lesson has yet to be determined, it is likely that the fees will remain the same or similar to the current fees paid or comparable providers nationally.

57. Staff have clarified that programme fees are not subject to additional lane hire or sport participant entry fees, as the per lesson charge covers the cost of entry to the pool and the use of lane space for LTS programme participants.
58. Staff recommend Council continues to provide free entry and free lane hire for LTS programme participants, as these costs will be covered by the LTS provider through lesson fees.
59. Council will endeavour to seek funding from external sources where grant funding may subsidise the cost of learn to swim, especially for more vulnerable groups. For example, Water Safety New Zealand has stated that close to 80 New Zealanders drown each year. Further, they said that "Maori are now almost twice as likely to drown than others in Aotearoa". They have set up a new fund with the objective of investing more in Te Ao Māori inspired solutions (Water Safety New Zealand).
60. Council will continue to provide free facilities for the learn to swim primary school program. Around 650 pupils have lessons per year, costing \$4 per lesson paid directly to external provider. Council provides facilities free of charge and does not receive any proceeds of the \$4 fee.

#### 4. Lane Hire fees

61. Forty-two submissions (35%) supported a reduction in the lane hire fees for Comet. All were concerned the increased fees would be passed on to families, making competitive swimming and Comet's Learn to Swim programme unaffordable for most.
62. Thirty-nine of these submissions (32.7%) were from Comet families, one from Swimming New Zealand, one from Hawke's Bay Poverty Bay Swimming, and one from a member of Wainui Surf Lifesaving Club.
63. The Wainui Surf Lifesaving Club submission also requested a reduction in lane hire fees for their club, although there was a misunderstanding within their submission regarding the increase in fees, which they believed would be increasing by 233%.
64. Swimming NZ requested that no lane fees be charged for competitive swimming as an investment by Council in growing the sport.

#### Discussion/comment

Current	Per 25m per hour	Draft GDC	Benchmark	Porirua
\$11.10	Standard	\$20	\$20	\$20
Long term hire (annual hire):				
\$4.60	Comet	\$10	\$12	\$12
\$6.70	Surf	\$10	\$12	\$12
\$9.40	Schools or regular winter groups	\$10	\$12	\$12

65. The draft fees proposed rectify the current inconsistencies in the application of lane hire fees for different sporting groups and schools.
66. The proposed draft fees benchmarked a number of Pools charges and found that the standard charge per 25m lane was \$20; and that regular hirers were charged \$12.
67. Staff acknowledge that the recommended lane hireage is more than what is now charged. However, the pools operational costs and the level of service that will now be available has also significantly changed.
68. The proposed lane fees are the balance between those that directly benefit (ie user fees) against the ratepayer in general, who may not use the facilities but could be charged more in rates.
69. The increase in user fees for example for Comet, the group that is most widely impacted by the increase; equates to another \$54 per 10 hours of usage (or per term). Depending on how long the lesson is (ie either per half hour or per hour), if there are just 4 students using the lane (ie 2 per half hour or 4 in total per the hour), then the additional costs to students is likely to be around \$13.50 extra per term (\$1.35 per lesson). If there are more students utilizing the lane, then the overall costs go down.
70. For surf lifesaving, based on the same conditions as per Comet above, the lane hireage would cost the club another \$33 for the term or \$8.25 per student per term (4 students using the lane per hour) (@83 cents per lesson).
71. The cost of entry will be on top of the lane hire fee, similar to how it is charged now.

**Option/Recommendation:**

72. In order to address concerns around affordability or a club's ability to fund the increase fees, staff recommend the application of the Rates Remission Policy (ie Transition Rates and Community, Recreation & Not for Profit Organisations). Instead of a remission of rates, the remission will be based on a discount on fees, relating the stepped increase in long term annual lane hireage fees where conditions must be met (as set out above and within the policies):
  - a. Year 1 – Long term hire (annual lane hire) 30%
  - b. Year 2 - Long term hire (annual lane hire) 15%.

## **5. Spectator fees**

73. Twenty-five submissions (21%) did not support the spectator fee.
74. 8.4% of responses to the spectator fee were from Comet Learn to Swim (LTS) parents and 7.5% were from parents of competitive swimmers. 5.1% were from other members of the community.

75. Many submitters considered that the spectator fee would act as a disincentive to parents engaging with their child's lesson or training, and it would contribute alongside other fee increases towards making the total cost of participating in lessons or competitive swimming too expensive for families.

#### Discussion/comment

Current		Draft GDC	Benchmark	Porirua
\$1.50	<b>Spectators</b>	<b>\$2.00</b>	\$2.00	\$1.00

76. Staff agree with the submissions received that it would be undesirable to create a disincentive for families to engage with their child's sport or swimming lessons.
77. It is understood by staff that this fee was originally introduced as a means to recoup some of the income lost from hosting large events at the pool, such as national swimming events, and to apply an element of user pays to non-swimming family members that enjoy the other outdoor facilities provided at the pool during summer.
78. Staff suggest that Council reduces the spectator fee from \$2.00 to \$1.50 and recommends that the scope to whom this fee applies is narrowed to spectators for regional or national events, and for all non-swimmers using the outdoor pool complex in the summer. Staff recommend that this fee should not be applied to parents/guardians or family members wishing to supervise children during lessons.

#### Options/Recommendations:

- Approving the draft fee for spectator of \$1.50 but restricting its application to spectators for regional or national events, and for all non-swimmers using the outdoor pool complex in summer.

### 6. Under 18 sport entry fees

79. Fifteen submissions (12.6%) opposed the sport entry fee of \$1.50.

#### Discussion/ Comment:

Current		Draft GDC	Benchmark	Porirua
\$1.5 to \$2.60	<b>Under 18 sport per session</b>	<b>\$1.50</b>	\$2.00	\$2.00

Requires upfront payment on a smart card

80. Within the draft fees, the under 18 sport entry fee was reduced from \$2.60 down to \$1.50.
81. The minimal charge of \$1.50 is to recognise that there is a cost of using pool facilities. While there is some recovery of costs from the lane hireage fee, those costs are still significantly discounted. This minimum fee of \$1.50 goes towards water treatment and depreciation costs.
82. The minimum fee addresses some of the overarching objectives such as:
- Providing the aquatic facilities in the most cost-effective way, considering whole of life costs so as it is financially sustainable for the community.
  - Ongoing operational and maintenance costs.

83. One way to address the affordability of competitive users, is for Council to offer grants or scholarships for those where affordability is a significant issue. Council could offer regional scholarships/grants for competitive swimmers or sports club members (eg water polo, surf lifesaving).
84. For instance, Hastings Council offers 4 scholarship grants per year. These grants cover the cost of membership to the club and costs of entry to the pool.
85. The basis of the grant would be assessed on encouraging participation in competitive sports from those in the community who are less able to afford it.
86. This initiative would supplement grants already available to competitive sport students. For instance, the Sports Gisborne Rising stars (all sports) has an annual grant of \$1,000 per individual referred to as the Tairāwhiti Rising Legends for aspiring athletes (14 to 17 years of age).

**Recommendation:**

- Retain the \$1.5 per entry for sports users.
- Approves 4 grant/scholarship for competitive users under the age of 18 years of age, that covers the cost of entry and membership fees. These would be applied for and awarded annually based on affordability

**ASSESSMENT of SIGNIFICANCE – TE 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:** Medium 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:** Medium Significance

**This Report:** Medium Significance

87. 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**

88. Ngai Tawhiri are partners to this project, including being represented in the Project Control Group overseeing the development of this facility. The Project Control Group have been supportive of the proposed fees and charges through this forum.
89. No further engagement with tangata whenua has been undertaken at this stage. None of the proposed changes are specific to whenua Māori or likely to impact Māori in general more than the wider community.

## **COMMUNITY ENGAGEMENT – TŪTAKITANGA HAPORI**

90. Consultation on the Kiwa Pools fees and charges was undertaken from 14 September - 13 October 2022. The consultation was promoted using website material, social media posts, and a media release included in the local newspaper.

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

91. The matters discussed in this report are not directly impacted by climate change.

## **CONSIDERATIONS – HEI WHAKAARO**

### **Financial/Budget**

92. The 2021-2031 LTP estimated that the ratepayer contribution for its first full year of operation would be \$1.6m.
93. It was noted within the LTP and the Financial Strategy, the full costs of the pool's operations (including all depreciation costs) would be fully funded over time. When the pool is fully operational, depreciation costs are expected to be at least \$1.2m. For the first year, the funding of depreciation (ie collecting rates to cover the costs) will be 30%. Over 10 Years, the funding of depreciation will be incrementally increased to 100%.
94. The Financial Strategy outlines how we were addressing affordability over this period – where it stated:

“there is a strategy to phase the fully funding depreciation of new projects where there is an issue of affordability. Both the Wastewater Treatment Plant Disinfection project and the pool redevelopment are completed around the same time. In order to reduce the impacts on rates and therefore affordability, depreciation is funded to the extent of meeting the principal repayments. Before the end of this TLTP, depreciation for both wastewater and pool project will be fully funded.”
95. The balanced model of fees and charges originally presented (ie Draft Fees and Charges schedule) and approved for consultation in August was developed to achieve the financial targets that had been set in the LTP.

96. Analysis of the financial implications which included the forecast level of income, expenditure and rates requirements for the Kiwa Pools first full year of operation was included in workshop on 28 July 2022 [22-171] and Council on 11 August 2022 [22-97]. These estimates are consistent with what was provisioned within the 2021-2031 Long Term Plan.
97. The Annual Plan process for 2023/24 will be updated taking into account final changes to the pool's fees and charges, revised Learn to Swim operations, updated operational costs (including insurance) and updated depreciation costs.
98. Estimated loss of revenue associated with the options presented in this report in total equates to around \$100k which would have to be funded by rates. At this point, this does not include any adjustments that might be needed from the LTP provision to what will be finalised in the tendered procurement process. The table below outlines the high-level estimated impacts:

Options	Loss of revenue
0-2 years of age - free of charge	>\$5k
Unlimited use (Annual pass or monthly pass)	\$45,000
Community services card (20% community nz)	\$25,000
Grants (4)	\$3,000
Lane Hire Remission	\$25,000
Estimated	<b>\$103,000</b>

99. It should be noted that the assumptions are made based on price reduction alone, not on the fact that the price may have been a deterrent, and that they may not have used the facilities in the first place. Only until a full year of actual operations have been completed will we be able to fully assess the impacts.
100. It is important to note, the setting of fees and charges will be a continuous review process. This will be part of the annual review process of Council's fees and charges where a draft document is completed each year, and then released for consultation.
101. Close monitoring of use and careful capture of data over time will enable more informed decision making around fees and charges into the future.

## Legal

102. To maintain best practice, Council uses the Special Consultative Procedure under the Local Government Act 2002 to consult on and set its fees and charges each year. This procedure was also implemented for the Kiwa Pools fees and charges.
103. Under the Local Government Act 2002 (section 103), Council must adopt a Revenue & Financing Policy. The Policy must include how it will fund its activities in respect to that activity's operating and capital expenses.

## **POLICY and PLANNING IMPLICATIONS – KAUPAPA HERE me ngā RITENGA WHAKAMAHERE**

104. The principles used to guide the setting of the Kiwa Pools Fees and Charges are consistent with the Tairāwhiti 2050 outcomes, which Council has incorporated in its strategic framework for development of the 2021-2031 LTP.
105. The Tairāwhiti Aquatic Facilities Plan 2018 (the Plan), which gives effect to the overarching framework, highlights that Kiwa Pools as the regional facility must be fit for purpose, affordable and accessible. The Plan's objectives include that Kiwa Pools as the regional facility must:
- meet community needs where there is a compelling demand
  - be provided in the most cost-effective way
  - meet the needs of the whole region regardless of socio-economic status and ability
  - encourage high levels of use and enjoyment
  - ensure sound management to optimise operational and maintenance costs
  - meet best practice health and safety requirements
  - be available year-round for leisure, learn to swim, fitness and training.
106. These factors have been a key consideration in undertaking this review of the current fees and charges.

### **Revenue and Financing Policy**

107. The Revenue & Financing Policy for Aquatic and Recreation Facility for the 2021-2031 LTP, has a range of 60% (to 80%) rates funding and fees 40% (from 20%). The policy has ranges to allow for times when we may not be in policy and when the Pools operation was in transition phase (ie Olympic pool moving to Kiwa Pool).
108. The Policy has since 2012, always had a 60% rate funding target. However, due to declining numbers, especially over the last two years (with closures or limited access due to COVID and failing equipment) rate funding was closer to 80%.
109. It should be noted that while the new Pool is expected to be more within the Policy target of 60% rates to 40% fees, the rate funding component will still be more in actual dollar terms, due to much higher costs of operation.

### **Rates Remission Policy**

110. In order to address concerns around the stepped increase in lane fees, there is an option to apply the same principles contained within Council's Rates Remission Policy – in particular the "Rates Transition Policy". This policy offers relief on rates, in cases where increases in rates from the previous year (or if applied in this case, it would be the overall fees) result in hardship or unintended consequences arising from changes made to the Revenue & Financing Policy. Refer to the Policy section for further commentary on the Rates Transition Policy.

111. The remission period is for one year, but up to three years on a case-by-case basis. The policy applies when
- There is an increase to the rates as a result of changes made to the Revenue & Financing Policy **and**
  - The increase is at least \$1,000 (and more than 10% increase over the year before **and**
  - There was financial hardship arising from the increase in rates. Applicants need to provide financial statements (or supporting information) relating to hardship caused by the increase (or change in rate).
112. Noting that if the remission is applied for, for more than one year, then the rate of remission will decrease 30% over the previous year, up to a maximum of three years.
113. One other Rates Remission Policy is the Community, Recreation & Not for Profit Organisations. The principles of this policy are to assist not-for-profit community services and recreational opportunities that benefit the community. It offers relief on rates for up to 3 years. Successful applications must support the objectives of the Policy, where
- the applicant must be exclusively or principally for sporting, recreation or community purpose and primary purpose is for the benefit of members under 18 years of age.
  - Not-for-profit.
114. The principles of the Rates Remission Policy could be applied in the same manner to the stepped increases in fees arising from the new lane hire costs. This will help support all sports groups during the transition from the old fees and charges to the new, and to provide increased support for children to improve their water safety skills by engaging in school swimming programmes at the pool.

## **RISKS – NGĀ TŪRARU**

115. The key risk associated with the proposed approach to fees and charges is that Council doesn't obtain the level of use of the facility as predicted and therefore revenue and general performance targets are not met. This could be mitigated through significant promotion of the facility and a varied and interesting programme of activities to drive high levels of use. Good data capture to monitoring of use patterns will ensure the setting of future fees and charges are well informed.

## **NEXT STEPS – NGĀ MAHI E WHAI AKE**

Date	Action/Milestone	Comments
Fourth quarter of 2022/23	Pool Opening – Operational Implementation of Fees and Charges	
2023/24	Review of Councils Fees and Charges including for Kiwa Pools	

## **ATTACHMENTS – NGĀ TĀPIRITANGA**

- Attachment 1 - Kiwa Pools Fees and Charges [22-244.1 - 1 page]

## Kiwa Pools Fees and Charges

Category	Individual entry cost	Upfront pass cost	Amended/ Additional entry costs
Adult casual single entry)	\$5.80		
Adult 10 pass or smart card entry	\$5.50/visit	\$55.00	
Children and pensioners	\$4.00		
Child/pensioner 10 pass or smart card	\$3.50	\$35.00	
Under 2s	Free		
Spectator	\$2.00		\$1.50
Community Services Card holders and children - 10 pass	-		\$35.00
Family pass A – 1 adult and up to 2 children		\$10.00	
Family pass B – 2 adults up to 4 children		\$20.00	
Family pass C - 2 adults and 2 children			\$15.00
Annual pass			\$460.00
Annual pass (monthly instalments)			\$45.00
Casual aquafit	\$7.00		
Aquafit (10 ticket)	\$6.50	\$65.00	
Under 18 sport entry per session eg. comet, surf, water polo training (smart card)	\$1.50		
Learn to Swim	\$12.00/class	\$120.00/term	
School learn to swim	Free pool entry and free lane hire		
	\$4.00/child		
Lane hire 25 m/ hour (standard)	\$20.00		
Lane hire 25 m/hour (discount for long term sports codes and schools)	\$10.00		
Lane hire 33m/hour (standard)	\$30.00		
Lane hire 33m/hour (discount for long term sports codes and schools)	\$15.00		
Lane hire 50m (standard)	\$40.00		
Lane hire 50m (discount)	\$20.00		
Moveable floor area (1/4 of pool)/hour (standard)	\$80.00		
Moveable floor area/hour (discount for regular community groups only)	\$40.00		
LTS/hydrotherapy pool per hour (standard)	\$20.00/third		
LTS/hydrotherapy pool per hour (discount for community groups)	\$10.00/third		
Hydrotherapy suite (specialist)	\$30.00 for 30 mins		
Hydroslide	\$5.00		
Dive pool exclusive use per hour	\$55.00		
Function/family room (business/corporate)	\$30.00/hour		
Function/family room (community use)	\$15.00/hour		
Kiwa foyer (out of hours only) – business/corporate	\$250.00/hour		

**Title:** **22-246 Keeping of Animals, Poultry and Bees Bylaw 2012 Review - Adoption of Statement of Proposal for Consultation**

**Section:** Strategy

**Prepared by:** Abi Wiseman - Senior Policy Advisor

**Meeting Date:** Thursday 15 December 2022

Legal: Yes

Financial: No

Significance: **Low**

## Report to COUNCIL/TE KAUNIHERA for decision

### PURPOSE - TE TAKE

The purpose of this report is to seek Council adoption of the Statement of Proposal for the Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti – Keeping of Animals Bylaw 2023 (including the draft bylaw) for public consultation.

### SUMMARY - TE WHAKARĀPOPOTOTANGA

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.

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 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.

The review of the bylaw was conducted by GMD Consultants. GMD found the bylaw remains broadly fit for purpose. The proposed changes focus on simplifying and clarifying provisions for both animal owners and compliance officers.

The Statement of Proposal (**Attachment 1**) outlines the proposed changes to the bylaw to simplify and clarify provisions around the keeping of poultry, bees and pigs, to reduce the number of poultry allowed in the urban area, and to add a new provision clarifying how the bylaw applies to feral and stray animals.

This paper seeks Council's adoption of the Statement of Proposal, including the draft bylaw, for public consultation in line with the special consultative procedure. It also seeks Council's determination that the draft bylaw is the most appropriate form of the bylaw and does not give rise to any implications under the New Zealand Bill of Rights Act 1990. These determinations are required to be made under section 155 of the Local Government Act 2002.

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. Determines that the proposed draft Keeping of Animals Bylaw 2023**
  - a. is in the most appropriate form of the bylaw; and**
  - b. does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- 2. Adopts the Draft Statement of Proposal including the Draft Keeping of Animals Bylaw 2023 for consultation using the special consultative procedure.**

*Authorised by:*

**Joanna Noble - Chief of Strategy & Science**

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**Keywords:** Animals, Bees, Poultry, Stock, Chickens, Roosters, Feral, Stray

## BACKGROUND – HE WHAKAMĀRAMA

### Current bylaw

1. Council's Keeping of Animals, Poultry and Bees Bylaw 2012 (the current bylaw) seeks to minimise impacts on animal owners' neighbours, as well as protect public health and safety and prevent damage to land and property. Council's current bylaw is found at **Attachment 2**, and includes general animal nuisance clauses and species-specific controls covering the keeping of:
  - a. Poultry
  - b. Stock
  - c. Bees
  - d. Pigs
2. The current bylaw authorises Council officers to issue written approvals in situations when a non-complying activity under the bylaw is considered unlikely to cause a nuisance. Approvals can include conditions and can be amended or revoked if a nuisance occurs.
3. This bylaw does not regulate dogs or stock control on roads, which have their own bylaws. It also excludes commercial activities such as farming livestock or breeding of animals which are regulated by the Ministry for Primary Industries.
4. In order to promote compliance and effectively reduce nuisance, it is important that the controls set out in the bylaw are complemented by effective engagement and education to enable people who are keeping animals to adopt practices that minimise nuisance.

### Review of current bylaw

5. The current bylaw was due for its statutory ten-year review in 2022. A review was carried out by GMD Consultants (GMD) and approved by the Sustainable Tairāwhiti Committee in September 2022 (**Report 22-173**).
6. The current bylaw was assessed using feedback from Council staff, analysis of Council's request for service (RFS) data, comparison to other Councils' bylaws and an online survey about beekeeping. GMD's assessment informed their recommendations and the development of the new draft bylaw.
7. The review found that the bylaw is broadly fit for purpose, and the proposed changes focus on simplifying and clarifying provisions for animal owners and compliance officers.
8. Similar to other bylaws made under the Local Government Act 2002 (LGA), staff noted the difficulties presented by the lack of infringement authority, instead relying on engagement and education to drive compliance. There are no enabling regulations to prescribe an infringement framework for bylaws made under the LGA. Breaches of these bylaws must be prosecuted through the courts. As a result, an effective educational approach is important to promote compliance.



9. During the review, staff also noted that it will be helpful to develop supporting staff guidance for the new bylaw that will have clear criteria for assessing written approvals, update the record keeping system, and remain consistent with the Ministry for Primary Industries' standards and welfare codes. In response to this feedback, staff will develop guidance material following adoption of the new Bylaw.

## **DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO ME NGĀ KŌWHIRINGA**

### **Proposals**

10. The proposed changes to the bylaw are set out below. A summary of the proposals is contained within the Statement of Proposal (**Attachment 1**).

### **Proposal A: Simplify poultry keeping provisions and reduce limit on head of poultry in residential zones**

#### **Current provisions**

11. In addition to general nuisance provisions, the current bylaw sets out specific poultry-keeping provisions. The current bylaw sets out setback limits for poultry houses and runs and places a limit of 12 heads of poultry and a ban on the keeping of roosters, geese, peacocks or peahens in residential zones. It provides an exception to the restrictions on residential zones for properties in areas deemed to be rural in character by Authorised Officers.
12. The setback limits for poultry houses and runs apply in addition to the provisions in the Tairāwhiti Resource Management Plan, which allow farming as a permitted activity in rural zones.

#### **Issues**

13. Council receives some complaints about poultry in residential zones, but not a significant amount. Most of these complaints are regarding nuisance caused by roaming poultry or poultry attracting flies and rats.
14. The current provisions are not as clear as they could be and contain some confusing and unnecessary statements around when approvals might be needed. The 'rural character' exception is difficult for compliance officers to apply consistently in practice.

#### **Options**

15. The following options have been considered:
  - a. **Option One:** Reword the poultry keeping section to be more user-friendly and retain the current limits and rules but remove the 'rural character' exception.
  - b. **Option Two:** Reword the poultry keeping section to be more user-friendly, remove the 'rural character' exception and reduce the number of poultry that may be kept in urban areas to six. This is the preferred option.

#### **Preferred option and impact**

16. Option Two, including reducing the limit to six heads of poultry in urban area, is the preferred option. We expect the impact of this change to be minor.

17. Both options involve simplifying the provisions, removing confusing and unnecessary statements and ensuring the rules are clear. Both options also retain existing rules around setback limits, fencing requirements and the ban on roosters, geese, peacocks or peahens in urban areas. They also remove the clause that provides for exceptions to the rules for residential properties that are of 'rural character'.
18. Rewording the poultry-keeping section will make the bylaw easier for people to comply with, and more straightforward for compliance officers to apply.
19. While the current limit of 12 head of poultry on residential properties is in line with many other councils' bylaw rules, compliance officers consider that nuisance would likely be caused by this number of poultry. While Council does not hold data on how many poultry are kept on properties, it is expected that very few, if any, residential properties keep between 6 to 12 head of poultry, and the impact of this change is expected to be minor.
20. Removing the exception for residential properties that are rural in character is also expected to have a minor impact. The change will make it more straightforward for compliance officers to enforce the bylaw. Some residential properties that are considered of rural character, or properties in rural townships or bordering rural areas, may be affected by removing the 'rural in character' exception. Currently, if an Authorized Officer is of the opinion that a residential property and its adjoining properties are of rural character, then that property is exempt from the poultry limit and ban on roosters, geese, peacocks, or peahens. However, written permits for exemptions to these rules may still be applied for under the revised provisions.
21. This proposal to revise poultry-keeping provisions was not included in the previous report provided to Council (**Report 22-173**).

## **Proposal B: Simplify beekeeping provisions**

### **Current provisions**

22. In addition to the general nuisance provisions, the current bylaw imposes specific regulations on beekeeping including limits on the number of hives on residential properties, positioning requirements, and other specific requirements to reduce nuisance. The hive limits range between zero and three hives depending on the size of the property and if there are dwellings or sensitive uses on adjoining properties.
23. These provisions are in addition to national legislative requirements for beekeeping. The Biosecurity Act 1993 requires that all beehives in New Zealand be registered, and the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998 sets out requirements to reduce the incidence of American Foulbrood disease, including for example a requirement that bees be kept in moveable-frame hives.

### **Issues**

24. Council staff and the public have been consulted to understand the issues with current beekeeping provisions. Council ran a public online survey in May 2022 seeking feedback on the beekeeping provisions. A total of 24 responses were received and were generally supportive of the existing provisions. Some feedback was received that nuisance from bees can be managed regardless of the size of the property. The existing provisions are also seen as unnecessarily complex by compliance officers.

25. The number of complaints about bees has increased in recent years, reflecting the increasing popularity of hobby beekeeping in residential areas. There is reason to believe beekeeping will continue to increase in the district, as it is nationwide, and it is important that the beekeeping provisions are fit for purpose.

### **Options**

26. The following options have been considered to revise beekeeping provisions:
- a. **Option One:** Remove all provisions specifically regulating bees, and instead rely wholly on the general rule(s) regulating nuisance caused by any animal in any part of the district.
  - b. **Option Two:** Simplify the wording of beekeeping provisions and simplify hive limits to two hives for any property in urban areas. This is the preferred option.
  - c. **Option Three:** Remove the specific bee provisions and replace with a general clause regarding bees not causing a nuisance, and guidance on limits or other conditions that Council may impose if nuisance does occur.

### **Preferred option and impacts**

27. The preferred option is Option Two, to simplify the wording of the beekeeping provisions and simplify hive limits to two hives for any property in the urban area. This provides some specific regulations while still allowing a degree of flexibility when responding to issues.
28. The other options considered also simplify the bylaw and provide a higher degree of flexibility when responding to issues but would likely result in an influx in nuisance complaints and lengthier resolution processes with limited specific regulations to guide the response.
29. The impact of this change is expected to be minor. The simplified provisions will be more straightforward for compliance officers to apply and for beekeepers to comply with. Those impacted are prospective beekeepers residing in residential-zoned properties that are less than 600m<sup>2</sup>, where two beehives will be allowed instead of none, and current beekeepers in residential properties between 600m<sup>2</sup> and 900m<sup>2</sup>, where two beehives will be allowed instead of one. This change may further accelerate the evident growth in beekeeping.
30. In order to effectively reduce nuisance and address the increasing number of complaints about bees, a strong educational approach will be required to ensure that guidance around the proper keeping of bees is followed.
31. People may still seek a written permit from Council in order to keep more than two hives on any residential property. Council may require a beekeeper to ensure compliance or mitigate effects of non-compliance if Council considers that the bees are kept in a manner that is likely to become a nuisance or dangerous.

### **Proposal C: Simplify pig keeping provisions**

#### **Current provisions**

32. In addition to the general nuisance provisions, the current bylaw imposes specific regulations on the keeping of pigs in rural zones. These cover setback limits for pigs, shelters or enclosures, manure, swill and feed. These provisions are in addition to the provisions in the Tairāwhiti Resource Management Plan, which allows farming as a permitted activity in rural zones.

### **Issues**

33. The current pig keeping provisions are communicated in a way that is unclear, overly complex and difficult to apply for pig keepers and compliance officers.
34. The bylaw is used frequently to resolve pig complaints, more so than for other animal complaints. Complaints regarding pigs have included issues of pigs not being contained, odour, number of pigs, and the general keeping of pigs.
35. Pig-related RFS have also highlighted an issue with zoning differences and the application of the bylaw. There have also been some issues around shared family land blocks keeping pigs, with the disagreements being between the different landowners. This issue falls outside the scope of this bylaw.

### **Options**

36. The following options have been considered:
  - a. **Option One:** Status quo. Retain the current pig keeping provisions as they are currently presented.
  - b. **Option Two:** Revise how the setback regulations in the pig keeping provisions are presented for consistency and simplicity of application. This is the preferred option.

### **Preferred option and impacts**

37. The preferred option is Option Two, to revise the presentation of the setback regulations to make them easier for pig keepers to comply with. The way the existing setback provisions are communicated may not adequately reduce nuisance from pig keeping because they are unclear and therefore difficult to apply consistently.

### **Proposal D: Add feral/stray animal provisions.**

#### **Current provisions**

38. The current bylaw contains no specific provisions to regulate nuisance caused by feral or stray animals.

### **Issue**

39. There is a minor but ongoing issue with feral vermin, wild bees and stray cats causing nuisance. It is unclear whether these animals are within the scope of the current bylaw and if so, how the bylaw applies to situations where these animals cause a nuisance.

### **Options**

40. The following options have been considered:
  - a. **Option One:** Status quo. Rely on general nuisance provisions when responding to nuisance issues relating to feral or stray animals.
  - b. **Option Two:** Add a new clause regulating nuisance caused by feral or stray animals being encouraged onto private property. This is the preferred option. This will make it clear that people must not encourage a feral or stray animal so as to become a nuisance, and that the owner or occupier of the property from which such animal emanates must abate the nuisance caused by the animal.

### **Preferred option and impacts**

41. The preferred option is Option Two, to include a specific section to identify where responsibility lies to abate nuisance caused by feral or stray animals. This clarifies residents' responsibilities and Council's role in nuisance abatement and is in line with a common approach taken by other councils. If a further clause is not included, it will continue to be difficult for Council to respond to issues of nuisance that occurs from feral or stray animals.

### **Clarifying zoning definitions**

42. The bylaw sets out different rules for residential and rural zones, as defined in the Gisborne District Combined Regional Land and District Plan. The definition of these two categories has been clarified in the Draft bylaw to be easier to apply. The draft bylaw categorizes zones from the Tairāwhiti Regional Management Plan into "Rural Areas" and "Urban Areas", with Urban Areas including residential zones (including in rural townships) as well as Commercial and Industrial zones.
43. This clarification does not change the categorisation of properties in rural or residential zones. It does clarify that Urban Area rules include Commercial and Industrial zones, as this is not explicit in the current bylaw.

### **Changing the title of the bylaw**

44. The title in the revised draft bylaw has been simplified from the "Keeping of Animals, Poultry and Bees Bylaw" to the "Keeping of Animals Bylaw".

## **ASSESSMENT of SIGNIFICANCE – TE 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:** Low Significance

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

**Overall Process:** Low Significance

**This Report:** Low Significance

45. The decisions or matters in this report are considered to be of Low significance in accordance with Council's Significance and Engagement Policy. The consultation requirements are prescribed in the Local Government Act 2002.

### **TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA**

46. No engagement specific to tangata whenua has been undertaken to date. After discussion with the Māori Responsiveness team, staff assessed the potential implications of the proposed changes for māori and determined that the impacts are of low significance and not a priority for pre-engagement given pressing capacity issues. The views of tangata whenua will be sought through the consultation process scheduled for early 2023.

### **COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI**

47. Consultation requirements for bylaws are set out in section 156 of the Act and must follow the special consultative procedure. Consultation for this project has currently been programmed for 25 January to 1 March 2023.
48. An online survey seeking feedback on the current bylaw's provisions around beekeeping in residential areas ran for two weeks in May 2022 as this field has experienced significant growth and change in the last ten years. This received 24 responses, 14 of which were from active beekeepers who were broadly supportive of the current bylaw and provided valuable insights for staff.

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

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

### **CONSIDERATIONS - HEI WHAKAARO**

#### **Financial/Budget**

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

#### **Legal**

51. This bylaw is made under the Local Government Act 2002 and Health Act 1956. Section 64 of the Health Act 1956 authorises the making of bylaws for the purposes of the Act, including for "improving, promoting, or protecting public health, and preventing or abating nuisances." The current scope and purpose of the bylaw is to "protect, promote and maintain public health and safety" and is made under sections 145 and 146 of LGA. Given this scope, it could also invoke the Health Act as further supporting legislation.
52. Section 155 of the LGA requires that councils, before commencing the process to make a bylaw, determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue. This determination was made by the Committee in September 2022 (**Report 22-173**).

53. Section 155 also requires that councils determine 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. This report provides the reasoning and evidence to make such determinations, fulfilling Council's obligations under section 155:

- a. We consider that the bylaw is in the most appropriate form.
- b. We consider 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, nor impractical.

## **POLICY and PLANNING IMPLICATIONS – KAUPAPA HERE ME NGĀ RITENGA WHAKAMAHERE**

54. The Keeping of Animals, Poultry and Bees Bylaw 2012 review presents no ongoing policy and planning implications beyond project delivery and implementation.

## **RISKS - NGĀ TŪRARU**

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

## **NEXT STEPS - NGĀ MAHI E WHAI AKE**

Date	Action/Milestone	Comments
25 January – 1 March 2023	Consultation	Special Consultative Procedure will be followed
March 2023	Hearing	Specific date to be confirmed
March 2023	Council decision	Specific date to be confirmed

## **ATTACHMENTS - NGĀ TĀPIRITANGA**

1. Attachment 1 - Draft Statement of Proposal Keeping of Animals Bylaw 112022 [**22-246.1** - 16 pages]
2. Attachment 2 - Keeping of Animals, Poultry and Bees Bylaw 2012 [**22-246.2** - 10 pages]

## Statement of Proposal: Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 (Tairāwhiti Draft Keeping of Animals Bylaw 2023)

### Overview

This document is the Statement of Proposal for the purposes of Section 83(1)(a) and Section 86(2) of the Local Government Act 2002. This document contains:

1. Proposal
2. Reasons for the Proposal
3. Options considered and preferred options
4. Legislative framework
5. Assessment of appropriateness
6. How you can have your say
7. A draft of the proposed bylaw

The Keeping of Animals, Poultry and Bees Bylaw 2012 seeks to protect the public from nuisance and protect, promote and maintain public health and safety. It does this by setting controls for the keeping of animals, poultry and bees in order to reduce the incidence of odour, noise and vermin.

Council is required to review all its bylaws within five years of them having been made, and every 10 years thereafter. The Keeping of Animals, Poultry and Bees Bylaw 2012 was last reviewed in 2012 and is due for review again.

When reviewing the current bylaw, Gisborne District Council (Council) identified several improvements to clarify and simplify the bylaw to ensure it protects the public from nuisance and maintains public health and safety.

### 1. Proposal

- 1.1. Council proposes to amend the Keeping of Animals, Poultry and Bees Bylaw 2012. The key changes proposed in the draft bylaw are:
  - (a) Simplify poultry keeping provisions and reduce the limit on head of poultry in residential zones.
  - (b) Simplify bee keeping provisions.
  - (c) Simplify pig keeping provisions.
  - (d) Add a feral/stray animal provision.
- 1.2. The categorisation of zones into urban or rural areas has been clarified.
- 1.3. Several minor formatting updates have also been made to the bylaw. This aligns the bylaw with Council's new standard format, rewords some parts for clarity and flow, and rearranges some clauses for enhanced readability. The title of the bylaw has also been simplified.

### 2. Reasons for Proposal

- 2.1. Many people in Tairāwhiti keep and interact with animals every day and while this is an important aspect of life for many, sometimes the keeping of animals can cause problems for other people nearby, either through nuisance or impacting their health and safety.



- 2.2. When reviewing the current Keeping of Animals, Poultry and Bees Bylaw, a number of improvements were identified to improve clarity and simplicity for Council staff and the public when interpreting the bylaw, and to ensure the bylaw fulfils its purpose in protecting the public from nuisance and maintaining public health and safety.

### 3. Options Considered and Preferred Options

- 3.1. The following tables set out each proposal, the issue it addresses, the objective, options considered and the preferred option. The preferred option is reflected in the draft bylaw.

**Proposal (a) Simplify poultry keeping provisions and reduce the limit on head of poultry on properties in urban areas.**

Status Quo and Issue	<p>The current poultry provisions are not clear and contain some confusing and unnecessary statements about when approvals might be needed. Council receives some complaints about poultry in residential zones, but not a significant amount. Most of these complaints are regarding nuisance caused by roaming poultry or poultry attracting flies and rats. The current limit of 12 head of poultry on a property is relatively high.</p> <p>The provisions allow an exception to the restrictions on residential zones for properties in areas deemed to be 'rural in character' by Authorised Officers. This is difficult to apply consistently in practice.</p>
Objective	<p>Enable the keeping of poultry in urban areas in a way that effectively minimises nuisance and health risks, by using clear poultry keeping provisions that are easy to understand and can be applied consistently.</p>
Options Considered	<p><b>Option One:</b> Reword the poultry keeping section to be more user-friendly and retain the current limits and rules. Remove the 'rural character' exception.</p> <p>This option involves simplification of the provisions, removing the confusing and unnecessary statements and ensuring the rules are clear. This option retains the current limit of 12 head of poultry on a property, as well as the current setbacks required for poultry houses and runs, and fencing requirements. This option is effectively the status quo and the number of poultry allowed on residential properties is in line with many other councils' bylaw rules for poultry keeping.</p> <p>Removing the exception for residential properties that are rural in character will make it more straightforward for enforcement staff to apply the Bylaw, and those affected will be able to apply for a written permit for exceptions.</p> <p><b>Option Two:</b> Reword the poultry keeping section in line with Option One, including removing the 'rural character' exception and reduce the limit of the number of poultry that may be kept in urban areas to six. <i>(Preferred)</i></p> <p>This option involves simplification of the provisions, removing the confusing and unnecessary statements and ensuring the rules are clear. This option reduces the limit for the number of head of poultry that may be kept on a property to six in order to minimise nuisance, but retains the current setbacks required for poultry houses and runs, and fencing requirements.</p>
Preferred Option	<p><b>Option Two:</b> Reword the poultry keeping section to be more user-friendly and reduce the limit of the number of poultry that may be kept in urban areas to six.</p>

**Proposal (b) Simplify bee keeping provisions.**

<i>Status Quo and Issue</i>	<p>Current bee keeping provisions are difficult to enforce and unable to adequately deal with the increasing number of complaints about bees, and the increasing popularity of hobby beekeeping in residential areas.</p> <p>In addition to the general nuisance provisions, the current bylaw imposes specific regulations on keeping bees including hive limits of between zero and three hives depending on the size of the property and if there are dwellings or sensitive uses on adjoining properties. These provisions are unnecessarily complex.</p>
<i>Objective</i>	<p>Enable the keeping of bees in residential areas in a way that effectively minimises nuisance and health risks, by using bee keeping provisions that are easy to understand and can be applied consistently. Provisions should allow for some flexibility and a clear compliance process.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Remove all provisions specifically regulating bees, and instead rely wholly on the general rule(s) regulating nuisance caused by any animal in any part of the district.</p> <p>This option simplifies the bylaw and provides a high degree of flexibility when responding to issues. However, it may result in a lengthier resolution process when issues occur with no specific regulations to guide a response.</p> <p><b>Option Two:</b> Retain some bee provisions and simplify hive limits. <i>(Preferred)</i></p> <p>This option provides some specific regulations while still allowing a degree of flexibility when responding to issues. It sets hive limits to two hives for any property in urban areas, instead of different limits depending on size of the property, and otherwise provides flexibility for staff to take a common-sense approach to resolving issues.</p> <p><b>Option Three:</b> Remove the specific bee provisions and replace with a general clause regarding bees not causing a nuisance, and guidance on limits or other conditions that Council may impose if nuisance does occur.</p> <p>This option reinforces the purpose of the bylaw as regulating nuisance, rather than prescribing the best way to keep bees. It removes residential hive limits entirely. While this provides enhanced flexibility when responding to issues, there is concern that removing limits entirely may lead to an influx in nuisance complaints. Deciding the appropriate hive number on a case-by-case basis may also cause possibly lengthier resolution processes when issues do occur.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Retain some bee provisions and simplify hive limits to two hives for any property in the urban areas.</p>

**Proposal (c) Simplify pig keeping provisions.**

<i>Status Quo and Issue</i>	<p>The current pig keeping provisions are unclear, overly complex and difficult to apply.</p>
<i>Objective</i>	<p>Enable the keeping of pigs in rural areas in a way that minimises nuisance and health risks, by using clear and effective pig keeping provisions that are easy to understand and comply with.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Status quo. Retain the current pig keeping provisions.</p> <p>This option's only advantage is that it is unlikely to affect anyone currently keeping pigs in rural areas. However, it results in the bylaw remaining overly complex. The way the existing setback provisions are communicated may not adequately achieve the purpose of the bylaw and desired outcomes from regulating pig keeping because they are unclear and therefore difficult to apply consistently.</p> <p><b>Option Two:</b> Amend the setback regulations in the pig keeping provisions</p>

	<p>for consistency and simplicity of application. <i>(Preferred)</i></p> <p>This approach would bring the regulations more in line with common practice among other councils and increases the ease of use of the provisions. There is a possibility the changes might affect some individuals currently keeping pigs if their setbacks are not in line with the amended rules, however the amended setbacks do not differ from the current setbacks when applied correctly.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Amend the setback regulations in the pig keeping provisions for consistency and simplicity of application.</p>
<p><b>Proposal (d) Add feral/stray animal provisions.</b></p>	
<i>Status Quo and Issue</i>	<p>It is unclear whether feral/stray animals are within the scope of the current bylaw, and if so, how the bylaw applies to situations where these animals cause a nuisance.</p>
<i>Objective</i>	<p>Clarify how the bylaw applies to feral or stray animals, including where responsibility lies to abate nuisance and health risks.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Status quo. Rely on general nuisance provisions when responding to nuisance issues relating to feral/stray animals.</p> <p>When nuisance occurs from feral/stray animals, it often falls outside the regular meaning of a person keeping animals. This becomes difficult for Council to respond to such issues, and unclear for residents to interpret.</p> <p><b>Option Two:</b> Add new clause regulating nuisance caused by feral and stray animals being encouraged onto private property. <i>(Preferred)</i></p> <p>Specific regulation identifies where responsibility lies to abate nuisance caused by feral/stray animals. This clarifies residents' responsibilities, and Council's role in nuisance abatement, which enhances use and application of the bylaw. The clause clarifies that people must not encourage a feral or stray animal to become a nuisance, and that the owner or occupier of the property from which such animal emanates must abate the nuisance caused by the animal. This is also in line with a common approach taken by other councils.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Add new clause regulating nuisance caused by feral/stray animals being encouraged onto private property.</p>

#### 4. Legislative Framework

4.1. This section describes our legislative requirements.

##### *Local Government Act 2002 (LGA)*

4.2. Section 155 of the Local Government Act 2002 sets out requirements for the making, amending and revoking of bylaws. In addition to the general provisions about decision making, the Council, when considering a bylaw, must:

- (a) Determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue
- (b) Determine whether the bylaw is in the most appropriate form
- (c) Determine whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

##### *New Zealand Bill of Rights Act 1990 (NZBORA)*

4.3. Any bylaw made by Council must be consistent with all rights protected under the NZBORA.

##### *Health Act 1956 (Health Act)*

4.4. Section 23 of the Health Act requires Council to improve, promote and protect public health within the district. To achieve this, Council can make bylaws for the protection of public health.

4.5. Any bylaw made under the Health Act must follow the same process prescribed by the LGA.

#### 5. Assessment of Appropriateness (s155 LGA)

5.1. The Council determined at its meeting on 8 September 2022 that a bylaw is the most appropriate way to address the problems of nuisance and health concerns caused by keeping animals for domestic purposes throughout the district. A bylaw is an effective and enforceable mechanism to:

- Allow responsible animal owners to keep animals in appropriate areas of the district
- Protect the public from the inherent nuisance and health risks associated with keeping animals
- Provide controls over the keeping of certain animals and reduce the incidence of odour, noise and vermin.

5.2. Council considers the proposed bylaw to be in the most appropriate form of bylaw.

5.3. Council considers the proposed bylaw to be consistent with the New Zealand Bill of Rights Act 1990 as the proposed changes are reasonable, not overly restrictive or impractical. Public freedom to keep animals has only been restricted when necessary to achieve public protection from nuisance and health issues.

#### 6. Have Your Say

6.1. Before making any final decisions, we'd like to hear your feedback on the draft bylaw. You can make a submission:

- Online: [www.gdc.govt.nz](http://www.gdc.govt.nz)
- By Post: P.O. Box 747, Gisborne 4040

- In person: At Gisborne District Council – 15 Fitzherbert Street, Gisborne
- 6.2. If you would like to speak to your submission, please indicate this and provide your contact details. We will be in touch to let you know the date and time for verbal submissions.
- 6.3. Timeline:

Consultation period begins:	<b>25 January 2023</b>
Closing date for submissions:	<b>1 March 2023</b>
Public hearing to hear oral submissions:	<b>X March 2023</b>
Decision of Council:	<b>30 March 2023</b>

## 7. Copy of Draft Bylaw attached

Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023 (Tairāwhiti Draft Keeping of Animals Bylaw 2023)

The current bylaw, which will be revoked, can be found at the following link:

[https://www.gdc.govt.nz/\\_data/assets/pdf\\_file/0019/10369/Bylaw-keeping-of-animals-poultry-and-bees-2012.pdf](https://www.gdc.govt.nz/_data/assets/pdf_file/0019/10369/Bylaw-keeping-of-animals-poultry-and-bees-2012.pdf)

# Ture ā-rohe Tiaki Kararehe o Te Tairāwhiti 2023

(Tairāwhiti Keeping of Animals Bylaw 2023)

Made by Gisborne District Council

Resolution of Council dated \_\_ of \_\_\_\_\_ 202\_\_

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 XX XXXX 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.

**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 Industrial 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.

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

Note this includes residential, commercial and industrial 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 or comfort to a feral or stray animal so as to cause the animal to become a nuisance to other persons.
- (2) 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:

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.

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, 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 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.

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.

# Gisborne District Keeping of Animals, Poultry and Bees Bylaw 2012





Following the processes determined under the Local Government Act 2002, the bylaws pertaining to the keeping of animals, bees and poultry were reviewed.

The Gisborne District Keeping of Animals, Bees and Poultry Bylaw 2012 was duly made by a resolution of the Gisborne District Council at its meeting on \_\_\_\_\_ 2012, and was ordered to come into force on \_\_\_\_\_ 2013.

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## 1. Title and Commencement

This Bylaw is known as the "Gisborne District Keeping of Animals, Bees and Poultry Bylaw 2012" and shall come into force on 1 December 2012.

## 2. Repeals

The Gisborne District Keeping of Animals, Bees and Poultry Bylaw 2005 is repealed.

## 3. Scope

This Bylaw is made under the authority of Sections 145 and 146 of the Local Government Act 2002.

The purpose of this Bylaw is to protect the public from nuisance and protect, promote and maintain public health and safety, by providing controls over the keeping of certain animals, bees and poultry and so reduce the incidence of odour, noise, vermin and physical effects.

## 4. Definitions

In this Bylaw if not inconsistent with the context:

<b>Animal</b>	<b>Means any stock, poultry or bees.</b>
Authorised Officer	Means any Officer so appointed by Council to exercise powers pursuant to this Bylaw.
Council	Means the Gisborne District Council.
Deer	Means a deer of any age or gender.
Goat	Means a goat of any age or gender.
Horse	Means a horse, donkey, ass or mule of any age or gender.
Occupied dwelling unit	Means a building or part of a building that is used regularly for human habitation.
Ox	Means a cattle beast of any age or gender.
Person	Includes a corporation sole and also a body of persons whether corporate or unincorporated.
Pig	Means a pig of any age or gender.
Pig (adult)	Means any pig except those not yet weaned.
Poultry	Means and includes geese, ducks, pigeons, turkeys, peacocks and domestic fowls of all descriptions, age and gender.
Residential Zone	Means the area so defined by the Gisborne District Combined Regional Land and District Plan and does not include the Rural Residential Zone.  <i>Note: This area includes rural townships.</i>

<b>Animal</b>	<b>Means any stock, poultry or bees.</b>
Rural Zone	Means the area so defined by the Gisborne District Combined Regional Land and District Plan.
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.
Sheep	Means a sheep of any age or gender.
Stock	Means and includes any horse, ox, goat, pig, sheep, deer, emu or any animal which is commonly farmed.

## 5. Poultry Keeping

5.1 Except with the written approval of an Authorised Officer:

- (i) No poultry house or poultry run must be erected so that any part of it is less than ten metres from any occupied dwelling unit or other sensitive use or within two metres of any boundary.

*Note: Intensive Farming, as defined in the Combined Regional Land and District Plan, is a discretionary activity under the plan and requires resource consent.*

Greater setbacks than those prescribed in this bylaw may be approved or provided through the resource consent process for intensive farming. Greater setbacks than those prescribed in clause 5.1 may need to be provided to comply with clause 9 of this bylaw.

5.2 Except with the written approval of an Authorised Officer and subject to 5.3:

- (i) All poultry in a Residential Zone must be kept at all times in a properly constructed and maintained fowl house and/or a properly enclosed poultry run;
- (ii) No more than 12 head of poultry are to be kept on any property in any Residential Zone;
- (iii) No roosters, geese, peacocks or peahens are to be kept in a Residential Zone.

5.3 Approval under clause 5.2 is not necessary so long as an Authorised Officer is of the opinion that the property on which the poultry are kept and adjoining properties are of a predominantly rural character with regard to the activities carried out, intensity of dwellings and area of properties.

## 6. Bee Keeping

6.1 Except with the written approval of an Authorised Officer and subject to clause 6.2:

- (i) No bees may be kept on any property with an area of 600m<sup>2</sup> or less in a Residential Zone;
- (ii) No more than 1 beehive may be kept on any property with an area of between 600m<sup>2</sup> and 900m<sup>2</sup> in a Residential Zone;

- (iii) No more than two beehives may be kept on any property with an area of 900 m<sup>2</sup> or more in a Residential Zone, provided that if there are no dwellings or sensitive uses on adjoining properties three hives may be kept;

*Note: The number of beehives needs to be appropriate to the section size, the proximity of neighbours and the layout of the property.*

- (iv) Beehives must be placed with an obstruction in front of them or elevated to ensure that all bees are above 2.5m above ground level prior to crossing the site boundary;
- (v) Beehives must be positioned so as to ensure that the primary flight path will not impinge on a dwelling or living area on any property;

*Note: Placement of beehives is a critical factor for avoiding problems for neighbours in urban areas.*

- (vi) A water trough must be provided and maintained on the property;
- (vii) Hive working and manipulation shall only occur at times either agreed with any potentially affected neighbours or as approved by an Authorised Officer.

*Note: Beekeepers should be considerate of neighbours when siting beehives and when manipulating beehives so as to reduce the chance of annoyance.*

6.2 Where the splitting of beehives already located on a property results in a greater number of beehives than that allowed by clause 6.1 of this bylaw or the conditions of an approval from an Authorised Officer, the beehives must be removed:

- (i) By 30 September – for beehives split during the period of March to August;
- (ii) Within six weeks – for beehives split during the period of September to February.

6.3 Authorised Officers have the power to remove or alter a hive that is or has been constructed in breach of this bylaw.

*Note: If bees are being kept in a manner or position that is considered by an Environmental Health Officer to constitute a "nuisance" then action may be taken pursuant to the Health Act 1956. In the cases where immediate abatement is considered necessary this may include destruction of bees.*

## 7. Stock Keeping

7.1 Except with the written approval of an Authorised Officer and subject to clause 5, 6 and 7.2:

- (i) No stock other than poultry or bees may be kept in a Residential Zone.

7.2 Approval under clause 7.1 is not necessary so long as an Authorised Officer is of the opinion that the property on which the stock are kept and adjoining properties are of a predominantly rural character with regard to the activities carried out, intensity of dwellings and area of properties. Clause 8 shall then apply as if the property were in a Rural zone.

## 8. Pig Keeping

8.1 Except with the written approval of an Authorised officer, pigs may only be kept in a Rural zone provided that the following set-back requirements are met:

- (i) Manure, swill and feed must not be stored or accumulated within:
  - (a) ten metres of any occupied dwelling unit including those on the same site;
  - (b) 50 metres of any neighbouring occupied dwelling unit or other sensitive use existing at the time this activity commenced, except in accordance with clause 8.2.
- (ii) Any pig shelter or enclosure must not be located within 10 metres of any occupied dwelling unit including those on the same site.
- (iii) Any pig shelter or enclosure which is occupied by three or less pigs (adult) at any one time must not be located within 50 metres of any neighbouring occupied dwelling unit or other sensitive use existing at the time the activity is commenced, except in accordance with clause 8.2.
- (iv) Any pig shelter or enclosure which is occupied by four or more pigs (adult) at any one time must not be located within 100 metres of any neighbouring occupied dwelling unit or other sensitive use existing at the time the activity is commenced, except in accordance with clause 8.2
- (v) Any pig must not be allowed to range within 50 metres of any neighbouring occupied dwelling unit or other sensitive use existing at the time this activity commenced, except in accordance with clause 8.2.

*Note: Intensive Farming, as defined in the Combined Regional Land and District Plan, is a discretionary activity under the plan and requires resource consent. Greater setbacks than those prescribed in clause 8.1 may be approved or provided through the resource consent process for intensive farming.*

*Greater setbacks than those prescribed in clause 8.1 may need to be provided to comply with clause 9 of this bylaw (for example, where there are a large number of pigs kept or where a sensitive use is established adjacent to a pig keeping activity)*

8.2 Set-back distances specified in clauses 8(i)(b), 8(iv) and 8(v) may be reduced if written consent of the owner and occupier of any land obtaining the benefit of these setback distances is obtained and submitted to the Council prior to commencement of the activity or when the consent is sought. Such written consent may be subject to reasonable conditions and be for a specified period of time but in no case shall affect clauses 8(i)(a) or 8(ii).

*Note: If written consent has been given it shall continue regardless of change in ownership of the land unless the consent was so limited.*

8.3 Set-back distances specified in clauses 8(i)(b), 8(iii) and 8(iv) do not apply where the activity was lawfully established and operated pursuant to the Resource Management Act 1991 prior to this bylaw coming into force and has not lapsed.

## 9. Nuisance

- 9.1 No person may keep any animal or allow any such animal to be kept or remain on any property owned or occupied by that person, unless:
- (i) Any building, shelter or enclosure used to house animals is constructed, drained and maintained so as to ensure that no nuisance occurs from its existence or use;
  - (ii) Any discharge of objectionable or offensive odours is not of an extent that it causes an adverse effect beyond the boundary of the property;
  - (iii) Effective fencing or other containment measures are provided to confine and control the animals, other than bees and free-flight birds, within the site and to prevent them from gaining access to neighbouring properties;
  - (iv) Parasites, flies and other pests do not reach levels that may create a nuisance to neighbours or a health risk to humans or animals;
  - (v) Animals are kept in such a manner that no other nuisance occurs.
- 9.2 Whether an odour causes an adverse effect for the purpose of 9.1(ii) shall be determined by an Authorised Officer with reference to the frequency, intensity, duration and offensiveness (or character) of the odour, and the type of land use and nature of human activities in the vicinity of the odour source.
- 9.3 For the avoidance of doubt, clause 9 applies to all activities associated with the keeping of animals including storage of food and waste.

## 10. Approvals

- 10.1 Any Authorised Officer may refuse to give approval under any of clauses 5, 6, 7 or 8 of this Bylaw or may give approval subject to such conditions as the Authorised Officer considers are necessary to avoid nuisance to any person or adverse effect to the environment.
- 10.2 When considering an application for approval an Authorised Officer shall consider the following factors before making a decision:
- (i) Whether neighbours are affected and if so whether they have given their consent;
  - (ii) Whether effluent might drain into any waterway;
  - (iii) Whether any enclosure or fencing is adequate to contain the animals;
  - (iv) Previous history of the applicant;
  - (v) Potential noise;
  - (vi) Animal management and care;
  - (vii) Type, number and intensity of animals;
  - (viii) Any other relevant factor.

- 10.3 Any approval so given may be withdrawn or amended at any time by written notice given by an Authorised Officer on any of the following grounds:
- (i) Any Animal not being kept in accordance with the application;
  - (ii) Any conditions of approval not met;
  - (iii) Non-compliance with this bylaw or any other relevant regulation or statute;
  - (iv) Adverse effects on a person, an animal or the environment are occurring or are likely to occur.
- 10.4 Approvals are issued to a person or persons in respect of a specified property. They remain in force indefinitely, unless a time period is specified as a condition of approval or the approval is withdrawn. Approvals are not transferable to another person or persons.

## 11. Offences

Any person who acts contrary or fails to comply with any provision of this Bylaw commits an offence and is liable upon summary conviction to a penalty not exceeding \$20,000 or on service of an infringement notice requiring payment of an infringement fee.

## 12. Fees

- 12.1 Council may charge fees for assessing applications, issuing approval, monitoring and enforcement in respect of this Bylaw.
- 12.2 Council may recover the costs of removal or alteration from any person who has committed a breach of this Bylaw.



THE COMMON SEAL OF GISBORNE DISTRICT COUNCIL WAS HERETO AFFIXED  
PURSUANT TO RESOLUTION PASSED AT A MEETING OF THE GISBORNE DISTRICT  
COUNCIL HELD ON \_\_\_\_\_ (day) OF \_\_\_\_\_ (month) 2013.

\_\_\_\_\_ MAYOR

\_\_\_\_\_ CHIEF EXECUTIVE

**Title:** 22-205 Draft Dog Control Policy and Bylaw: Statement of Proposal for Consultation

**Section:** Strategy

**Prepared by:** Makarand Rodge – Policy Advisor

**Meeting Date:** Thursday 15 December 2022

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Legal: Yes

Financial: No

Significance: **Medium**

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## Report to COUNCIL/TE KAUNIHERA for decision

### PURPOSE - TE TAKE

The purpose of this report is to seek adoption of the Statement of Proposal for consultation on the Draft Dog Control Policy 2023 and Draft Dog Control Bylaw 2023.

### SUMMARY - TE WHAKARĀPOPOTOTANGA

Council's Dog Control Policy 2010 and Dog Control Bylaw 2010 have been reviewed (**Report 21-165**). Under section 159 of the Local Government Act 2002 (LGA), Territorial Authorities (TAs) must review bylaws every 10 years and section 11 of the Dog Control Act 1996 (the Act) requires councils to review their Dog Control Policy at the same time. On 28 October 2021, Council's Sustainable Tairāwhiti Committee approved the review of the Dog Control Policy 2010 and Bylaw 2010 (the current Policy and Bylaw).

Council is proposing to revoke and replace the current Dog Control Bylaw. Staff have prepared a Statement of Proposal (**Attachment 1**) which includes eight proposed changes to the current Policy and Bylaw. The proposals are listed below:

- Requiring that dogs are on a leash in public places unless specified otherwise in the Policy.
- Prohibiting dogs from Kaiti beach.
- Allowing dogs on-leash in some neighbourhood reserves where dogs are currently prohibited.
- Allowing dogs to be off-leash in the part of Waiteata park north of the stream.
- 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.
- Removing time-of-day and holiday restrictions on beaches.
- Increasing the number of dogs that can be kept on premises without a permit.
- 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.

The proposed changes ensure Council is maintaining a balance between the needs of dog owners and the public by taking all practical steps to improve public safety and reduce nuisance caused by dogs. Further, the proposed changes allow Council to have more precise and clear regulations around dog access areas which, in the past, have been observed to be confusing in certain areas of Tairāwhiti.

Consultation is scheduled for 25 January until 1 March 2023 using the special consultative procedure as required by section 156 of the LGA. The Statement of Proposal, the draft Policy and Bylaw, can be found in **Attachments 1, 2 and 3**.

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. Determines that a bylaw is the most appropriate means of addressing the perceived problems arising from private dog ownership and access to public places.**
- 2. Determines that the proposed draft Dog Control Bylaw 2023**
  - a. is in the most appropriate form of the bylaw; and**
  - b. does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- 3. Adopts the Draft Statement of Proposal including the Draft Dog Control Policy 2023 and Draft Dog Control Bylaw 2023 for consultation using the special consultative procedure.**

*Authorised by:*

**Joanna Noble - Chief of Strategy & Science**

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

## BACKGROUND - HE WHAKAMĀRAMA

1. The Dog Control Act 1996 (the Act) requires all territorial authorities to adopt a policy on dogs, while making a bylaw to enforce the policy is under the Council's discretion. As far as staff can determine, all territorial authorities in New Zealand have made dog control bylaws.
2. On 28 October 2021, the Sustainable Tairāwhiti Committee approved the statutory review of the Dog Control Policy 2010 (the current Policy) and Dog Control Bylaw 2010 (the current Bylaw) **(Report 21-165)**.

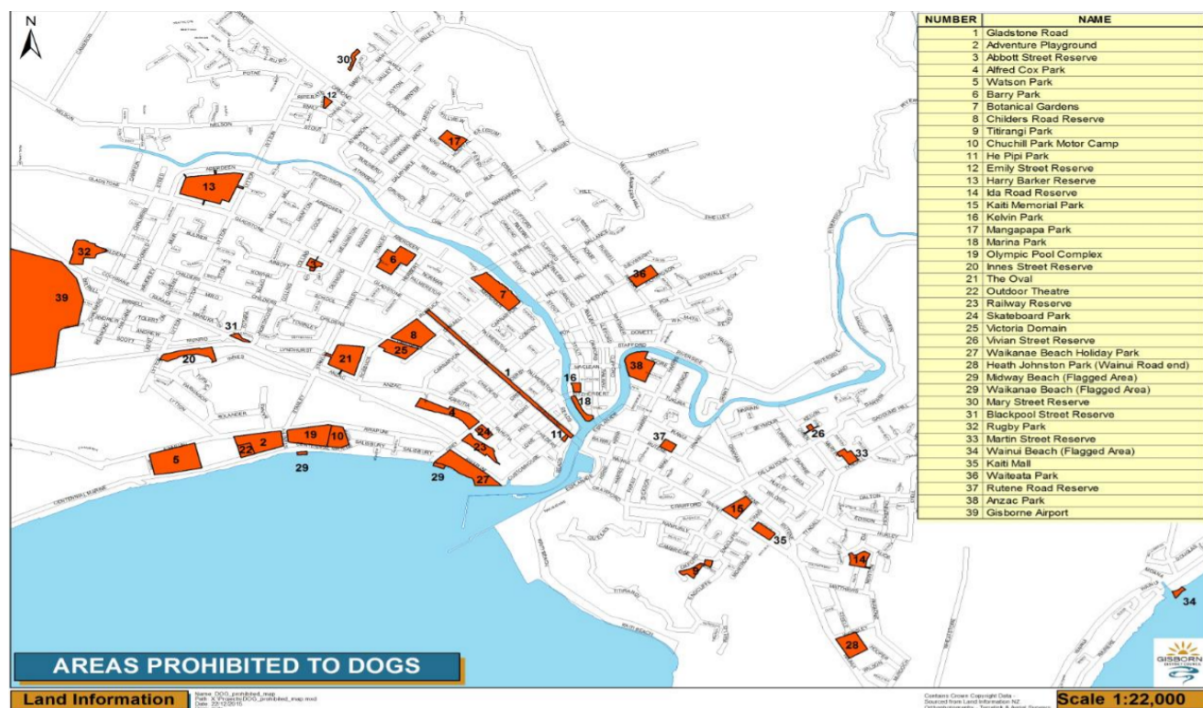
### The Current Policy

3. The current 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.
4. It sets out requirements on dog owners to:
  - register their dog/s at three months of age and every year after
  - provide for the health and wellbeing of their dog
  - keep their dogs under control when in a public place, particularly in and near places frequented by children
  - ensure their dog doesn't cause a nuisance to neighbours and other people by persistent and loud barking or howling
  - keep their dog under direct control or confined on their property so it doesn't wander or become lost
  - pick up any faeces left by their dog in public places or on land not occupied by the dog owner
  - take all reasonable steps to ensure their dog doesn't injure, endanger, intimidate, or otherwise cause distress to children and other people nor to any stock, poultry, domestic animal, or protected wildlife and is kept out of prohibited areas
  - ensure their dog doesn't damage or endanger any property belonging to other people, and
  - provide for the training, exercise and recreational needs of their dogs.
5. The Policy also specifies areas where dogs are prohibited, where they must be kept on a leash and where they are allowed to be off-leash. These areas are set out below.

## Dog access areas

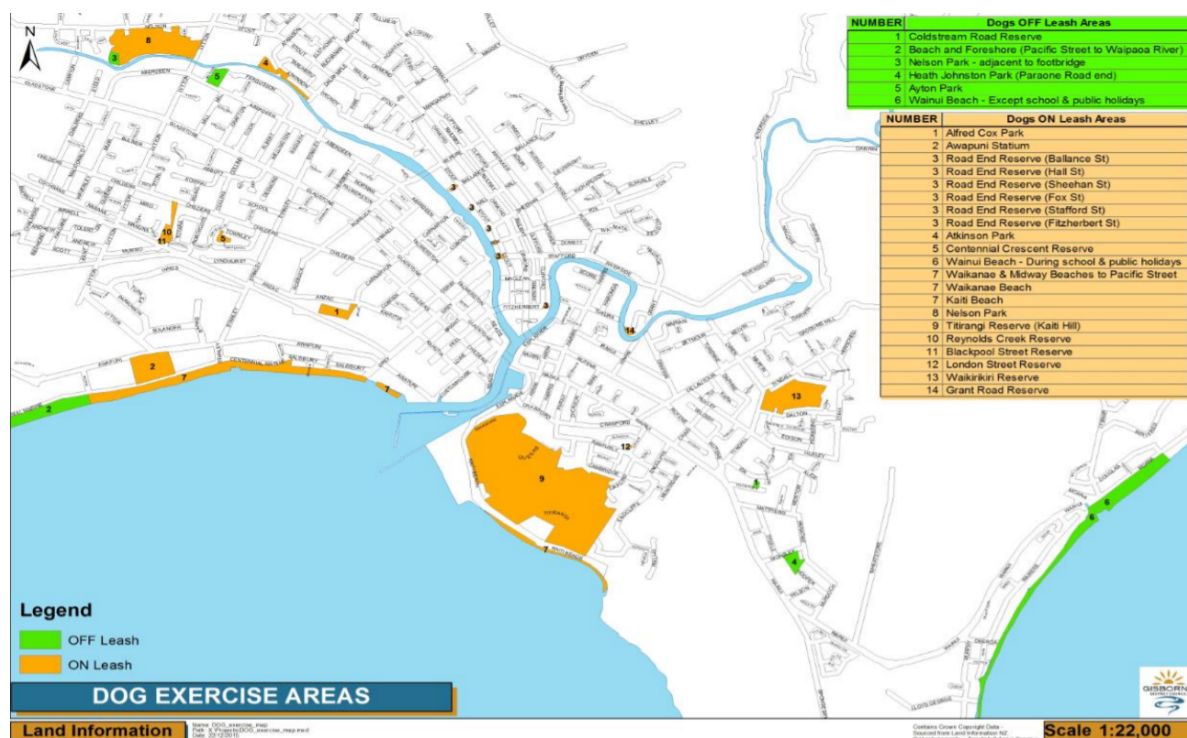
6. Under the current Policy, there are 39 areas prohibited to dogs. These are shown in Figure 1.

Figure 1: The current policy – Prohibited Areas.



7. Figure 2 shows the six 'off-leash' areas and 20 'on-leash' areas in the current Policy.

Figure 2: The current policy – On-leash and off-leash areas



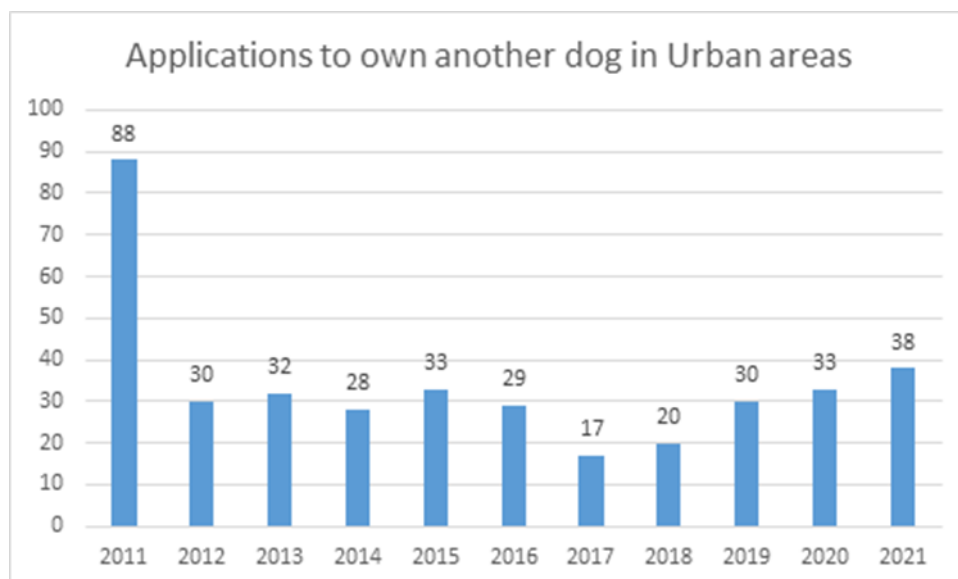
## The Current Bylaw

8. The current Bylaw aims to ensure the health and wellbeing of dogs and the general public through responsible dog ownership and regulations. The current Bylaw attempts to achieve this by:
- defining dog access to public areas
  - prescribing minimum dog shelter standards
  - requiring a permit for more than one dog per premises
  - requiring the removal of faeces
  - requiring a dog to be neutered if uncontrolled on at least three occasions
  - requiring female dogs to be kept confined while in season.

## Dog control under current settings

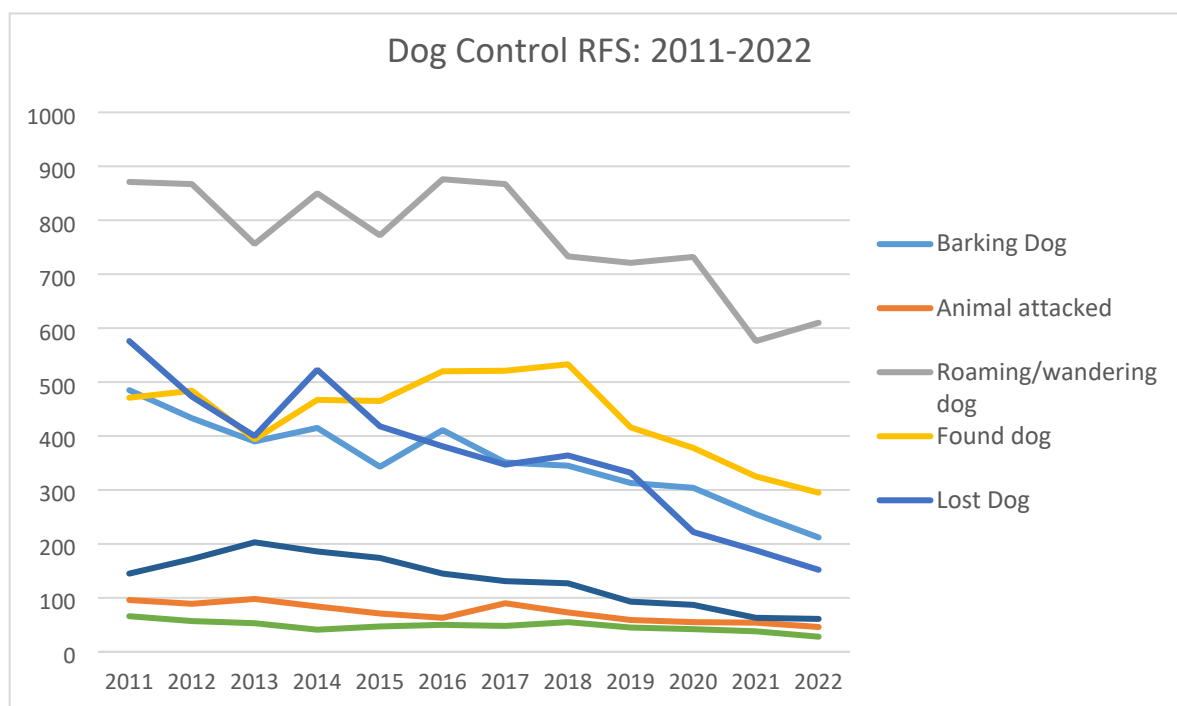
9. Tairāwhiti has a high rate of dog ownership, with 6,145 dog owners and 11,402 dogs. As of November 2022, the vast majority (94 percent) of these dogs are registered.
10. Across the region, the ratio of about one dog for every 4.5 people is high compared to the national average of one dog for every nine people, but lower than neighbouring districts (around one dog for every two people in both Opotiki District and Wairoa District).
11. Figure 3 shows the number of residents who applied to own more than one dog between 2011 to 2021. The data for 2022 was not available at the time of preparing this report.

Figure 3: Applications to own another dog in the urban area



12. Figure 4 shows the key categories of Request for Service (RFS) data concerning dog control over the 11 years operation of the current Bylaw.

Figure 4: Dog control Request for Service (RFS) data 2011-2022



13. Reports of aggressive dogs have reduced over the last 10 years. 2021 and 2022 witnessed the lowest rates of animal and person attacks across this period, as well as instances of dogs rushing at or intimidating people. The COVID-19 pandemic and subsequent lockdowns may have impacted the number of and/or reporting of incidences.
14. The number of incidences of non-compliant dogs and dog owners have also declined over the past decade. RFS for roaming dogs also decreased but remains a significant issue.
15. While inconclusive, the data gathered suggests that the system is demonstrating positive trends toward the Policy's objectives for a safe place for dogs, dog owners and the community, suggesting the system is not in need of first principles review.

#### Council workshop on dog control settings

16. A Council workshop in February 2022 considered a range of options to improve the Bylaw and Policy, including:
- making all urban areas in Tairāwhiti default on-leash with specified off-leash and prohibited areas.
  - increasing the limit on dogs allowed to be kept on premises without a permit.
  - adding assessment criteria to determine the suitability of an area for dogs.
  - simplifying the time of day/week/school holiday restrictions for dogs on urban beaches.
  - prohibiting dogs on Kaiti beach.

17. During the workshop, there was general agreement on proposals a to d, while the Council had mixed views about proposal e. Staff have considered the feedback and identified the proposals set out in the following section to simplify compliance for dog owners by creating a more uniform set of expectations across the city.

## **DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO ME NGĀ KŌWHIRINGA**

18. Staff are proposing that the current Bylaw be revoked, and that the new Bylaw include the following eight changes:
1. Require that dogs must be on a leash in public places unless specified otherwise in the Policy.
  2. Prohibit dogs from Kaiti beach.
  3. Allow dogs on-leash in some neighbourhood parks where dogs are currently prohibited.
  4. Allow dogs to be off-leash in Waiteata park north of the waterway.
  5. Prohibit dogs from the sports fields at Nelson Park and Waikirikiri Park where they are currently allowed on-leash.
  6. Remove time-of-day, public and school holiday conditions on all urban beaches to reduce confusion and improve compliance
  7. Increase the number of dogs allowed to be kept on premises without a permit from one to two.
  8. Reduce the number of infringements for a dog “not under control” before Council may require it be neutered from three down to two within a 12-month period.
19. The draft statement of proposal, new Policy and new Bylaw are Attachments 1, 2 and 3 of this report. They will be combined to form the final statement of proposal.
20. The rationale and cost-benefit considerations for each of these proposals is set out below.

### **Proposal One: Require that dogs must be on a leash in public places unless specified otherwise in the Policy**

21. Currently, the Policy specifies areas where dogs are prohibited, where dogs must be on a leash, and where dogs are permitted off-leash. For all areas not identified, section 54(a) of the Dog Control Act 1996 requires owners must carry a leash and ensure their dog is always kept under control. Animal Control Officers consider the “under control” requirement difficult to apply as it is subjective.
22. Staff propose a blanket on-leash rule as the default requirement for dogs in public places not otherwise designated as prohibited or off-leash areas in the draft policy. This change places minimal requirements on dog owners above those already imposed by section 52 of the Act. This approach has been used effectively by Wairoa District Council, Napier City Council and Whanganui District Council.



**Table one: Cost-benefit analysis of Proposal One.**

Options	Costs / risks	Benefits
<b>Status quo:</b> Require that dog owners must carry a leash and ensure the dog is kept under control at all times in areas not specified in the Policy.	<ul style="list-style-type: none"> <li>Current system is confusing as it is unclear what is and is not "under control".</li> <li>Difficult to enforce.</li> </ul>	<ul style="list-style-type: none"> <li>Dog owners have greater freedoms outside of designated on-leash and prohibited areas.</li> </ul>
<b>Introduce "on-leash" as default requirement for public places</b>	<ul style="list-style-type: none"> <li>Some dog owners who are already appropriately complying with section 54(a) may consider it an unfair restriction.</li> </ul>	<ul style="list-style-type: none"> <li>Compliance supported as the requirement is clear and objective.</li> <li>Improved public safety due to reduced chance of dog attacks/intimidation.</li> </ul>

23. Moving to an "on-leash by default" approach is the most equitable way of meeting the new Policy's objective, which is to:
- encourage responsible dog ownership
  - spread awareness within the community
  - promote an environment where dogs and people can happily and peacefully co-exist.
24. This approach also captures areas which are not currently specified in the policy as prohibited or on-leash. For example, Whataupoko (Fox St) Reserve is currently not included in the policy. Concerns have been raised around the safety of dogs in this area due to mountain bikers who share these tracks. During pre-engagement, dog owners who responded to our survey suggested that this be made an 'on-leash' zone.

#### **Proposal Two: Prohibit dogs from Kaiti beach and dunes up to but not including the adjacent road corridor**

25. 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).
26. Kaiti beach is a popular area for dog walkers. However, the surrounding dunes area is a well-established nesting site for native kororā (Little Blue Penguins). Efforts have been made to support the kororā colony through the installation of nesting boxes.
27. The Department of Conservation (DOC) has found a "significant number" (total figure not specified in correspondence) of deceased kororā on the beach and post-mortem analysis of at least three of those has confirmed the cause of death was by a dog.
28. Council also needs to consider implications under the New Zealand Coastal Policy Statement 2010. With kororā classified 'at risk' Council should avoid the adverse effects of activities on the population. There is an opportunity for Council to align regulatory settings to protect the colony while reducing reputational risk.
29. In discussions with Ngāti Oneone it was noted the current approach has proved ineffective and they support initiatives, such as prohibiting dogs from the area, that further protect the kororā colony.

30. The kororā population in Midway, Wainui and Okitu beaches is unknown, but thought to be very low. Council's ability to protect kororā and other fauna from dogs in these areas is also limited due to the proximity of residential areas.
31. 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.

**Table 2: Cost-benefit analysis for Proposal 2**

Options	Costs / Risks	Benefits
<b>Status quo:</b> Require dogs to be on-leash on Kaiti Beach and off leash between 6am to 9am (except on public and school holidays)	<ul style="list-style-type: none"> <li>• Dog attacks on kororā likely to continue.</li> <li>• Continued risk to penguin</li> <li>• Potential non-compliance with the Coastal Policy Statement</li> </ul>	<ul style="list-style-type: none"> <li>• Dog owners can continue to walk their dogs at Kaiti beach.</li> </ul>
<b>Prohibit dogs from Kaiti beach and dunes up to but not including the adjacent road corridor</b>	<ul style="list-style-type: none"> <li>• Additional signage would be required to inform dog owners of the prohibited area.</li> <li>• Reduces beach access for dog walking (Kaiti beach is a popular area for dog walkers).</li> </ul>	<ul style="list-style-type: none"> <li>• This would allow dog owners to access the road corridor while also maintaining safe distance from the kororā nesting on the beach.</li> <li>• Protection to native kororā from dog attacks.</li> </ul>
<b>Prohibit dogs on the entirety of Kaiti Beach, the dunes and the adjacent road reserve</b>	<ul style="list-style-type: none"> <li>• Further reduces access for dog walking.</li> <li>• Additional signage would be required to inform dog owners of the prohibited area.</li> </ul>	<ul style="list-style-type: none"> <li>• Protection to native kororā from dog attacks.</li> </ul>
<b>Prohibit Dogs on the section of Kaiti Beach between Eastland Port and the Yacht Club.</b>	<ul style="list-style-type: none"> <li>• Considered less effective at protecting kororā.</li> <li>• More complex compliance and enforcement scenario (more signage, more room for misunderstanding)</li> </ul>	<ul style="list-style-type: none"> <li>• Retains some on-leash exercise space. Although often treated as off-leash, Kaiti Beach is currently an on-leash area.</li> </ul>

### Proposal Three: Allow dogs on-leash in some neighbourhood reserves where dogs are currently prohibited

32. The current bylaw takes a conservative approach to dog access, prohibiting dogs from almost all public areas with an unfenced playground.
33. 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.
34. Staff propose that 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.
35. This approach is in line with more recent bylaws adopted in several areas including Wairoa and Auckland.

36. The reserves and parks where such designation is proposed to be changed from prohibited to on-leash are as follows:
- Abbott Street Reserve
  - Emily Street Reserve
  - Ida Road Reserve
  - Kaiti Memorial Park
  - Mangapapa Park
  - Marina Park
  - Mary Street Reserve
  - Blackpool Street Reserve
  - Martin Road Reserve
  - Vivian Street Reserve
  - Waiteata Park (South of waterway)

**Table 3: Cost-benefit analysis for Proposal 3**

Options	Costs / Risks	Benefits
<b>Status quo: Maintain all neighbourhood reserves as prohibited for dogs</b>	<ul style="list-style-type: none"> <li>Limited open areas to exercise dogs.</li> </ul>	<ul style="list-style-type: none"> <li>Public safety prioritised with dogs prohibited at all times, reducing the chances of dog attacks in these areas.</li> </ul>
<b>Allow dogs on leash in neighbourhood reserves where dogs are currently prohibited</b>	<ul style="list-style-type: none"> <li>New signage to inform dog owners of on-leash designation.</li> </ul>	<ul style="list-style-type: none"> <li>Increases local on-leash areas for exercising dogs.</li> <li>Sufficiently manages risk to reserve users by requiring dogs to be on-leash.</li> </ul>
<b>Allow dogs on leash in neighbourhood parks listed in Table 1 (as amended by Council) where dogs are currently prohibited.</b>	<ul style="list-style-type: none"> <li>Unknown until specified, unlikely to differ from option 2 Costs/risks</li> </ul>	<ul style="list-style-type: none"> <li>Unknown until specified, unlikely to differ from option 2 Benefits.</li> </ul>

#### Proposal Four: Allow dogs to be off-leash in Waiteata Park north of the waterway

37. Waiteata Park provides an opportunity for Council to provide an off-leash exercise area in an area where there are limited options available. The waterway serves as a natural demarcation of the park between the proposed off-leash area and the playground area.

**Table 4: Cost-benefit analysis for Proposal 4**

Options	Costs / Risks	Benefits
<b>Status quo:</b> Keep the entirety of Waiteata Park prohibited for dogs	<ul style="list-style-type: none"><li>Few options for dog owners to exercise dogs off-leash.</li></ul>	<ul style="list-style-type: none"><li>Public safety prioritised with dogs prohibited at all times in designated areas thereby reducing chances of dog attacks/intimidation.</li></ul>
<b>Allow dogs off-leash in Waiteata park north of the stream</b>	<ul style="list-style-type: none"><li>Increases risk of dogs attacking or intimidating park users.</li><li>Additional signage required to inform dog owners of new designation.</li></ul>	<ul style="list-style-type: none"><li>Additional off-leash access area for dogs in an area where there are limited off-leash options.</li><li>Minimises risk of dog attack/intimidation to users of the park on the south side of the waterway due to the natural barrier.</li></ul>
<b>Allow dogs on-leash for the entirety of Waiteata Park</b>	<ul style="list-style-type: none"><li>Additional signage required to inform dog owners of new designation.</li></ul>	<ul style="list-style-type: none"><li>Additional on-leash access area for dogs.</li></ul>

#### Proposal Five: Prohibit dogs from sports grounds where they are currently allowed on-leash

38. Currently, Waikirikiri Reserve and Nelson Park are designated on-leash areas. Dog faeces is a health risk and a nuisance at these 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.
39. We are proposing to prohibit dogs on the sport grounds in Waikirikiri Reserve and Nelson Park. This prohibition would apply only to the sports field area and not the surrounding environment (as shown in the maps included in the Draft Dog Control Policy 2023).

**Table 5: Cost-benefit analysis for Proposal 5**

Options	Costs / Risks	Benefits
<b>Status quo: Allow dogs on-leash on Waikirikiri Reserve and Nelson Park.</b>	<ul style="list-style-type: none"> <li>Continued non-compliance by dog owners not removing dog faeces posing a health risk and a nuisance.</li> </ul>	<ul style="list-style-type: none"> <li>Retains current dog access area for dogs to be exercised.</li> </ul>
<b>Prohibit dogs from sports fields at Waikirikiri Reserve and Nelson Park.</b>	<ul style="list-style-type: none"> <li>Reduction in area available for dog owners to walk their dogs on-leash in the parks.</li> <li>Additional signage costs for removing and replacing current signage in the area to clarify designation for dog owners.</li> </ul>	<ul style="list-style-type: none"> <li>Mitigates health hazards and nuisance as a result of continued non-compliance by dog owners not removing dog faeces.</li> <li>Dog owners would still have remaining areas (excluding sports fields) for walking their dogs on a leash.</li> </ul>
<b>Prohibit dogs entirely at Waikirikiri Reserve and Nelson Park including surrounding areas.</b>	<ul style="list-style-type: none"> <li>Reduction in dog access area available for dog owners to walk their dogs on-leash in the parks, which are popular for dog walkers.</li> <li>Additional signage costs for removing and replacing current signage in the area to clarify designation for dog owners.</li> </ul>	<ul style="list-style-type: none"> <li>Clear designation of the area as a complete prohibited zone is easy to apply.</li> <li>Mitigates health hazards and nuisance because of continued non-compliance by dog owners not removing dog faeces.</li> <li>Public safety prioritised with dogs prohibited at all times, thereby reducing the chances of dog attacks.</li> </ul>

**Proposal Six: Remove time-of-day, public and school holiday restrictions on all beaches and prohibit dogs on Waikanae beach from the cut to Roberts Road**

40. Currently, dogs may be off leash at Wainui and Okitu beach except on public and school holidays and are prohibited between the area demarcated by flags.
41. Dogs are required to be on a leash between Waikanae to Midway beach (Pacific Street) and may be off-leash between 6am to 9am every day (except for school and public holidays, when this area is an on-leash zone). The areas demarcated by flags remain prohibited. Beyond Pacific Street on Midway beach, dogs may be off-leash at all times up to the Waipaoa river mouth.
42. The different restrictions depending on the time of day and year causes confusion for dog owners. This is reflected in an increasing number of dog-related callouts at these beaches due to confusion around the rules.
43. To try to alleviate the confusion and make it easier to comply with the bylaw, we are proposing the changes set out in Table 6 to the current dog restrictions on the urban beaches: Kaiti Beach is covered by a different proposal and is not subject to this proposal.

**Table 6: Proposed changes to dog restrictions on urban beaches**

Area	Current designation	Proposed designation
Wainui and Okitu Beach	<ul style="list-style-type: none"> <li>Off-leash, except for public and school holidays when dogs must be on-leash.</li> <li>Prohibited in the area demarcated by Surf Lifesaving flags.</li> </ul>	<ul style="list-style-type: none"> <li>Off-leash at all times with no changes for public or school holidays.</li> <li>Prohibited in the area demarcated by Surf Lifesaving flags (no change).</li> </ul>
Waikanae and Midway Beach	<ul style="list-style-type: none"> <li>On-leash until Pacific Street including school and public holidays, but off-leash between 6am to 9am on all days except school and public holidays.</li> <li>Off-leash at all times beyond Pacific Street up to the Waipaoa river mouth.</li> <li>Prohibited in the area demarcated by Surf Lifesaving flags (no change).</li> </ul>	<ul style="list-style-type: none"> <li>Prohibited from the cut to Roberts Road (as shown on maps in the Draft Dog Control Policy 2023).</li> <li>On-leash at all times from Roberts Road to Pacific Street, with no exception times</li> <li>Off-leash beyond Pacific Street up to the Waipaoa river mouth (no change).</li> <li>Prohibited in the area demarcated by Surf Lifesaving flags (no change).</li> </ul>

**Table 7: Cost-benefit analysis for Proposal 6**

Options	Costs / Risks	Benefits
<b>Status quo:</b> Different dog access restrictions on beaches depending on time of day/year. On-leash on Waikanae beach from the Cut to Roberts Road	<ul style="list-style-type: none"> <li>Differing restrictions depending on time of day/holidays causes confusion reflected by a significant number of RFS callouts with respect to the 6am to 9am off-leash rule.</li> </ul>	<ul style="list-style-type: none"> <li>Allows dog owners to exercise their dog's off-leash on Waikanae and Midway beaches between 6am-9am.</li> </ul>
<b>Option Two:</b> Remove time-of-day, public and school holiday restrictions on all beaches and prohibit dogs on Waikanae beach from the Cut to Roberts Road.	<ul style="list-style-type: none"> <li>Additional signage required to signal new designations.</li> <li>Reduces off-leash dog exercise options from Waikanae and Midway beaches between 6-9am.</li> </ul>	<ul style="list-style-type: none"> <li>Public safety is maintained while dog owners are also clearer on designation of beaches.</li> </ul>
<b>Option Three:</b> Amend time-of-day, public and school holiday restrictions from some beaches. (Table of proposed restrictions, where and when they apply to be added to this SOP according to Council resolution)	<ul style="list-style-type: none"> <li>Unknown, may impede achieving simplification for compliance.</li> </ul>	<ul style="list-style-type: none"> <li>Unknown</li> </ul>

### Proposal Seven: Increasing the number of dogs allowed on premises without a permit

44. The current Policy sets the maximum number of dogs which may be owned per premises 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.
45. 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 and issue a decision.
46. 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. This would reduce the administrative burden on dog owners and Council without compromising safety or nuisance measures. Non-compliant animals and owners will still come to the attention of Council.
47. Marlborough and Selwyn, both similarly sized districts, have a maximum of two dogs per premises as do Opotiki, Wairoa and Whakatane councils.

**Table 8: Cost-benefit analysis for Proposal Seven**

Options	Costs	Benefits
<b>Status quo-</b> Retain current limit on number of dogs per premises	<ul style="list-style-type: none"> <li>Imposes an unnecessary application process.</li> </ul>	<ul style="list-style-type: none"> <li>May contribute to limiting the number of dogs in the urban area.</li> </ul>
<b>Option Two:</b> Increase limit on number of dogs per premises to two	<ul style="list-style-type: none"> <li>No identified costs</li> </ul>	<ul style="list-style-type: none"> <li>Reduces administrative burden for both dog owners and Council.</li> <li>Some evidence suggests dogs having companions reduces nuisance like barking and jumping fences.</li> </ul>
<b>Option Three:</b> Increase the limit on number of dogs kept on premises without permit to three.	<ul style="list-style-type: none"> <li>Reduces downwards pressure on Gisborne's dog population, particularly unwanted/unplanned dogs</li> </ul>	<ul style="list-style-type: none"> <li>No identified benefits. Owners who wish to have more than two dogs can apply for permission.</li> </ul>
<b>Option Four:</b> Remove the permissible limit on the number of dogs per premises.	<ul style="list-style-type: none"> <li>Removes downward pressure on Gisborne's Dog population.</li> <li>Degrades Councils ability to limit nuisance and protect animal wellbeing</li> </ul>	<ul style="list-style-type: none"> <li>No identified benefits.</li> </ul>

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

48. The current Policy and Bylaw allows Animal Control Officers to require dog owners to neuter their dogs in the event such dogs are found to not be under the control of their owners (and issued an infringement notice) on more than three occasions in a 12-month period.
49. 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.
50. We propose reducing the number to two occasions within a 12-month period. This gives Animal Control staff the option to act earlier to reduce risk.
51. This clause does not require 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.

**Table 9: Options analysis for Proposal Eight.**

Options	Costs	Benefits
<b>Status quo</b> -Council may require dogs to be neutered if they are found to be not under control more than 3 times in 12 months	<ul style="list-style-type: none"> <li>Prevents Animal Control Officers from taking appropriate action where negligence is clearly causing a nuisance.</li> </ul>	<ul style="list-style-type: none"> <li>No identified benefits under the current system.</li> </ul>
<b>Option Two:</b> Reducing number of incidents	<ul style="list-style-type: none"> <li>No identified costs</li> </ul>	<ul style="list-style-type: none"> <li>Allows Animal Control Officers to take appropriate action sooner when assessed as necessary.</li> </ul>
<b>Option Three:</b> Enable Council to require the neutering of dogs that have been found to be not under control at the first incidence.	<ul style="list-style-type: none"> <li>Could appear heavy handed.</li> <li>Doesn't fit with Councils educational approach.</li> <li>Animal control officers have not requested this power.</li> </ul>	<ul style="list-style-type: none"> <li>Could be more effective in cases of clear and/or historical negligence.</li> </ul>

**Proposal Nine: Revoke the Dog Control Bylaw 2010 and make a new Dog Control Bylaw 2023.**

52. In order to make a new Dog Control Bylaw, the LGA Section 86(2)(ii) requires Council state in this Statement of Proposal that it intends to revoke its existing Dog Control Bylaw 2010.
53. The current bylaw would be revoked upon commencement of a new dog control bylaw, should Council resolve to do so.
54. As this is a legal requirement of the process to propose making a new bylaw, Council did not consider any other options.

**Minor changes not included as formal proposals**

55. The current policy does not outline criteria for determining what areas should be designated as off-leash, on-leash or prohibited to dogs.



56. Staff have developed criteria to outline the characteristics of an area that may make it suitable for dogs to be off-leash or alternatively, not suitable for dogs at any time. The criteria are set out in the draft Policy and are intended to be used as a guide. Other matters may influence any decision to make an area off leash or prohibited to dogs.
57. Proposed criteria for designating areas as off-leash includes consideration of the potential risk and nuisance to people, protected wildlife vulnerable to dogs, public amenities, and natural habitats. The criteria for designating areas as prohibited includes first assessing whether any such risks identified can be sufficiently managed either by dogs being on leash or through other practicable solutions (such as fencing or time-share arrangements).
58. With rapid development occurring across Gisborne, the dog access areas set out in the Policy are likely to require review earlier than required by law. These criteria will guide staff, stakeholders and the community in future review processes.

## **ASSESSMENT of SIGNIFICANCE - TE 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

59. 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/MAORI / COMMUNITY ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA / TŪTAKITANGA HAPORI**

60. Staff sought initial feedback from a range of stakeholders and tāngata whenua in the development of the draft policy and bylaw.
61. Notably, Ngāti Oneone support keeping Tīfīrangī as an on-leash area and prohibiting dogs from Kaiti beach to support protection of native kororā.
62. Federated Farmers raised several points about the cost of farm dog registration. This is outside the scope of this bylaw, but the feedback has been recorded for Council's consideration through the Fees and Charges Policy process in 2023.

63. Council's Engagement team have determined this process warrants a medium level consultation package including radio, social media advertising, webinars and social media activity as well as other in-person elements usually associated with this level of consultation. The bylaw will be consulted on alongside the draft Keeping of Animals Bylaw in early 2023.

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

64. There are no climate change implications arising from the adoption of the draft Dog Control Policy and Bylaw Statement of Proposal.

## **CONSIDERATIONS - HEI WHAKAARO**

### **Financial/Budget**

65. Adoption of a new Dog Control Policy and Bylaw may have financial implications for Council if updated signage is needed to reflect the changes adopted. Council's Animal Control Team The allocation of appropriate signage budget will need consideration through the Long Term Plan process.
66. Costs for the review are met by the Strategic Planning budget. Ongoing compliance monitoring and enforcement costs are included in the Animal Control and Parking team budget.

### **Legal**

67. This bylaw is made under the Local Government Act 2002 (LGA) and the Dog Control Act 1996 (the Act).
68. Under section 160 of the LGA, the making, amending, or revoking of a bylaw must follow the special consultative procedure. Section 83 of the LGA requires TAs to prepare and adopt a Statement of Proposal and ensure it is publicly available. Section 155 of the LGA requires local authorities, when making/amending or revoking a bylaw to determine:
- 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.
  - whether the bylaw is in the most appropriate form:  
  
Council considers the proposed bylaw to be in the most appropriate form of bylaw.
  - whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990:  
  
*If there are implications under that Act, the bylaw must be amended to remove any inconsistencies: Council considers 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.*

## **POLICY and PLANNING IMPLICATIONS – KAUPAPA HERE ME NGĀ RITENGA WHAKAMAHERE**

69. The Draft Dog Control Policy and Bylaw as proposed have no identified impacts on any other Council policies or planning.

### **RISKS - NGĀ TŪRARU**

70. 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.
71. Reputation: Council's reputation could be impacted if processes are not followed or if the resulting policy and bylaw were considered overly permissive or restrictive by different groups. To mitigate this, we will ensure the correct steps and legislation are followed with a thorough consultation process.

### **NEXT STEPS - NGĀ MAHI E WHAI AKE**

<b>Date</b>	<b>Action/Milestone</b>	<b>Comments</b>
25 January – 1 March 2023	Consultation	Special Consultative Procedure
March 2023	Hearings	Date to be confirmed
30 March 2023	Final adoption	Tentatively scheduled – to be confirmed.

### **ATTACHMENTS - NGĀ TĀPIRITANGA**

1. Attachment 1 - Draft Statement of Proposal for new Dog Control Policy and Bylaw 2023 [22-205.1 - 8 pages]
2. Attachment 2 - Draft Dog Control Policy 2023 [22-205.2 - 14 pages]
3. Attachment 3 - Draft Dog Control Bylaw 2023 [22-205.3 - 8 pages]

# Statement of Proposal: Draft Dog Control Policy and Bylaw 2023

The Gisborne District Council (Council) is proposing to replace its Dog Control Policy and Bylaw 2010. The Policy is made under section 10 of the Dog Control Act 1996 and allows Council to maintain a positive environment for dogs and humans to live peacefully within the community. The Bylaw is made under the Local Government Act 2002 (LGA) and regulates dogs within the Gisborne District to minimise danger, distress and nuisance from dogs.

This document is the Statement of Proposal for the purposes of Section 83(1)(a) and Section 86(2) of the LGA. This document contains:

- A summary of relevant information
- A description of the problems and the options to address these problems
- Legislative requirements
- A draft of the proposed Policy
- A draft of the proposed Bylaw
- How you can have your say

## Summary of information

Council is proposing to replace its Dog Control Policy and Bylaw 2010 and wants to hear what the community think about the changes.

The changes being suggested are:

- Changes to dog access areas:
  - Requiring that dogs must be on a leash in public places unless specified otherwise in the Policy.
  - Prohibiting dogs from Kaiti beach.
  - Allowing dogs on-leash in some neighbourhood reserves where dogs are currently prohibited.
  - Allowing dogs to be off-leash in the part of Waiteata park north of the waterway.
  - Prohibiting dogs from sports grounds where they are currently allowed on-leash.
  - Removing the time-of-day and holiday conditions on beaches.
- Increasing the number of dogs that can be kept on premises without a permit.
- Reducing the number of times a dog can be found not under control before Council can require it to be neutered from three incidents to two within a 12 month period.

More details about why Council is proposing these changes can be found under each proposal in the following section.

**Have your say:** Before making any final decisions, we'd like to have your input. You can make a submission:

- Online: [www.gdc.govt.nz](http://www.gdc.govt.nz)
- By Post: P.O Box 747, Gisborne 4040
- In person: At Gisborne District Council – 15 Fitzherbert Street, Gisborne

If you would like to speak to your submission, please indicate this and provide your contact details. We will be in touch to let you know the date and time for verbal submissions.

**Timeline:**

Consultation period begins: 25 January 2023

Closing date for submissions: 1 March 2023

**Proposal**

The following tables describe what Council is proposing, the reason for the proposal, the options considered, and Council's preferred option.

**Changes to the Policy and Bylaw**

<b>Proposal One</b>	<b>Require that dogs must be on a leash in public places unless specified otherwise in the Policy</b>
<i>Reasoning</i>	<p>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.</p> <p>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.</p>
<i>Options Considered</i>	<p><b>Option One</b> – Status quo: Dog owners must carry a leash and ensure the dog is kept under control at all times in areas not specified in the Policy.</p> <p><b>Option Two</b> – Require that dog owners ensure their dogs are on leash in all public places not specified in the Policy.</p> <p>Moving to an "on-leash by default" approach is the most equitable way of meeting the new Policy's objective, which is to:</p> <ol style="list-style-type: none"> <li>1. encourage responsible dog ownership</li> <li>2. spread awareness within the community</li> <li>3. promote an environment where dogs and people can happily and peacefully co-exist.</li> </ol> <p>This approach captures areas which are not currently designated as prohibited or as on-leash. For example, Whataupoko (Fox Street) Reserve is currently not included in the Policy. Concerns have been raised around the safety of dogs in this area due to mountain bikers who share these tracks. During early pre-engagement, dog owners have suggested that this be made an 'on-leash' zone.</p> <p>This approach is consistent with the approach taken by other Councils including Wairoa District Council, Napier City Council and Whanganui District Council.</p>
<i>Preferred Option</i>	<p><b>Option Two</b> – Require that dog owners ensure their dogs are on leash in all public places throughout Gisborne urban areas.</p>

**Proposal Two****Prohibit dogs from Kaiti beach***Reasoning*

Kaiti Beach is popular with dog walkers. However, the surrounding area is a well-established nesting site for native kororā (little 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 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.

*Options Considered*

**Option One:** Status Quo: Allow dogs to be off-leash on Kaiti Beach between 6am to 9am except on public and school holidays, require dogs be on-leash at all other times.

**Option Two:** Prohibit dogs on the entirety of Kaiti Beach and the dunes up to but not including the adjacent road corridor.

**Option Three:** Prohibit Dogs on the section of Kaiti Beach between Eastland Port and the Yacht Club.

*Preferred Option*

**Option Two:** Prohibit dogs on the entirety of Kaiti Beach and the dunes up to but not including the adjacent road corridor

**Proposal Three**      **Allow dogs on-leash in some neighbourhood parks where dogs are currently prohibited**

<i>Reasoning</i>	<p>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.</p> <p>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.</p>
<i>Options Considered</i>	<p><b>Option One:</b> Status Quo – maintain most neighbourhood reserves as prohibited for dogs</p> <p><b>Option Two:</b> Allow dogs on leash in neighbourhood parks listed in Table 1 where dogs are currently prohibited.</p> <p><b>Option Three:</b> Allow dogs on leash in neighbourhood parks listed in Table 1 (<b>as amended by Council</b>) where dogs are currently prohibited.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Allow dogs on leash in a number of neighbourhood reserves where dogs are currently prohibited.</p>

**Proposal Four**      **Allow dogs to be off-leash in Waiteata park north of the waterway**

<i>Reasoning</i>	<p>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).</p>
<i>Options Considered</i>	<p><b>Option One:</b> Status Quo: Keep the entirety of Waiteata Park prohibited for dogs.</p> <p><b>Option Two:</b> Allow dogs off-leash in Waiteata park north of the waterway.</p> <p><b>Option Three:</b> Allow dogs on-leash for the entirety of Waiteata Park.</p>
<i>Preferred Option</i>	<p><b>Option Two:</b> Allow dogs off-leash in Waiteata park north of the stream</p>

<b>Proposal Five</b>	<b>Prohibit dogs from the sports grounds at Waikirikiri Reserve and Nelson Park (where they are currently allowed on-leash)</b>
<i>Reasoning</i>	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.
<i>Options Considered</i>	<p><b>Option One:</b> Status Quo – Allow dogs on-leash on the Waikirikiri Reserve and Nelson Park.</p> <p><b>Option Two:</b> Prohibit dogs from the sports grounds such as Waikirikiri Reserve and Nelson Park</p> <p><b>Option Three:</b> Prohibit dogs entirely at Waikirikiri Reserve and Nelson Park including surrounding areas.</p>
<i>Preferred Option</i>	<b>Option Two:</b> Prohibit dogs from the sports grounds in Waikirikiri Reserve and Nelson Park.

<b>Proposal Six</b>	<b>Remove time-of-day, public and school holiday conditions on all beaches</b>
<i>Reasoning</i>	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.
<i>Options Considered</i>	<p><b>Option One:</b> Status Quo - Retain different rules for beaches depending on the time of day and year.</p> <p><b>Option Two:</b> Remove time-of-day, public and school holiday restrictions on all beaches</p> <p><b>Option Three:</b> Amend time-of-day, public and school holiday restrictions for some beaches. <b>(Table of proposed restrictions, where and when they apply to be added to this SOP according to Council resolution)</b></p>
<i>Preferred Option</i>	<b>Option Two:</b> Remove time-of-day, public and school holiday restrictions on all beaches



**Proposal Seven**                      **Increase the number of dogs allowed per premises without a permit from one to two**

<i>Reasoning</i>	<p>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.</p> <p>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.</p> <p>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.</p>
<i>Options Considered</i>	<p><b>Option One</b> - Status quo: Proceed with the current requirement to attain a permit to keep more than one dog on premises in the urban area.</p> <p><b>Option Two</b> – Increase the limit on number of dogs kept on premises without permit to two.</p> <p><b>Option Three:</b> Increase the limit on number of dogs kept on premises without permit to three.</p> <p><b>Option Four:</b> Remove the limit on the number of dogs per premises.</p>
<i>Preferred Option</i>	<p><b>Option Two</b> – Increase the number of dogs that can be kept on premises without a permit to two.</p>

**Proposal Eight**                      **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**

<i>Reasoning</i>	<p>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.</p> <p>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.</p>
<i>Options Considered</i>	<p><b>Option One</b> – Maintain status quo: Council can require the neutering a dog if it has been out of control on three or more instances in a 12-month period.</p> <p><b>Option Two</b> – Enable Council to require the neutering of a dog that has been found to be not under control two or more times in a 12-month period</p> <p><b>Option Three:</b> Enable Council to require the neutering of dogs that have been found to be not under control at the first incidence.</p>
<i>Preferred Option</i>	<p><b>Option Two</b> – 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</p>

Council will revoke the existing Dog Control Bylaw 2010 **and make a new Dog Control Bylaw 2023.**

## Legislative Framework

### *Local Government Act 2002 (LGA)*

Under the LGA, the making, amending or revoking of a bylaw must follow the special consultative procedure as described in section 160.

Section 155 of the LGA requires local authorities, when making, amending or revoking a bylaw to determine:

1. 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.*
2. Whether the bylaw is in the most appropriate form: *Council considers the proposed bylaw to be in the most appropriate form of bylaw.*
3. Whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990: *If there are implications under that Act, the bylaw must be amended to remove any inconsistencies: Council considers 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.*

### *Dog Control Act 1996 (the Act):*

Under the Act, a territorial authority (TA) must adopt a policy regarding dogs in the district, and review the policy when the relevant bylaw implementing the policy requires review.

Table 1: **Neighbourhood reserves currently prohibited for dogs:**

Area	Current Designation	Proposed Change	Comments
1. Abbott Street Reserve	Prohibited	On-leash	Area consists of an unfenced swing set with a large surrounding area. Risk from dogs can be managed by requiring dogs to be on-leash.
2. Emily Street Reserve	Prohibited	On-leash	Area consists of an unfenced swing set with a large surrounding area. Risk from dogs can be managed by requiring dogs to be on-leash.
3. Ida Road Reserve	Prohibited	On-leash	A neighbourhood park and thoroughfare for many residents, especially children commuting to schools. Risk from dogs can be managed by requiring dogs to be on-leash.
4. Kaiti Memorial Park	Prohibited	On-leash	Area includes a skate ramp, but risk to users can be managed by dogs being on-leash.
5. Mangapapa Park	Prohibited	On-leash	Area consists of an unfenced swing set with a large surrounding area. Risk from dogs can be managed by requiring dogs to be on-leash.
6. Marina Park	Prohibited	On-leash	Risk to other users of the area can be sufficiently managed by dogs being on-leash.
7. Mary Street Reserve	Prohibited	On-leash	Area consists of an unfenced swing set with a large surrounding area. Risk from dogs can be managed by requiring dogs to be on-leash.
8. Blackpool Street Reserve	Prohibited	On-leash	Area consists of an unfenced swing set with a large surrounding area. Risk from dogs can be managed by requiring dogs to be on-leash.
9. Martin Road Reserve	Prohibited	On-leash	Risk to other users of the area can be sufficiently managed by dogs being on-leash.
10. Vivian Street Reserve	Prohibited	On-leash	Staff have considered if this reserve could potentially be an off-leash area, however it was assessed that there is not sufficient space for this.
11. Waiteata Park (South side of waterway)	Prohibited	On-leash	The playground side of the park is a suitable on-leash area – a large space with an unfenced playground. Risk from dogs can be managed by requiring dogs to be on-leash.
12. Waiteata Park (North side of waterway)	Prohibited	Off-leash	Due to the waterway separating the playground and a grassed clearing, the non-playground side of the park could be a suitable off-leash area.

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

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. Watson Park
5. Barry Park
6. Botanical Gardens
7. Childers Road Reserve
8. Titirangi Park
9. He Pipi Park
10. Harry Barker Reserve
11. Olympic pool complex
12. The Oval
13. Innes Street Reserve
14. Railway Reserve
15. Skateboard Park
16. Victoria Domain
17. Heath Johnston Park (Wainui Road end)
18. Waikanae to Midway Beach – from cut to Roberts Road
19. Midway Beach (Flagged Area)
20. Waikanae Beach (Flagged Area)
21. Rugby Park
22. Wainui Beach (Flagged Area)
23. Kaiti Mall
24. Anzac Park
25. Gisborne Airport
26. Kaiti Beach and dunes (up to but not including adjacent road corridor)
27. Nelson Park Sports Grounds (Excluding the surrounding area)
28. 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

DRAFT

## Schedule 3 – Mapping of Dog Access Areas

Map 1: Waikanae to Waipaoa River Mouth

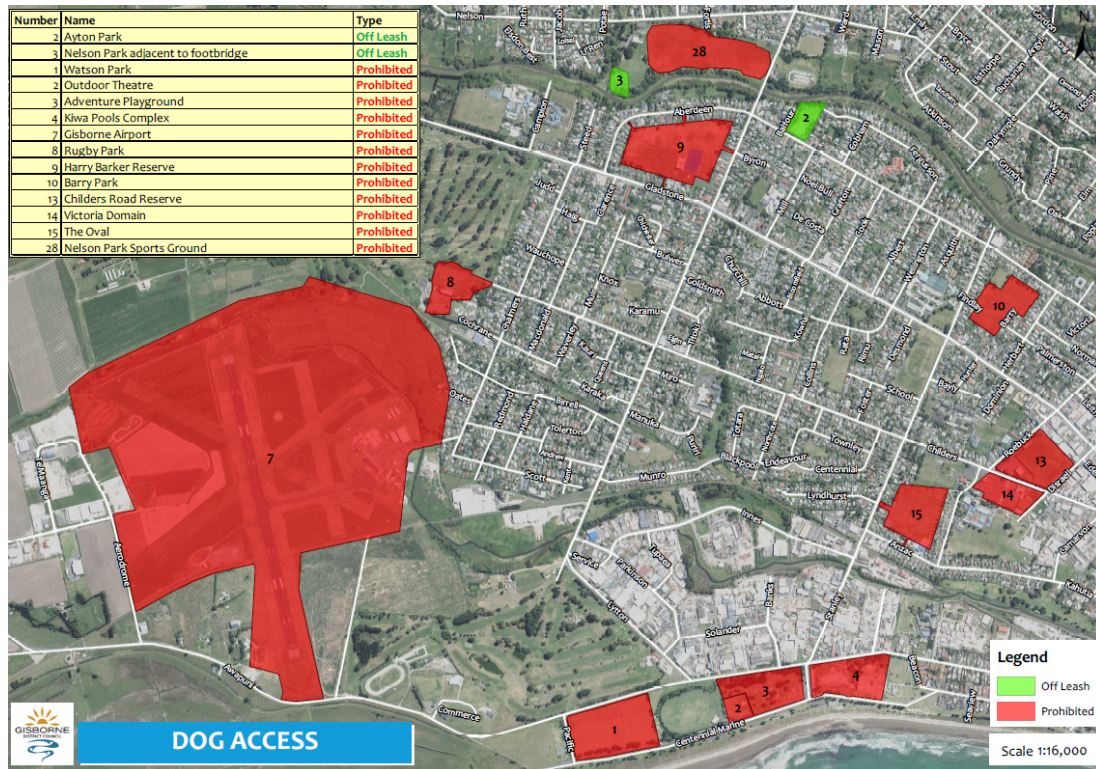


Map 2: Waikanae Prohibited Area

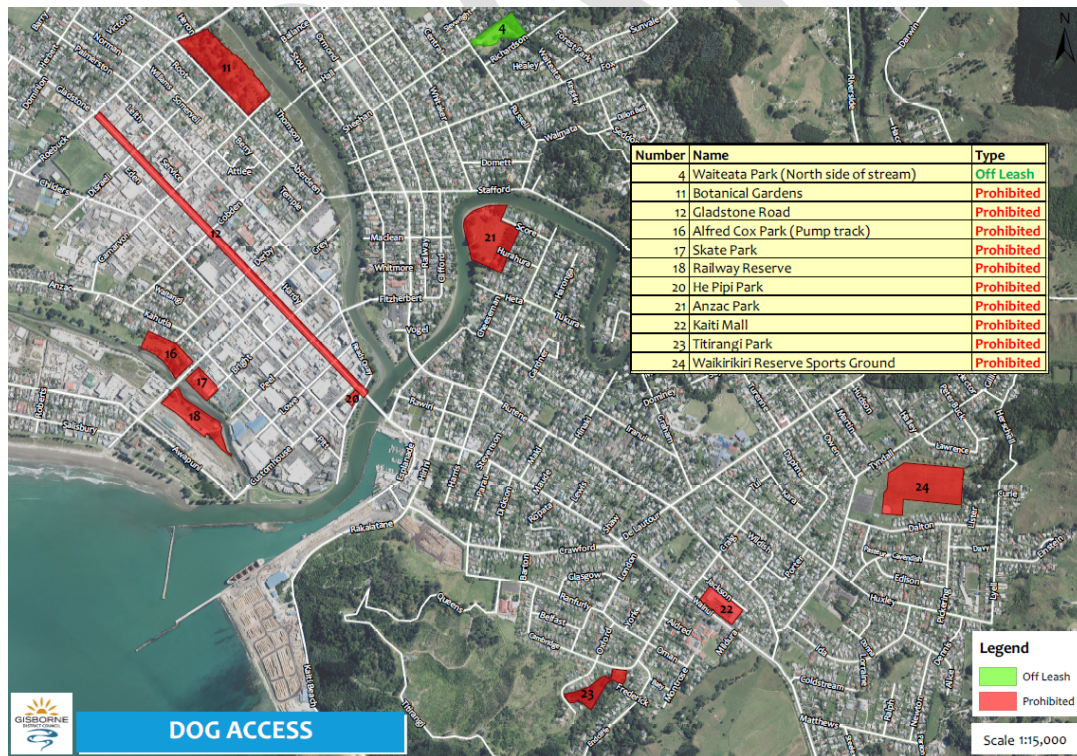




Map 3: Gisborne Map A

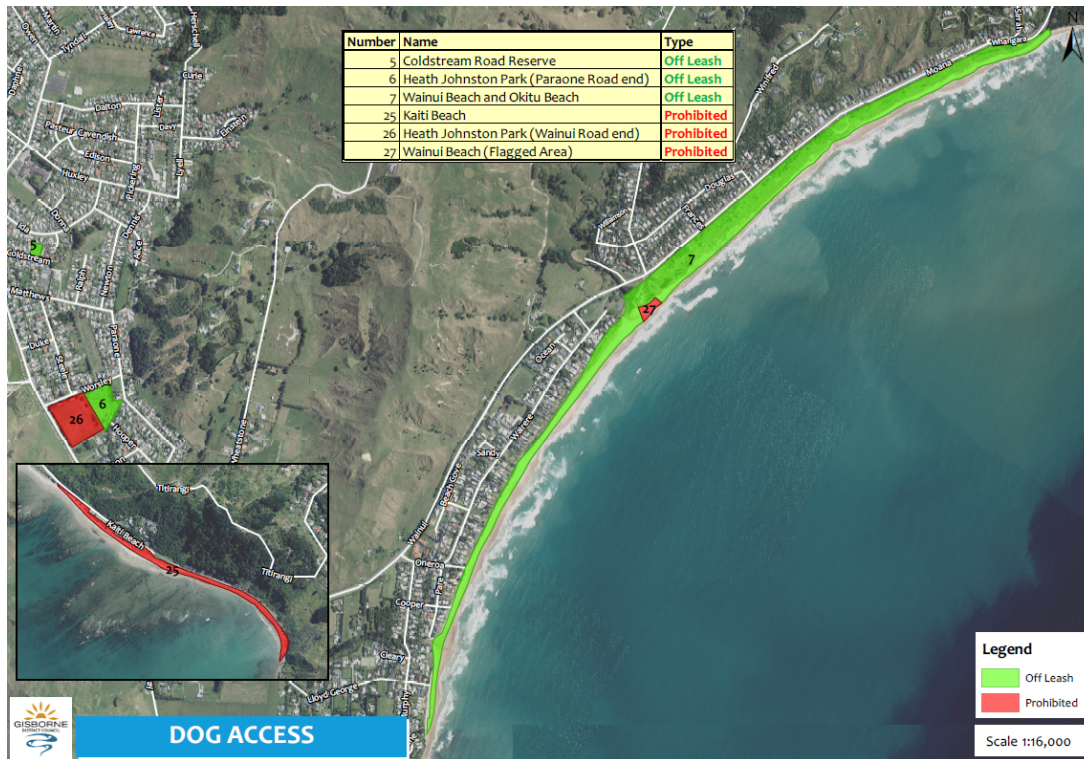


Map 4: Gisborne Map B





Map 4: Gisborne City C



Map 5: Kaiti Beach





## **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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# 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\_

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## 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.

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

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) 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:
  - (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:** Annual Report Dog Control Policy and Practices

**Section:** Environmental Services & Protection Compliance & Enforcement - Animal Control & Parking

**Prepared by:** Gary McKenzie – Compliance Monitoring and Enforcement Manager

**Meeting Date:** Thursday 15 December 2022

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Legal: No

Financial: Yes

Significance: **Low**

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## Report to COUNCIL/TE KAUNIHERA for decision

### SUMMARY - HE WHAKARĀPOPOTOTANGA

The Gisborne District Council (Council) is required to manage and enforce provisions pursuant to the Dog Control Act 1996 (the Act) and subsequent amendments in 2003, 2004, 2006 and 2010. Section 10A of the Act requires Council to report annually to the Secretary of Local Government on its Dog Control Policy and operations. This section requires Council to report on statistical aspects of its Dog Control Policy responsibilities.

This report fulfils this statutory requirement for the dog registration year 1 July 2021 to 30 June 2022.

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. Adopts the Annual Report on Dog Control Policy and Practices 2021/22.**
- 2. Instructs the Chief Executive to give necessary notifications following adoption of the report.**

*Authorised by:*

**James Baty - Director Internal Partnerships**

---

**Keywords:** Dog Control

## **BACKGROUND - HE WHAKAMĀRAMA**

1. Section 10A of the Dog Control Act 1996 requires territorial authorities to publicly report each financial year on:
  - The administration of their dog control policy and practices (section 10A(1)); and
  - A variety of dog control related statistics (section 10A(2)).
2. While not explicitly stated in the Dog Control Act, one of the primary purposes for preparing this report is to allow communities to see how Council is managing its dog control responsibilities.

## **DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA**

3. Adopt the Annual Report on Dog Control Policy and Practices 2021/22 contained in **Attachment 1**.

## **ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA**

4. 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**

5. Not applicable to this report.

## **COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI**

6. Not applicable to this report.

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

7. Not applicable to this report.

## **CONSIDERATIONS - HEI WHAKAARO**

### **Financial/Budget**

8. Financial information contained in Annual Report.

### **Legal**

9. A requirement to publicly report each financial year under Section 10A of the Dog Control Act 1996.

## **POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE**

10. There are no policy and planning implications associated with this report.

## **RISKS - NGĀ TŪRARU**

11. There are no risks associated with this report.

#### NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
15 December 2022	On adoption of the report, the report is to be published on Gisborne District Council's website as directed by the Dog Control Act 1996	

#### ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Annual Report Dog Control Policy and Practices 2021 22 [**22-281.1** - 8 pages]



**Annual Report**

**Dog Control Policy and Practices**

**1 July 2021 – 30 June 2022**

## BACKGROUND

1. Section 10A of the Dog Control Act 1996 requires territorial authorities to publicly report each financial year on:
  - the administration of their dog control policy and practices [Section 10A(1)]; and
  - a variety of dog control related statistics [Section 10A(2)].
2. While not explicitly stated in the Dog Control Act, one of the primary purposes for preparing this report is to allow communities to see how Council is managing its dog control responsibilities.

## Current Situation – Dog Control in City/District

3. Council is responsible for the enforcement of regulations relating to the keeping, welfare and control of dogs within the Gisborne District. Council is required under the Dog Control Act to make provision for the registration and control of dogs.
4. Impounding of dogs is an activity required by the provisions of the Dog Control Act and associated Gisborne District Council Dog Control Bylaw 2010 and Dog Control Policy 2010.
5. The Council has a responsibility to respond to complaints relating to dogs. Council's long-term focus for dog control activities is to ensure a safe living environment is maintained through the monitoring and enforcement of legislation, regulations and bylaws.
6. Council adopted its Dog Control Policy in 2010. The policy provides a practical framework for the care and control of dogs throughout the district while minimising any danger, distress and nuisance to the community.
7. The policy outlines expected standards and behaviours from dog owners and provides information about how Council will administer dog control. Specific dog control functions include:
  - dog registration
  - impounding of dogs
  - 24-hour ranging service
  - targeted education
  - enforcement of the Act and Council Dog Control Bylaw
  - issuing of infringements and prosecutions.
8. Council has four full-time and one part-time Gisborne-based Animal Control Officers. The Council's Te Puia Springs office has two full-time and one part-time coast based Animal Control Officers. The Animal Control Officers are responsible for a land area of 8,360 square kilometres.
9. Both urban and rural properties are regularly visited to check for unregistered dogs and dog/owner changes for compliance.
10. All properties within Gisborne city with more than one dog require a multiple dog licence. The licence is issued on meeting the Dog Control Policy's criteria. Extra care is taken to ensure dogs' welfare needs are met and there are no noise problems for neighbours.
11. During this reporting period Animal Control Officers visited and checked 69 properties for special owner applications. Applications to become a special owner must be completed prior to 1 May annually, allowing time to adjust fees for invoicing. These owners are

entitled to a special discounted annual registration fee (2021/22: \$68). The regular 2021/22 registration fee was \$96.

12. Animal Control Officers no longer accept applications of selected owners to become New Zealand licensed dog owners as at 1 July 2019. This is stated in our fees and charges and is due to the lack of resources now available domestically to inform both staff and applicants of criteria. Existing licensed owners continue to be entitled to a discounted dog registration (2021/22 fee \$58).
13. In the 2021/22 registration period a discount for desexed dogs was introduced and decided at approximately 10% of the invoiced fee. Owners are required to produce proof of the neuter and the discount is applicable across the fee matrix; excluding Dangerous Dog as neutering is a legal requirement.
- 14.

2021/22 DOG REGISTRATION FEES			
Class	Fee	Desex	Description
Ordinary dog	\$96	\$87	Family pet dog, including those in rural areas not required for rural livelihood
Working dog	\$52	\$47	Rural livelihood, income from dogs - breed Huntaway or Heading
Selected Owner SOP	\$68	\$62	Must <u>meet the criteria</u>
Superannuitants	\$63	\$57	Over 65 years
Selected Owner Superannuitant	\$55	\$50	Over 65 years, <u>must meet the criteria of SOP</u>
Licensed Owner	\$56	\$51	NZ Licence, must have been <u>SOP owner for 1 year</u>
EC Pig Hunters	-	-	This fee has been removed from our matrix please see Note 14.
Probationary Owner	\$142	\$128	Court fined - rural and urban
Guide and Hearing	\$0	\$0	Guide and police dogs
Dangerous dog*	\$143	\$143	Dog with a history and is classified dangerous * rural and urban

15. There are 6,286 dog owners within the district who own 11,801 registered dogs, in the following categories. Transient dog owners fluctuate regularly.

<b>DOG COUNT BY CATEGORY 2021/22</b>	
For all dogs with a current status of CURRENT OWNED	
<b>Dog Use Category</b>	<b>Number of Dogs</b>
Dangerous dog	10
Guide and Hearing	4
Licensed Owner	213
Ordinary	4902
Pensioner	1058
Pig Hunters Club	-
Probationary Owner	-
Special Owner	830
Special Owner/Pensioner	101
Working (includes Police)	4284
<b>Total</b>	<b>11,402</b>

16. With the introduction of the National Dog Database (NDD), all dog registrations and information are automatically transferred to the database on a nightly basis.
17. The NDD holds information on all registered dogs including registration detail, microchip number (if applicable), breed and year of birth. The name, address and date of birth details of owners are also recorded.
18. This database is maintained by the Department of Internal Affairs (DIA).

### **Council's Relationship with Key Stakeholders in the Community**

19. GDC have a strong working relationship with the Police and have jointly attended several serious dog attack incidents.
20. The Animal Control section has a good relationship with schools in the district. Officers visited ten schools presenting a "Dog Education" programme.
21. Animal Control staff help SPCA with reported welfare incidents at their request.
22. Veterinarians have a close working relationship with Animal Control concerning microchipping records, neutering of menacing and dangerous dogs plus up-to-date information regarding dog health problems.
23. Animal Control has formed an alliance with Gisborne Mutts and Moggies. This is a voluntary organisation which rehomes dogs. As a result, we expect our rehoming statistics to increase significantly.
24. With the introduction of the Fred Lewis Desexing programme, we have solidified an already strong relationship with Fred Lewis and as a contact have been able to help hundreds of owners and their dogs in our community.



### Dog Control Enforcement Practices and Statistics

25. There were 619 dogs impounded during the year. Details are:

Dogs that were	Numbers of dogs
Claimed	225
Destroyed in the field	5
Returned to owners	61
Rehomed	58
Picked up by SPCA	0
Euthanised	270
<b>Total</b>	<b>619</b>

26. Officers make every effort to find homes for unwanted, impounded dogs that are suitable for rehoming. Initiatives involving Facebook and Council website advertising for dogs suitable for adoption has seen the number of rehomed dogs increase.

27. Any dogs that are wholly or predominantly of the five restricted menacing breeds or type as specified in the Dog Control Act, Schedule 4, are classified as menacing under type or breed. Compliance must be met by muzzling in public, neutering and control.

28. The restricted breeds and type are:

- American Pit Bull Terriers/Pit Bull Terrier Types
- Dogo Argentino
- Brazilian Fila
- Japanese Tosa
- Perro de Presa Canario

29. Microchipping of these and dangerous dogs is enforced. Microchipping of all dogs first registered from 1 July 2006 (except working farm dogs) is carried out. There were 211 dogs microchipped for the 2021/22 year.

### Education

30. An Animal Control Officer is available on request for speaking engagements and presentations. Educational presentations have been made to postal staff, electricity meter readers, contractors, schools, district and flight nurses who attend patients' properties, new staff and reminders to existing staff.

31. Animal Control Officers are available to educate and provide support to all owners in our region.

32. A copy of the Dog Control Policy and Dog Control Bylaw are available to every dog owner through the Council website and include information regarding dog exercise areas. These publications are also available on request in hard copy.

### Dogs Prohibited, Leash Only and Dog Exercise Areas

33. Council has made provision for areas where dogs are prohibited, permitted on leashes or allowed freedom for exercise purposes. Public education of these areas will be increased this year. These areas are regularly patrolled.

34. The Council provides four designated off-leash exercise areas and six beach exercise areas across the city. The criteria used to determine these areas includes:

- The area is not used extensively for sporting or other purposes
- The area is of significant size and has appropriate access
- There are sufficient sight lines
- The area is well buffered from adjacent areas
- There is no potential risk to other groups.

### Dog Control Enforcement Practices

35. The Council generally enforces its dog control policy and bylaws by educating the owners of dogs through individual property visits, school visits, public information, responding to complaints and by routine inspections and patrols of selected locations identified as problem areas. 2,343 complaints relating to dogs were received during the year. The following table relates to the specific categories reported on for the DIA, however, it does not include other general dog complaints that come under unreported categories:

Category	2020/21	2021/22
Dog attack People	38	34
Dog attack Animals	52	50
Rushing at People	77	72
Rushing at Animals	8	9
Roaming	721	582
Barking	312	208
Welfare	18	14
General Dog Complaints	1,533	1,374

36. 807 infringement notices (down from 833 last year) were issued for the following:

Infringement	2020/21	2021/22
Failure or refusal to supply information or wilfully providing false particulars	0	4
Failed to comply with Bylaw	5	1
Failed to comply with effects of disqualification	1	1
Failed to implant microchip transponder in dog	3	2
Failed to keep dog controlled or confined	39	41
Failure to comply with class as menacing dog	2	8
Failure to Register a Dog	774	744
Failure to Keep Dog Under Control	2	0
Wilful Obstruction of Officer or Ranger	1	4
Falsely notifying of death of dog	0	0
Failure to comply with class as dangerous dog	0	0
Failure to comply with barking dog abatement notice	0	0
Failure to advise change of owner / address	1	1
Failure to carry leash / advise of muzzle and leashing requirements	5	1
<b>Total</b>	<b>833</b>	<b>807</b>

## Trends and Analysis

### Menacing Dogs

37. The number of dogs classified as 'Menacing' was 264. The number of dogs classified as 'Dangerous' was 10.
38. Officers continue to impose menacing classifications as a mitigation measure to prevent harm to people, other animals and wildlife. We have increased monitoring of classified dangerous and menacing dogs ensuring compliance with all conditions relating to the classification.

### Dog Related Complaints (antisocial behaviour)

39. Attacks on people and stock/domestic pets (84) has decreased slightly to last year's figure of 90.
40. Complaints received regarding dogs rushing at people (72) was slightly down on last year's total of 77.
41. All reported complaints of dog aggression were investigated during the year.
42. Roaming dog numbers (582) are down from 721 recorded in 2021.

### Infringement Notices

43. Continued focus by Council on registration, education and compliance continues to see infringements issued for a wide range of offences. Ongoing emphasis on unregistered dogs has seen an increase in compliance and a significant decrease of infringements for unregistered dogs from last year. All unregistered dog owners are issued infringements should they fail to register their dog.
44. Council's current approach acknowledges that the first step to responsible dog ownership is dog registration.

### Prosecutions

45. There have been no Council prosecutions of dog owners for a serious dog attack on a person in this period. To note though, Council support the Police and other agencies when asked for help involving prosecutions.
46. The effective use of enforcement options such as infringements has resulted in no prosecutions during this review period.

### Other Information

47. Officers continue to issue permits for two or more dogs at the same address when required.
48. Dogs roaming after-hours are controlled by dog trapping and attendance by our on call officers.
49. Officers monitor public areas and beaches, especially during summer months, for owners who do not clean up after their dog defecates and to educate visitors to our town on our bylaw. Increased patrolling in central business areas for dogs breaching the dog prohibited areas also continues to be a focus.

## Financial

### Fees and Charges

50. Dog registration fees are set by Council resolution.
51. Dog registration fees, fines and impound fees contributed towards the cost of dog control in the Gisborne district. This includes the costs of running the Council pound, Council's use of the NDD, and costs of prosecutions when required, ensuring a safer community, investigating dog threatening, attack incidents, and removing roaming dogs from public areas.
52. The funding policy for the 2021/22 year and beyond includes a 20% proportion from targeted rates to recognise public benefit of the activity.
53. The Council operates a responsible dog owner scheme which provides a discounted rate for dog owners who meet the relevant criteria.

Summary of Information Required by Section 10A	
Description	Number
Number of registered dogs	10836
Number of probationary owners	0
Number of disqualified owners	0
Number of dogs classified as dangerous under Section 31	10
♦ S.31 (1)(a) dangerous by owner conviction	2
♦ S.31 (1)(b) dangerous by sworn evidence	8
♦ S.31 (1)(c) dangerous by owner admittance in writing	0
Number of dogs classified as menacing under Section 33A	69
♦ S.33A (1)(b)(i) observed or reported behaviour	29
♦ S.33A (1)(b)(ii) observed characteristic - associated with breed	40
Number of dogs classified as menacing under Section 33C S33C (1), s33E (1 (a) wholly or predominantly belongs to one or more breeds or types restricted (listed by Schedule 4 breed)	126
Number of infringement notices issued – for failing to register a dog	742
Failure to control	28
Obstruction	3
Non-compliance with classification	7
Non-compliance with disqualification	0
Non-compliance with dangerous dog conditions	0
Others	4
Total number of infringements issued	784
Dog attack	84
Rushing/Threatening	81
Roaming	582
Barking	208
Welfare	14
General Dog Complaints	1,374
Total number of complaints received	2,343
Number of prosecutions	0

**Title:** 22-79 Barton Street  
**Section:** Journeys Infrastructure  
**Prepared by:** Dave Hadfield – Journeys Infrastructure Manager  
**Meeting Date:** Thursday 15 December 2022

Legal: Yes

Financial: No

Significance: **Low**

## Report on COUNCIL/TE KAUNIHERA for decision

### PURPOSE - TE TAKE

The purpose of this report is to approve the transfer of 1,019m<sup>2</sup> of land on Barton Street to the Ministry of Education for educational purposes.

### SUMMARY - HE WHAKARĀPOPOTOTANGA

For several years, the Ministry of Education has been purchasing land near Te Poho-o-Rāwiri Marae to establish a kura. The last acquisition they require is 1,019m<sup>2</sup> of land legally held as Local Purpose Reserve (road), being part Barton Street. A map and photo of the land is provided in **Attachments 1 and 2**.

The land was vested to Council in accordance with the Reserves Act 1977 and any repurposing of land requires approval from the Department of Conservation.

To fast-track this process, the Ministry of Education is asking for two things, a resolution from Council to repurpose the land for educational purposes and to formalise this resolution into a Memorandum of Understanding provided in **Attachment 3**. If support is granted, the Ministry of Education will approach the Department of Conservation to repurpose the land for educational purposes.

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

### RECOMMENDATIONS – NGĀ TŪTOHUNGA

**That the Council/Te Kaunihera:**

1. **Agrees to set apart 1,019m<sup>2</sup> of Local Purpose Reserve (road), being part of Lot 202 DP 4803 (Record of Title GS3D/904), known as Barton Street, for educational purposes.**
2. **Authorises the Chief Executive to sign a Memorandum of Understanding with the Ministry of Education to confirm Council's support.**

*Authorised by:*

**David Wilson - Director Lifelines**

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**Keywords:** Barton Street, kura, Crawford Road, Ngati Oneone

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## BACKGROUND - HE WHAKAMĀRAMA

1. The Ministry of Education has approached Council to request the transfer of land on Barton Street for educational purposes. The focal point of this report is Barton Street. Other land that has been acquired near Te Poho-o-Rāwiri Marae is treated as confidential between the Ministry of Education and landowners.
2. A photo of the land is shown in **Attachment 2**, which shows bare land and there is a sealed walkway to allow access to Crawford Road.

## DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

3. The Ministry of Education approached Council staff in 2019 to raise the possibility of acquiring this land. Our initial response was favourable, however, staff mentioned that the land in question was currently used for Council's stormwater and sewer infrastructure and stormwater secondary flow path requirements. This needed to be protected and any building utility requirements needed to be directed to this infrastructure. A Memorandum of Understanding in **Attachment 3** protects Council's interests if the land is transferred.
4. **Access** – an additional reason for the acquisition of land is to control access to the kura once it is operational. This includes access points to and from the kura. At the time of this report the Ministry of Education is still uncertain if access will be from Ranfurly Road, Crawford Road, or both. The Ministry of Education is keen to support walking and cycling to the kura and will include a connection to the new Crawford Road cycleway. These details will be included in the resource consent application.

## ASSESSMENT of SIGNIFICANCE - TE AROTAKENGA o NGĀ HIRANGA

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

**This Report:** **Low** Significance

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

**This Report:** **Low** Significance

Inconsistency with Council's current strategy and policy

**This Report:** **Low Significance**

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

**This Report:** **Low** Significance

The effects on individuals or specific communities

**This Report:** **Low** Significance

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

**This Report:** **Medium** Significance

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

## TANGATA WHENUA/MAORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

6. Ngāti Oneone, have provided written support for the proposal – refer to **Attachment 4**.

## **COMMUNITY ENGAGEMENT – TŪTAKITANGA HAPORI**

7. The Ministry of Education has been informing and consulting with the community over the last four years. A summary of their latest consultation is included in **Attachment 5**.

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

8. The recommendations of this report have a minor impact on climate change.

## **CONSIDERATIONS - HEI WHAKAARO**

### **Financial/Budget**

9. The Ministry of Education (MoE) is funding the legal aspects of the proposal.
10. The Memorandum of Understanding details the process regarding compensation for the land.
11. Any compensation payable for the Required Land will be assessed by a registered valuer appointed by MoE on behalf of the parties. MoE to meet all valuation costs.
12. Compensation is paid into a trust account and DOC determines how much GDC is paid. Typically, this is a 50/50 split between DOC and the Local Authority however, this will be confirmed by DOC as part of our discussions.
13. Compensation should be directed to Liveable Communities as they have been maintaining the reserve.

### **Legal**

14. The Memorandum of Understanding has been reviewed by Council's legal team.

## **POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE**

15. Any resource consenting and building requirements are a separate process and it is for the Ministry of Education to resolve this.
16. Even if the recommendations are approved, this is only the first step as approval from the Department of Conservation is still required.

## **RISKS - NGĀ TŪRARU**

17. None related to this recommendation.



### NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
December	The decision required by Council for Barton Street	
December	Council's legal team relay the decision to the Ministry of Education	
January 2023	Subject to outcome of decision Chief Executive to sign MOU with Ministry of Education	

### ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - 20211221 Barton Street Required Land Plan [**22-79.1** - 1 page]
2. Attachment 2 - Ranfurly Road view [**22-79.2** - 1 page]
3. Attachment 3 - MOU GDC V3 [**22-79.3** - 6 pages]
4. Attachment 4 - Ngati One One [**22-79.4** - 1 page]
5. Attachment 5 - Property Group [**22-79.5** - 2 pages]











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# MEMORANDUM OF UNDERSTANDING

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Parties

**Her Majesty the Queen for the purposes of Education**

and

**Gisborne District Council**

DRAFT

**1. of 6.**

**MoU – MoE and GDC**

## MEMORANDUM OF UNDERSTANDING

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### Parties

1. **Her Majesty the Queen for the purposes of Education (“MoE”)**
2. **Gisborne District Council (GDC)**

### Background

- A. GDC administers 2,038m<sup>2</sup> more or less being Lot 202 DP 4803 comprised in Record of Title GS3D/904 (Land).
- B. The Land is a Crown derived reserve vested in the GDC pursuant to the Reserves Act 1977 (Reserves Act) for the purposes of ‘reserve for local purpose (road reserve)’
- C. MoE requires approximately 1,019m<sup>2</sup> (subject to survey) being the southern half of the Land and shown shaded blue on the attached plan in schedule 1 (Required Land).
- D. Given the status of the Land, the parties with which an agreement is required includes MoE as the Requiring Authority, the Department of Conservation (DOC) as the underlying Crown owner and GDC with whom the Land is vested.
- E. There has been no communication with DOC about the potential acquisition of the Required Land.
- F. The Land is currently bare land with the northern half of the Land providing access to the two adjoining properties. MoE’s requirement will not affect these private accesses. GDC’s stormwater infrastructure is located along the eastern boundary of the Land and part of the Land is used for stormwater secondary flow path when the underground infrastructure is reaching capacity.
- G. GDC has confirmed it needs the existing infrastructure protected and MoE has agreed to this requirement as part of the acquisition agreement.
- H. MoE wishes to acquire the Required Land under the Public Works Act 1981 (PWA).
- J. The parties have reached certain understandings to facilitate the proposed agreement for sale and purchase of the Required Land and wish to record their intentions.

## Record of Understandings

### UNDERSTANDING

#### 1. Effect of this Document

The parties acknowledge this Memorandum of Understanding (MOU) is not legally binding but is to set out understandings intended to be followed.

#### 2. Objective

- 2.1 MoE to acquire the Required Land whilst protecting and allowing for GDC's stormwater and sewer infrastructure, and stormwater secondary flow path requirements

#### 3. Processes

- 3.1 The required process and steps, as required by the Reserves Act are outlined as follows:

##### 3.1.1 Undertake initial discussions with:

- a. GDC to confirm its support by way of a resolution confirming the setting apart of the Required Land for education purposes. Execution of this MOU by GDC will be provided to DOC to evidence confirmation of support to the Required Land being set apart for education purposes
- b. Confirm DOC's willingness to enter into an agreement with MOE to acquire the required land for education purposes pursuant to Section 20, 50 and 52 PWA.

- 3.1.2 Survey will be required to be completed to define the Required Land and the balance of the Land. MoE will pay all survey costs.

- 3.1.3 Provided the above parties are supportive as established in clause 3.1.1 above, MOE's accredited supplier The Property Group Limited (TPG) will provide DOC with a draft agreement for review for the acquisition, pursuant to the PWA. As the 'agreement' is between two arms of the Crown, the form of the agreement would need to be established up front.

- 3.1.4 Once the stages outlined in clauses 3.1.1 – 3.1.3 have been completed, the agreement between MoE and DOC pursuant to the PWA can be approved and executed.

- 3.1.5 Any compensation payable for the Required Land will be assessed by a registered valuer appointed by MoE on behalf of the parties. MoE to meet all valuation costs.
- 3.1.6 Compensation is paid into a trust account and DOC determines how much GDC is paid. Typically, this is a 50/50 split between DOC and the Local Authority however, this will be confirmed by DOC as part of our discussions.

#### **4. Additional Actions**

- 4.1 As part of the acquisition agreement for the Required Land, MoE agrees to grant GDC an easement to protect the stormwater and sewer infrastructure within the Required Land. The easement document will include rights to access and maintain the infrastructure. All costs associated with survey and registration will be met by MoE.
- 4.2 A stormwater secondary flow path that affects the Required Land will be defined and agreed between the parties (Flow Path Land). Once defined, it is the intention of both parties to work together to agree on the nature of any development of the Required Land so as not to significantly impact the use of the Flow Path Land to manage stormwater.
- 4.3 The parties agree that there may be mutual benefit in the development of the Land. This can be progressed as part of ongoing negotiations and discussions between the parties and any agreement on development can be documented in the acquisition agreement or some other form of contract.

### **GENERAL**

#### **5. Costs**

- 5.1 The parties record their intention;
  - 5.1.1 that MoE will meet the costs of satisfying the Crown Processes associated with the acquisition of the Required Land;
  - 5.1.2 that MoE will meet the costs of surveying and legalising the Required Land;

#### **6. Good Faith and Dispute Resolution**

- 6.1 Each party will act in good faith in meeting their responsibilities under this MOU.
- 6.2 In the event that any dispute arises between the respective parties in relation to the MOU, the parties will seek to resolve the dispute through good faith discussions.

- 6.3 Disputes or differences arising between the parties about the interpretation or implementation of this MOU will be referred to senior officials within the parties respective organisations, and ultimately to the CEO of GDC and the National Manager Acquisitions and Designations at MoE to try to resolve such differences/disputes, who will act in good faith in trying to reach a mutually agreeable resolution. For the avoidance of doubt the parties acknowledge any dispute resolution will not be able to determine the value of the Required Land if not based on current market value or appropriate PWA compensation methodology supported by independent valuation advice.

Dated this                      day of                      2022

**Signed for and on behalf of:  
HMQ, acting by and through the Ministry  
of Education pursuant to delegated  
authorities by:**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Designation
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**Signed on behalf of  
Gisborne District Council:**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Designation

**SCHEDULE 1 – PLAN**



**From:** Harata Gibson <[umuariki@gmail.com](mailto:umuariki@gmail.com)>  
**Sent:** Wednesday, 2 November 2022 2:01 pm  
**To:** Dave Hadfield <[Dave.Hadfield@gdc.govt.nz](mailto:Dave.Hadfield@gdc.govt.nz)>; [Tash.Irwin@outlook.com](mailto:Tash.Irwin@outlook.com)  
**Cc:** 'hine.wharehinga116' <[hine.wharehinga116@gmail.com](mailto:hine.wharehinga116@gmail.com)>  
**Subject:** RE: Barton Street

Tena koe Dave

This note serves to provide notice that Ngati Oneone are in full support of transferring the Barton Street/Lane to the MOE for educational purposes only.

A Cultural Values Report was completed by us for the sole purpose of supporting Te Kura Kaupapa Maori o Horouta Wananga application.

Kia ora

Harata (Char) Gibson  
On behalf of  
Ngati Oneone Hapu  
Te Poho o Rawiri Marae

**From:** Craig Sampson <CSampson@propertygroup.co.nz>  
**Sent:** Friday, 11 November 2022 9:54 am  
**To:** Nadine Proctor <nadine.proctor@gdc.govt.nz>; Dave Hadfield <Dave.Hadfield@gdc.govt.nz>  
**Subject:** RE: Barton Street

Kia ora kōrua,

Apologies for the delay again but below is a summary of our consultation on this project. Please let me know if you have any queries.

In terms of the Barton Street land, would you be comfortable if we approached DOC initially? Obviously, they will require Council support/resolution but if possible, I'd like to at least make them aware of the requirement.

Let me know what you think (happy to chat too if you like)

Ngā mihi

Craig

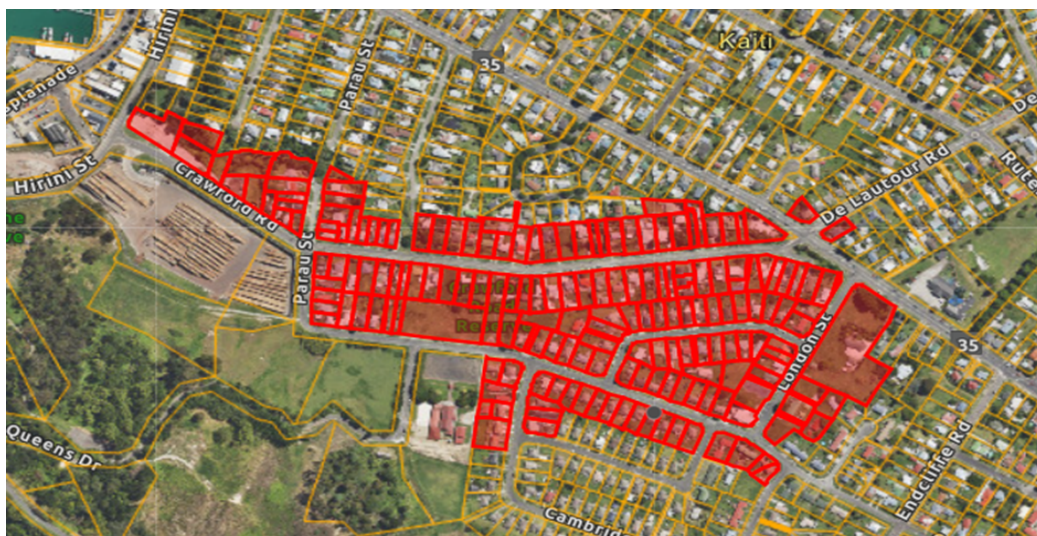
## Consultation

### Community Consultation

The Ministry held an open invitation Hui/Information Evening regarding the NOR on 30 August 2022. The Hui/Information Evening was held at the Te Poho o Rāwiri Marae, commencing at 5.30pm. Letters were hand delivered to the letterboxes of the properties identified in the image below (excluding properties owned by HMQ/MOE). A public notice was advertised in the Gisborne Herald on 26, 27 and 29 August 2022.

Approximately 60 people attended the Hui/Information Evening. Key themes from the Hui included:

- Queries/concerns on whether the former Mobil site will be remediated and made safe;
- General support for the wharekura to locate on the site;
- Consideration for retaining the Pohutukawa tree located at 5 Ranfurly Street.



## Letters of Support

The Ministry has received letters of support from the following parties:

Organisation    Contact Details

Te Poho o Rāwiri Marae Committee and Trustees

c/- Alex Hatea

Te Tihi O Titirangi Kohanga Reo Jennifer Pewhairangi

Rongowhakaata

The Notice of Requirement application has been discussed with Rongowhakaata's Acting General Manager, Teina Moetara. A summary of the NOR was sent to Rongowhakaata and feedback has been sought. Mrs Moetara advise that "Rongowhakaata people generally feel pleased with being informed and that she does not think there will be any issues".

Ngati Oneone

A supportive Cultural Impact Assessment has been provided by Ngati Oneone.

**Craig Sampson**

General Manager – Central North  
Island



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**Title:** 22-277 Remuneration Authority Determination - Positions of Additional Responsibility and Elected Member Allowances

**Section:** Democracy & Support Services

**Prepared by:** Heather Kohn - Democracy & Support Services Manager

**Meeting Date:** Thursday 15 December 2022

Legal: Yes

Financial: Yes

Significance: **Low**

## Report to COUNCIL/TE KAUNIHERA for decision

### PURPOSE – TE TAKE

The purpose of this report is to agree the remuneration levels for councillors with positions of additional responsibility, to approve a proposed baseline salary for councillors and to adopt the Elected Member Allowances and Recovery of Expenses Policy 2022–2025.

### SUMMARY – HE WHAKARĀPOPOTOTANGA

The Remuneration Authority (the Authority) sets remuneration for elected positions in individual local authorities and sets the rules for reimbursement of costs met by members in undertaking their duties.

The Authority has determined that the minimum base salary for a councillor is \$41,610 and a pool of \$700,000 has been determined for positions of additional responsibility. The Mayor's salary is separate to this pool and has been determined as \$158,068 – less the full private use of a motor vehicle.

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. **Adopts Option X for the remuneration of the elected members base salary and positions of additional responsibility.**
2. **Instructs the Chief Executive to complete Gisborne District Council's remuneration proposal and submit to the Remuneration Authority for approval.**
3. **Approves the Elected Member Allowances and Recovery of Expenses Policy 2022–2025.**

*Authorised by:*

**James Baty - Director Internal Partnerships**

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**Keywords:** Remuneration Authority, councillor, remuneration, additional duties, responsibility.

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## BACKGROUND – HE WHAKAMĀRAMA

1. Remuneration and allowances for local authority elected members is set out in the Local Government Members (2022/23) Determination 2022 [Local Government Members \(2022/23\) Determination 2022](#)
2. The Determination is in two parts – from 1 July 2022 until the day after the official announcement of results and from the day the new Council came into office.
3. The Authority reviews the remuneration setting for local government every three years, commencing the year before a local government election year. The review for the 2019–2022 triennium was substantial, significantly increasing the Mayor's and councillor's salaries. The Authority encourage all elected members to read the following information paper. [Determining the Remuneration of Local Government Elected Members 2018](#)
4. Feedback on submissions to the Authority from the 2021 review can be found in **Attachment 1** and Guidance to Councils can be found in **Attachment 2**.
5. Councils are required to fully allocate their pools amongst all their councillors.
6. The table below shows the movement in remuneration since 2018.

	2018	2019	2020	2021	2022	Post-election
Mayor's salary	\$141,171	\$145,697	\$155,000	\$155,000	\$157,170	\$158,068
Deputy Mayor's salary	\$49,688	\$51,369	\$66,014	\$66,674	\$67,607	To be determined
Elected member	\$38,222	\$39,515	\$44,009	\$44,449	\$45,071	Minimum \$41,610

## DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

7. The 2022 determination has been used as a starting point using the Authority's preloaded spreadsheet however, due to the fact that we now have two district wide wards, the provision for rural councillors has been removed. This is Deputy Mayor – 50%, Chairperson Standing Committee 30% and Chairperson Special Committee 20%.
8. The Mayor is remunerated as a fulltime position, with the elected members at an average of 22.7 hours per week (2012 Authority review).
9. The Deputy Mayor is also the deputy chair of Council and four committees. The Deputy Mayor steps in for the Mayor in her absence. It is estimated that the additional workload is up to 12 hours a week, bringing the Deputy Mayor hours to 35 per week.
10. Comparisons have been made with the honorarium bands in the two unitary authorities closest to Gisborne District Council in geographic size and population and the options provided are in line with their determinations. Council's minimum base salary and governance pool is greater than Tasman and Marlborough.

11. The baseline salary for **Option One** is \$49,470 and the additional remuneration for positions of additional responsibility are: (**Attachment 3.**)
  - Deputy Mayor – plus \$24,735 – **Total \$74,205, Hourly rate \$40.77**
  - Chairs Operations – Environment & Communities and Operations – Infrastructure – plus \$9,894 - **Total \$59,364**
  - Chair Regional Transport – plus \$4,947 – **Total \$54,417**
  - Chair Bylaw Submissions Hearing Panel – plus \$4,947 – **Total \$54,417**
  - Chair Wastewater Management – plus \$2,473 – **Total \$51,943**
  - Councillors **Hourly rate \$41.91**
12. The baseline salary for **Option Two** is \$49,822 and the additional remuneration for positions of additional responsibility are: (**Attachment 4.**)
  - Deputy Mayor – plus \$19,929 – **Total \$69,751 Hourly rate \$38.30**
  - Others as for Option One.
  - Councillors **Hourly rate \$42.21**
13. The baseline salary for **Option Three** is \$49,123 and the additional remuneration for positions of additional responsibility are: (**Attachment 5.**)
  - Deputy Mayor – plus \$29,474 – **Total \$78,596 Hourly rate \$43.20**
  - Others as for Option One.
  - Councillors **Hourly rate \$42**
14. The baseline salary for **Option Four** is \$50,179 and the additional remuneration for positions of additional responsibility are: (**Attachment 6.**)
  - Deputy Mayor – plus \$15,054 – **Total \$65,233 Hourly rate \$35.80**
  - Others as for Option One.
  - Councillors **Hourly rate \$42.51**
15. With the removal of elected members from the Regulatory Committee there is no provision in the determination to pay a meeting fee to the Chair and councillors on the Bylaw Submissions Panel. The Authority considers Bylaw Hearings to be part of a councillor's normal workload. As such meeting fees relating to hearings have been removed from Council's Elected Member Allowances and Recovery of Expenses Policy – **Attachment 7.**

## **ASSESSMENT of SIGNIFICANCE – TE 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:** Medium Significance

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

**Overall Process:** Low Significance

**This Report:** Medium Significance

16. 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**

17. This is a matter determined by the Authority so there is no need for engagement with tangata whenua on this matter.

### **COMMUNITY ENGAGEMENT – TŪTAKITANGA HAPORI**

18. This is a matter determined by the Authority so community engagement cannot influence the decision.

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

19. Elected member remuneration potentially could have climate change impacts/ implications, but this is a matter for individual elected members.

### **CONSIDERATIONS – HEI WHAKAARO**

#### **Financial/Budget**

20. Budgets are appropriate for elected member remuneration.

#### **Legal**

21. The main acts relating to remuneration and allowances for elected local authority members are the Local Government Act 2002 (LGA) and the Remuneration Authority Act 1977.
22. The LGA provides for the Remuneration Authority to set the remuneration, allowances and expenses of;
- Mayors
  - Regional chairs, and
  - Other elected members on local authorities including local and community boards.

This is detailed in clauses 6 and 7 of schedule 7 in the Act.

### Local Government Act 2002

23. Sections 18 and 18A of the Remuneration Authority Act 1977 say when determining the pay for local authority elected members the Authority must have regard to:
- The requirements of the job.
  - The conditions of service enjoyed by the persons whose remuneration is being determined and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Authority, comparable with those of the persons or members of the group of persons whose remuneration is being determined, and
  - Any prevailing adverse economic conditions (which may lead the Authority to set remuneration at a rate lower than might otherwise have been the case).

### Remuneration Authority Act 1977

## **POLICY and PLANNING IMPLICATIONS – KAUPAPA HERE me ngā RITENGA WHAKAMAHERE**

24. Associated policies include the Sensitive Expenditure Policy for Elected Members and the Credit Card Policy.
25. The updated Elected Member Allowances and Recovery of Expenses Policy is attached for adoption.

## **RISKS – NGĀ TŪRARU**

26. The risk in not making a decision concerning remuneration for positions of additional responsibility and the baseline salary for elected members is that the target date to have details formally submitted to the Authority will be missed. There is no third amending determination.

## **NEXT STEPS - NGĀ MAHI E WHAI AKE**

Date	Action/Milestone	Comments
By 27 January 2023	Submit proposal to the Authority	Second amending determination gazetted March 2023

## **ATTACHMENTS - NGĀ TĀPIRITANGA**

1. Attachment 1 - Feedback on Submissions [22-277.1 - 4 pages]
2. Attachment 2 - Guidance to Councils [22-277.2 - 3 pages]
3. Attachment 3 - Option One [22-277.3 - 1 page]
4. Attachment 4 - Option Two [22-277.4 - 1 page]
5. Attachment 5 - Option Three [22-277.5 - 1 page]
6. Attachment 6 - Option Four [22-277.6 - 1 page]
7. Attachment 7 - Elected Members Allowances and Recovery of Expenses Policy 2022-2025 [22-277.7 - 10 pages]



## **Attachment 1 – Feedback on Submissions Received from Councils during the 2021/22 Year**

### **Size Indices**

In the 2019/20 Local Government Members determination, the Remuneration Authority (Authority) introduced a new approach to setting elected members' remuneration and adopted a set of revised and updated council size indices (one each for territorial authorities, unitary authorities and regional councils); and, secondly, it introduced a more locally responsive way of setting elected members' remuneration. In 2021/22, the Authority completed a review of the size indices that will apply for the next triennium. Because this was the first review of the indices since they were introduced, we consulted all councils and shared the weightings and factors.

We thank those who sent a submission and commented on the sizing indices – the main themes that were raised are as follows.

### ***Population***

While most councils agreed with the population factor and its weightings, we received a small number of submissions stating that the weightings were either too low, too high or that this factor did not include tourism or visitor numbers.

We believe that population is a highly relevant factor and will continue to be a significant measure when sizing the role for a council. The relevancy of population is reflected in how the size/boundaries of Parliamentary electorates and council constituencies and wards are determined. Population is also an indicator of the relative scale of "constituency" work that elected members undertake. As a result, the Authority decided to maintain the current factors and weightings.

### ***Transient populations and visitors***

This was an issue considered carefully by the Authority when introducing the new system. In our 2018 Information paper: *Elected Members – Oversight of Issues Determining the Remuneration of Local Government*, we reported that we found that there was no clear and consistent measurement for transient populations and number of visitors. Suggested measures (such as visitor spend, visitor bed nights, etc) do not adequately capture the complete picture of tourism and visitor numbers and the impact they have on communities.

Given the inadequate data and difficulties in obtaining a reliable measure, the Authority agreed to not include tourism and visitor numbers as a factor in its size indices.

### ***Economic growth***

It was suggested that the Authority should consider the economic growth of local authorities as a factor. Again, this was an issue considered in setting up the new approach. Unfortunately, regular and reliable data regarding economic growth is limited to regions (eg: regional GDP) and not districts. Therefore, the Authority will not include economic growth as a factor as it does not meet our criteria of readily and publicly available information that covers all councils.

### ***Additional general and Māori constituencies/wards, number of councillors and workload:***

A minority of submitters mentioned that the Authority should consider the pressures of workload due to the decreasing/increasing number of elected members and/or the addition of general and Māori constituencies/wards. The relevant size index and governance

remuneration pool reflect the workload of the entire council and not the number of councillors, constituencies or wards. The number of councillors is unique to each individual council and the differences in elected member numbers between councils is largely a legacy of historical circumstances. Therefore, if the number of elected members on a council increases or decreases the relevant size index and remuneration pool do not change.

### ***Geographic area and land size for local authorities***

After considering the submissions, the Authority agreed to maintain the geographic area weighting for regional and unitary councils, as this recognises their significant land/water regulatory responsibilities, which territorial authorities do not have to the same extent.

The travel time payment and car mileage allowance adequately compensate for the long journeys that elected members of territorial authorities with large land areas face while travelling on council business. These allowances have been recently reviewed and updated (see the Local Government Members (2022/23) Determination 2022).

### ***Weightings***

Taking into account the submissions, the extensive analysis we completed in 2018/19 and our 2021/22 review of the size indices factors and their weightings, the Authority has agreed to maintain the current weightings. There is no exact scientific or statistically demonstrable way of allocating weightings in this instance. It is a matter of judgement that is informed by extensive consultation with local authorities and empirical work we undertook in 2018/19 and reviewed in 2021/22. The weightings may be seen as advantaging or disadvantaging due to the inherent differences between councils. However, they are designed to ensure all councils are treated consistently and fairly.

### ***Datasets***

A question that we regularly receive from councils is why we do not use the most recent datasets when reviewing the size indices. We use the datasets (population, total operation expenditure, total asset, socio-economic deprivation, geographic area and public passenger transport boardings) that are publicly available on the Statistics New Zealand, University of Otago and Ministry of Transport websites at the time we review the size indices.

For example, we have used Statistics New Zealand's Local Authority Financial Statistics for the year ended 30 June 2020, as the data for the year ended 30 June 2021 were released on 25 May 2022. This was far too late for including in the review of the size indices because we would have insufficient time to consider the data, consult councils and be able to produce the 2022/23 local government determination before the expiry of the 2021/22 determination.

### ***2018 Information Paper***

We strongly encourage all elected members to read our 2018 Information paper: *Elected Members – Oversight of Issues Determining the Remuneration of Local Government*. The information paper provides a much more detailed analysis of the factors that we considered and the ones we are continuing use. This can be found on our website:

<https://www.remauthority.govt.nz/assets/Uploads/determining-remuneration-local-government-elected-members.pdf> .

## **Governance Remuneration Pools**

Feedback received on the governance remuneration pools was generally supportive. A small number expressed their disappointment on the size of their pools while few also felt that the increases to their pools for the beginning of the next triennium “were not sustainable”.

The remuneration pools support the mandatory criteria (clause 7, schedule 7 of the Local Government Act 2002) that the Authority is required to consider when determining local government members’ pay. In particular, we have been concerned with achieving and maintaining fair relativity with the levels of remuneration received elsewhere and being fair to the elected members and ratepayers.

We believe that the pools are appropriately positioned relative to one another based on our size indices tool. Most council pools have increased but for a small number of councils there was no change.

In some cases, councils expressed deep concerns about the affordability of the increases to their pools following the next local elections. In these cases, having regard to our legal requirement to be fair to ratepayers, we agreed to implement their pools in annual stages over the next two years.

The governance remuneration pool provides the total amount that must be paid in remuneration to councillors in each individual council and is based on the collective governance role (size index) of the council. The pool does not take into account the number of councillors on the council. This was raised as an issue for some councils who recently completed representation reviews and consequently have had an increase in their councillor numbers from the next local elections.

It raises the question of whether any group of New Zealanders living in a particular area should pay a significantly higher governance cost per head than those living elsewhere, due to the number of councillors on their council. The more councillors, the higher the governance cost to ratepayers would be. The addition of extra councillors does not increase the workload of council but spreads the work amongst more councillors. Therefore, to maintain appropriate relativities between councils and to be fair to ratepayers the Authority is continuing its practice of not considering councillor numbers when determining the governance remuneration pools.

## **Base Remuneration Rate**

Some have advocated a base remuneration rate should be set for all councillors with only minor movement for factors where the Authority believes changes workload. We do not accept that all councillors throughout the country should be on the same remuneration. When setting the minimum allowable remuneration for a councillor the Authority not only applies the size index (which is our proxy for the workload of individual councils) but is informed by the average wage, movement in labour cost index and the approximate time councillors spend on council work.

## **Community Boards Remuneration**

Determining community board remuneration remains a problem because of the large variations in their demographics and in their respective roles and powers. Some boards are predominantly urban while others are largely rural in character. One board may have 4 members representing 370 people while another board has 4 members representing approximately 52,000 people. A number of boards have been delegated additional responsibilities by their councils. However, some of those councils who delegated work to

their community board have difficulty in quantifying and articulating the level of delegations, which make them difficult to measure.

Our review of community board remuneration in 2019 concluded that, because of these variations, a workable ranking of community boards or a robust and intuitively sensible size index could not be developed. Therefore, the fixing of individual councils' community board members remuneration over the past 3 years has continued to be informed in part by the population of each community board and by their individual historic remuneration settings.

We have communicated our concerns about community boards to the Review into the Future for Local Government, to the Local Government Commission and to Local Government New Zealand.

The Authority has decided to continue its current practice for determining the remuneration of community boards members for the 2022 determination and during the next triennium. The recent representation reviews have seen the establishment of new boards or changes to the number and size of existing boards that will apply from the next local elections. We individually assessed each new community board and existing boards where there has been change and set their remuneration according population data provided by the Local Government Commission and the local authority/board's historic remuneration settings.

### **Taxation, ACC Levy and KiwiSaver**

Taxation rates, payment of ACC levies and KiwiSaver employer contributions for local government elected members are regularly raised in the submissions we receive from councils and individual councillors.

Inland Revenue deems elected members of local authorities to be self-employed. Therefore, elected members are required to make their own ACC levy payments and KiwiSaver arrangements. They may also be required to make provisional tax payments. Being self-employed, elected members are taxed as individuals at a rate determined by Inland Revenue

We recognise that these are significant issues for elected members and that local government conditions are not the same as those for central government, but unfortunately these issues are outside of the scope of the Remuneration Authority. We recommend that elected members raise these issues directly with LGNZ who can advocate with the Government or Inland Revenue on behalf of councils and their elected members.

### **Three Waters Reform and Review in the Future for Local Government**

We have been asked about what impact the Three Waters Reform and the Review into the Future for Local Government will have on local government members' remuneration. The short answer is that at this stage it is too early to make any predictions in that respect.

Decisions on the Three Waters Reform are expected to be made later this year and the Review into the Future for Local Government will be completing their final report containing recommendations in April 2023. Implementation will therefore be likely to be some time during the forthcoming triennium, but we have no information as to the exact timing or extent. Therefore, the Authority has decided that whatever changes may be made by these reforms, the determination that will take effect following the local government elections in October this year will remain as the base determination (ie: no change to the size indices) for the forthcoming triennium. This will give some certainty to people who may be considering running for election and who, if elected, may have current work roles significantly curtailed.

## Attachment 2

## Guidance, Process and Timeline for Setting Elected Members' Remuneration following the October 2022 Local Elections

1. Please familiarise yourself with the **Local Government Members (2022/23) Determination 2022 (the principal determination)** specifically:
  - **Clause 7(2)** – remuneration on and from the day after the date on which the official result of the 2022 election is declared under section 86 of the Local Electoral Act 2001 in relation to your local authority;
  - **Schedule 2** – elected members remuneration from the 2022 local elections; and the
  - **Explanatory memorandum** attached to the determination, which contains the governance remuneration pool (table 2) for each council that applies from the 2022 local elections.

### Mayors, Regional Council Chairs, Community Board Members and Auckland Local Board Members

2. Note the governance remuneration pools do not apply to mayors, regional council chairs, community board members and Auckland local board members. Their remuneration must be paid according to the provisions set out in the principal determination on and from the day after the date on which the official result is declared for their council.
3. Likewise, the pools do not apply to people who are appointed by the council to be members or chairs of council committees or to act as expert advisors to the council. The Authority cannot legally set the remuneration of non-elected people or people who are not appointed to the council under section 117 of the Local Electoral Act 2001.
4. If a council delegates significant other responsibilities than they currently hold to its community board(s) and as a consequence proposes an increase to the remuneration of its community board members, the additional funds will come out of the governance remuneration pool for that council. If this is the case for your council, please contact the Remuneration Authority (the Authority) for further information on the process to be followed.

### Councillors' Remuneration

5. The governance remuneration pools provide councils with a fair, flexible, transparent and responsive process to setting the remuneration of their individual councillors.

### Governance Remuneration Pools

6. The Authority determines the total governance remuneration pool for each council. The pools that apply from the next local elections are listed in table 2 of the explanatory memorandum which is attached to the principal determination.
7. Councils' pools include the:
  - a. minimum allowable remuneration as determined by Authority (see schedule 2 of the principal determination) that councillors must be paid;

- b. remuneration for councillors who hold positions of additional responsibility on the council, such as deputy mayor, committee chair, portfolio lead etc; and the
  - c. remuneration for councillors with no additional responsibilities.
7. Councils are required to fully allocate their pools amongst all their councillors.

### **Setting Councillors' Remuneration**

- 8. The Authority determines the minimum allowable remuneration that a councillor must be paid. A councillor cannot be paid below the minimum allowable remuneration. The minimum allowable remuneration for each council following the local elections is listed in schedule 2 of the principal determination.
- 9. The difference between the councillor minimum allowable remuneration and the total of the allocated pool is then available for the remuneration of councillors who take on extra responsibilities **and/or** to increase the base payment for all councillors with no additional responsibilities.
- 10. Following the local elections, each incoming council will need to decide how it wants to allocate its pool according to its own priorities and circumstances. It must decide the remuneration rate of its councillors with no additional responsibilities and decide the rates for councillors with additional responsibilities.
- 11. Roles to which additional differential remuneration can be attached may include not just internal council roles (such as deputy mayor, committee chair or portfolio holder) but also other jobs representing the council on outside groups such as significant work arising from being involved on community and cross-council groups.
- 12. Any fees paid to councillors for serving as directors on council-controlled organisations (CCOs) are not covered by the governance pool. Any applicable fees should be paid directly by the CCO.

### **Calculating the Distribution of the Pool**

- 13. Attached to this guidance are the following Excel worksheets which will assist councils to fully allocate their pools:
  - **Worksheet 1** – either use this worksheet to enter the dollar amounts to calculate the councillors' remuneration; **or** alternately use
  - **Worksheet 2** – to enter the ratios to calculate the remuneration of your councillors.

Both worksheets contain detailed instructions for calculating the distribution of a council's pool.

### **The Authority's Decision and the Amending Determination**

- 14. Once decided the council must forward its recommendations, as a proposal, to the Authority who will consider it and make a determination that will amend the principal determination.
- 15. The council proposal must contain one of the completed worksheets (**not** a PDF or MS Word copy) and a brief description of each position of responsibility) and it should be emailed to [info@remauthority.govt.nz](mailto:info@remauthority.govt.nz) by either of the dates shown in the timeline below (shaded boxes).
- 16. Amending determinations will be backdated so that:
  - a. for a councillor with no additional responsibilities, remuneration proposed by the council and agreed by the Authority will take effect on and from the day after the date

on which the official result of 2022 election of members for the council was declared;  
and

- b. the accepted proposals for remuneration for positions of responsibility will take effect from the day after the council formally votes on those positions.

### Payroll considerations

17. Councils cannot pay the proposed new remuneration rates for positions of responsibility or for councillors with no additional responsibilities until the Authority has gazetted its amending determination which contains the new remuneration rates. However, it is important to note that councillors' remuneration will be backdated in the determination.
18. The minimum allowable remuneration rate for councillors as shown in schedule 2 of the determination takes effect from the day after the date on which the official results for the council are declared (see subclause 7(2) of the principal determination). This is the pay that all councillors will receive at this stage.
19. Approved remuneration rates for the positions of responsibility will then be backdated to the day after the council formally votes to confirm its recommendation(s). The approved remuneration rates for positions with no additional responsibilities are backdated to the day after the date on which the official results for the council are declared.

### Timeline

Action	By Whom	Date
Familiarisation by elected members and staff with the process	Councils	Up till remuneration proposals submitted
<b>Incoming councils formally decide remuneration attached to different roles within allocated pool and forward proposals to Remuneration Authority (round 1)</b>	<b>Councils</b>	<b>Proposals must be submitted by <u>Wednesday 16 November 2022</u> to meet deadline for the first amending determination</b>
Remuneration Authority considers councils' proposals	Remuneration Authority	From 10 October to 19 November 2022
Amending determination drafted	Parliamentary Counsel Office	From 21 November to 15 December 2022
First amending determination is gazetted	Remuneration Authority	Thursday 22 December 2022
<b>Incoming councils which miss the 16 November deadline, must formally decide remuneration attached to different roles within allocated pool and forward proposals to Remuneration Authority (round 2)</b>	<b>Councils</b>	<b>Proposals submitted by <u>Friday 27 January 2023</u> to meet deadline for second amending determination</b>
Remuneration Authority considers councils' proposals	Remuneration Authority	From 16 January to 31 January 2023
Second amending determination drafted	Parliamentary Counsel Office	From 3 February to 17 February 2023
Second amending determination gazetted	Remuneration Authority	Late February/early March 2023



Attachment 22-277.3  
Remuneration Authority  
Te Mana Utu Matua

Before completing this worksheet, read the instructions sheet in the tab below for detailed guidance.

7) Enter title of proposed position <u>with additional</u> responsibilities (ie: the title that will be displayed in the amending determination)	8) Enter number of members per position	9) Enter proposed ratio to councillor base remuneration	Effective Date*	Proposed councillor base remuneration (\$)	Proposed additional remuneration (\$)	Proposed annual total remuneration per councillor (\$)	Total (\$)
Deputy Mayor	1	1.50	16 Oct 2022	49,470	24,735	74,205	74,205
Chairperson Operations - Infrastructure	1	1.20	16 Oct 2022	49,470	9,894	59,364	59,364
Chairperson Operations - Environment & Communities	1	1.20	16 Oct 2022	49,470	9,894	59,364	59,364
Chairperson Regional Transport	1	1.10	16 Oct 2022	49,470	4,947	54,417	54,417
Chairperson Wastewater Management	1	1.05	16 Oct 2022	49,470	2,473	51,943	51,943
Chairperson Bylaw Submissions Hearing Panel	1	1.10	16 Oct 2022	49,470	4,947	54,417	54,417
Councillor with no additional responsibilities	7	1.00	16 Oct 2022	41,610	7,860	49,470	346,290

156 of 229



Use this worksheet to calculate the base remuneration for a councillor without additional responsibilities and to calculate the proposed remuneration for positions with additional responsibilities by assigning a RATIO between the two roles.

Before completing this worksheet, read the instructions sheet in the tab below for detailed guidance.

## Gisborne District Council

15 October 2022

13

700,000

41,610

15 October 2022

9)

<b>Grand Total (\$):</b>	<b>700,000</b>
--------------------------	----------------

Use this worksheet to calculate the base remuneration for a councillor without additional responsibilities and to calculate the proposed remuneration for positions with additional responsibilities by assigning a RATIO between the two roles.

Before completing this worksheet, read the instructions sheet in the tab below for detailed guidance.

## Gisborne District Council

15 October 2022

13

700.000

41.610

15 October 2022

9)

<b>Grand Total (\$):</b>	<b>700,000</b>
--------------------------	----------------

# Proposed Remuneration for Councillors Following the 2022 Local Elections Using Ratios

Use this worksheet to calculate the base remuneration for a councillor without additional responsibilities and to calculate the proposed remuneration for positions with additional responsibilities by assigning a **RATIO** between the two roles.

For example, ratios can be 1.05, 1.25, 1.5, 2.0 times a councillor's base remuneration. A ratio cannot be less than 1.

Before completing this worksheet, read the instructions sheet in the tab below for detailed guidance.

1) Enter the legal name of local authority, as listed in schedule 2 of the Local Government Act 2002:

Gisborne District Council

2) Enter the date on which the official result of the 2022 election was declared for the local authority:

15 October 2022

3) Enter number of elected members (excluding the mayor or regional council chair) on the council:

13

4) Enter local authority's governance remuneration pool as shown in the current local government members determination (\$):

700,000

5) Enter councillor minimum allowable remuneration as shown in the current local government members determination (\$):

41,610

6) Enter date of local authority's resolution proposing the remuneration for the position(s) of responsibility and/or base councillors:

15 October 2022

7) Enter title of proposed position <u>with additional</u> responsibilities (ie: the title that will be displayed in the amending determination)	8) Enter number of members per position	9) Enter proposed ratio to councillor base remuneration	Effective Date*	Proposed councillor base remuneration (\$)	Proposed additional remuneration (\$)	Proposed annual total remuneration per councillor (\$)	Total (\$)
Deputy Mayor	1	1.30	16 Oct 2022	50,179	15,054	65,233	65,233
Chairperson Operations - Infrastructure	1	1.20	16 Oct 2022	50,179	10,036	60,215	60,215
Chairperson Operations - Environment & Communities	1	1.20	16 Oct 2022	50,179	10,036	60,215	60,215
Chairperson Regional Transport	1	1.10	16 Oct 2022	50,179	5,018	55,197	55,197
Chairperson Wastewater Management	1	1.05	16 Oct 2022	50,179	2,509	52,688	52,688
Chairperson Bylaw Submissions Hearing Panel	1	1.10	16 Oct 2022	50,179	5,018	55,197	55,197
			Effective Date*	Councillor minimum allowable remuneration (\$)	Proposed additional remuneration (\$)	Proposed councillor base remuneration (\$)	
Councillor with no additional responsibilities	7	1.00	16 Oct 2022	41,610	8,569	50,179	351,254

Grand Total (\$):

700,000



# Elected Member Allowances and Recovery of Expenses Policy – Vehicle Mileage, Travel Time, Communications, Childcare and Hearings Fees



## Governance Policy

### POLICY REFERENCES

• Sponsor:	Chief Executive
• Effective:	March 2023 – (once approved by the Remuneration Authority [RA])
• Internal review due:	Annual dependent on the RA determination
• Legal compliance:	<b>Remuneration Authority Act 1977</b> <b>Local Government Act 2002</b>
• Associated Documents/References:	Sensitive Expenditure Policy 2019 (Elected Officials) 2022 Remuneration Authority Determination

## Purpose

The purpose of this policy is to:

- Set out clearly the principles and guidelines for reimbursements.
- Ensure compliance with the Remuneration Authority rules.
- Ensure that reimbursements are assessed, authorised and reviewed consistently for all elected members.
- Include the Sensitive Expenditure Policy 2019 (Elected Member) rules.

## Policy

### Authentication of Expense Reimbursements and Allowances

- Claims for mileage must be made within six months of travel and on the "Mileage Claim Form" (**Appendix 1**)
- All other claims must be made on the "Expenses Claim Form" (**Appendix 2**).
- Reimbursements and allowances will be paid, by direct credit to the member's nominated bank account.
- Travel request forms are to be completed prior to travel for accommodation and flights unless attendance has been pre-approved through Report **22-228** Committee Structures and Appointments.
- All forms are available from the Democracy & Support Services Manager or in Tools on the Docs on Tap App.
- Expense claims and reimbursements are approved by the Democracy & Support Services Manager on behalf of the Chief Executive and full original receipts are required.
- Requests to attend a conference/seminar or workshop must be approved by both the Mayor and the Chief Executive.

## Kilometre Allowance

### 1. Vehicle Kilometre Allowance

Gisborne District Council may pay to an elected member a vehicle kilometre allowance to reimburse that member for costs incurred in respect of eligible travel by motor vehicle.

A member's travel is eligible for the allowance if it occurs on a day when the member is not provided with a motor vehicle by Gisborne District Council and the member is travelling in a private vehicle on Gisborne District Council business by the most direct route that is reasonable in the circumstances.

The allowance payable to a member for eligible travel is:

- a) For a petrol or diesel vehicle
  - i. **83** cents per kilometre or the first 14,000 kilometres of eligible travel in the determination term; and
  - ii. **31** cents per kilometre after the first 14,000 kilometres in the determination term;
- b) For a petrol hybrid vehicle, -
  - i. **83** cents per kilometre or the first 14,000 kilometres of eligible travel in the determination term; and
  - ii. **18** cents per kilometre after the first 14,000 kilometres of eligible travel in the determination term
- c) For an electric vehicle, -
  - i. **83** cents per kilometre for the first 14,000 kilometres of eligible travel in the determination term; and
  - ii. **10** cents per kilometre after the first 14,000 kilometres of eligible travel in the determination term.

All elected members have the right to claim/not claim mileage reimbursement.

There is no threshold for mileage claimed for visits to Council offices. For other travel by members no threshold distance will apply.

The vehicle mileage allowance reflects the kilometre rates, for self-employed people and employees, published by the Inland Revenue Department on its website for the 2021-2022 income year.

### 2. Guidelines

#### Eligibility:

- 2.1 Formal meetings of Council and meetings of Committees and sub-committees and other subordinate decision-making bodies and joint committees approved by Council under Clause 30, Schedule 7 of the Local Government Act 2002, to which members have been appointed.
- 2.2 Formal meetings attended by the Council nominated elected member representative (or, in their absence, approved substitute) at meetings of organisations/committees external to the Council.
- 2.3 Where approved by prior Council or Committee resolution, training sessions and workshops.
- 2.4 Specific site visits and inspections within the district prior arranged for elected members by Council or committee.

- 2.5 External meetings, conferences or seminars approved by prior Council resolution, or by the Mayor in conjunction with the Chief Executive.
- 2.6 Travel is to be calculated from an elected member's normal place of residence (which is determined to be the elected member's place of residence at the last election), to the meeting and return.

A list of examples of eligible meetings is attached (**Appendix 3**) and available on the Docs on Tap App.

**Mileage is not eligible in the following circumstances:**

- 2.7 When an elected member has attended to an issue of their own volition/interest. If there is any doubt with regard to eligibility of mileage in this type of event, he/she should seek guidance from Her Worship the Mayor prior to attending.
- 2.8 When an elected member has car pooled with another elected member. The car owner only is eligible to claim for mileage in this circumstance.
- 2.9 When the elected member has used a Council vehicle for travel.
- 2.10 Where an elected member has made more than one return trip to attend the same meeting. In this situation only one return trip may be claimed.
- 2.11 Travel that is not related to the business of Council. For example, non-Council business/personal travel interspersed with Council-related business must not be claimed.
- 2.12 If you attend a meeting at which you are not a member.
- 2.13 The Mayor is not eligible to claim mileage.

## Travel Time Allowance

### Criteria

All elected members except the Mayor are entitled to claim an allowance for time travelled within New Zealand on Gisborne District Council business, provided:

- A travel time allowance policy is adopted
- The journey is by the quickest form of transport reasonable in the circumstances
- The travel time exceeds two hours.
- The travel time does not exceed nine hours (including the first two hours which is not covered) within a 24 hour period.

A travel time allowance will be paid to elected members for Council-related travel specifically related to Council and Committee meetings.

The travel time allowance is payable only in respect of the member's travel for that day that exceeds the two hour (threshold).

The maximum amount payable is \$40 per hour above the threshold.

However, if an elected member permanently or temporarily resides outside the Gisborne District Council area and travels to the Gisborne District on Council business the member is only eligible for a travel time allowance for eligible travel time –

- (a) After the member crosses the Gisborne District Council boundary; and
- (b) After the first hour of eligible travel time within the Gisborne area.

## Travel expenses

All elected members are eligible for reimbursement of reasonable and actual costs when travelling on Council business. Guidelines are listed below:

1. **Taxis:** May be used for Council business, instead of private vehicles or public transport, for the following reasons;
  - Safety/security reasons.
  - When travelling outside Gisborne if a taxi is the most appropriate form of transport.
  - When the distance and time makes a Council or hire vehicle not the most cost effective option.
2. **Accommodation and Domestic Air:** This is arranged through the Council's preferred travel agent at the most economic cost available. For efficiency where a conference venue has accommodation facilities and conference rates are provided, this can be requested.
3. **Meals:** All meals and drinks while travelling for Council business will be reimbursed with the exception of alcohol.
4. **Car Parking:** Airport car parking costs will be reimbursed.
5. **Minibars and movies:** Purchases are at the expense of the elected member.

## Communications Allowances

**Remuneration Authority's Approach:** Elected members should not carry the costs of communicating with Council or with constituents. It is the responsibility of Gisborne District Council to decide the communications equipment needed to carry out its business effectively and efficiently and decisions about equipment for members should flow from that.

**Council owned equipment:** Council provides a laptop. This equipment remains the property of Gisborne District Council and shall be replaced or updated as the need arises and on a case-by-case basis.

Council will cover the costs of any consumables required.

**Member owned equipment:** Gisborne District Council will provide an annual allowance upon application via the Expense Claim Form to those members using their own devices and/or connections for the determination term as follows;

- For the use of a multi-functional or other printer – \$50;
- For the use of a mobile telephone – \$200;
- For the use of ICT consumables – up to \$200.
- For the use of home internet/broadband connection – up to \$800
- For the use of a personal telephone plan – Up to \$500, or actual cost upon production of receipts.

Council does not provide a mobile phone plan or home internet/broadband services for elected members other than the Mayor due to the high level of personal use but is willing to reimburse costs incurred via the allowances above.

## Childcare Allowance

**Remuneration Authority Approach:** On 1 July 2019, the Remuneration Authority introduced a childcare allowance for elected members who have responsibility for caring for children under 14 years. This allowance contributes towards expenses incurred by the elected member for the provision of childcare while the member is engaged on Council business.

**Eligibility:** An elected member is eligible to be paid a childcare allowance if:

- They are the parent or guardian of the child, or is a person who usually has the responsibility for the day to day care of the child (other than on a temporary basis);
- The child is aged under 14 years of age; and
- The childcare is provided by a person who
  - Is not a family member of the member;
  - Does not ordinarily reside with the member; and
- They provide evidence by way of receipts of the amount paid for childcare.

**Allowance:** Council will reimburse eligible elected members for childcare while engaged on Council business up to \$6,000 per annum for each child under 14 years of age.

## Private Use of a Vehicle Provided to the Mayor

Council provides the Mayor with a motor vehicle for full private use. A deduction for full private use is taken from the Mayor's annual remuneration.

The Mayor is issued with a fuel card but will be required to charge the hybrid electric vehicle at home at a cost of \$5.52 GST incl. per charge (independent advice from Mitsubishi). It is usually charged three times per week, staff recommend a weekly allowance of \$16.56 is paid as part of the Mayor's remuneration package. If travelling out of the region a fob has been issued similar to a fuel card whereby the vehicle will be able to be charged at a charging station. A reconciliation will be done at the end of the financial year to ensure this allowance is appropriate.

**Maximum purchase price:** There is a maximum purchase price set by the Remuneration Authority

- A petrol or diesel vehicle - \$55,000 (including on road costs, dealer charges and GST paid)
- An electric or hybrid vehicle - \$68,500 (including on road costs, dealer charges and GST paid)

## Valuing the Private Use of a Vehicle

### Usage criteria

**Full private use** – the vehicle

- Is usually driven home and parked securely by the Mayor
- Is available for the Mayor's unrestricted personal use
- Is used for the Mayor for a mix of Council business and private use
- May also be used by other elected members or staff on Council business, with the permission of the Mayor.

**Calculate deductions:** Council must deduct from the annual remuneration the following amount.

Full private use

- $V \times 41\% \times 20\%$



Where:

- **V** = actual purchase price, on-road costs, dealer charges and GST paid
- **41%** = assessed annual value of motor vehicle
- **20%** = assessed as full private use.

#### **Publication of Motor Vehicle and Remuneration Details**

Council will publish in its annual financial statements the vehicle details including its annual value as a component of the Mayor's total remuneration.

### **Application**

This policy applies to elected members only but should be read in conjunction with the Sensitive Expenditure Policy (Elected Members) 2019.

---

**Authorised by**


---

**Date of approval:**

## Appendix 1: Mileage Claim Form

Application Form

# Mileage Claim



**Claim details**

Month:

Councillor:

Date	Start	Finish	No. of kms	Reason for Trip

<b>TOTAL</b>	@ \$0.83¢ per km = \$	(up to 14,000km)
	@ \$0.31¢ per km = \$	(after 14,000km)
	<b>Travel allowance @</b> \$40.00 per hour = \$	(*criteria applies)

\* Threshold is 2 hours. Travelling allowance is paid after that.

Approved:

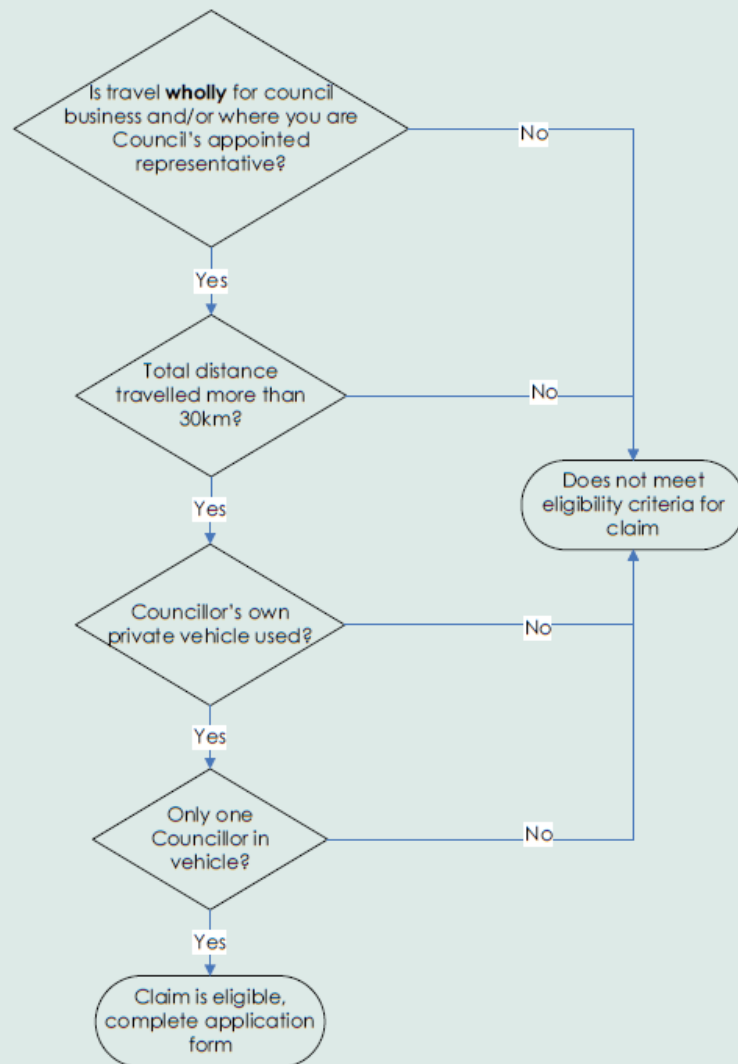
Date:

Nedine Thatcher Swann / Heather Kohn  
Chief Executive / Democracy & Support Services Manager

A2755569 - November 2022


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If you are unsure the answer to any of these questions, please discuss it with the Mayor or the Democracy & Support Services Manager, or refer to the Policy

## Appendix 2: Expenses Claim Form



### Claim form

## Expenses Refund

**Your details**

Name:   
 Position:  Employee No:   
 Team:  Department:   
 Attended:   
 At:   
 Dates:  From  To   
 Signature:  Date:   
(Applicant)

**Expenditure details**

Note: All receipts must be attached.

	Detail	Job Cost	Cost Centre	Code	\$
Staff Training & Travel					
Accommodation				1408	
Petrol				1408	
Meals				1408	
Equivalent Airfare/Mileage				1408	
Taxis				1408	
Materials & Services				2123	
Office Expenses				3516	
Staff Care				1510	
Phone Rentals				3527	
Phone Calls				3535	
Other					

Approved:  Date

**Office use only**

GST:  GST exclusive:   
 Checked against approved Request Form: ☐ Yes ☐ No  
 Signature:   
(HRU)  
 Payroll Actioned Date:

n-294092 Updated March 2013
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### Appendix 3: Examples of Meetings Eligible for Mileage Claim

<b>Formal meetings Council/Committees (internal)</b>	<b>Formal meetings (external)</b>
Council	Sister Cities
Committees	Hawkes Bay Regional Land Transport Committee
Special consultative meetings	Regional Sector Committee (LGNZ)
Annual Plan/Long Term Plan meetings	LGNZ Annual Conference
Creative Community Grant Funding Schemes	Zone 3 (LGNZ)
Workshops	RMA briefings
	LGNZ Professional Development and Induction

**Title:** 22-283 Updated Board Appointments and Remuneration Policy 2022  
**Section:** Democracy & Support Services  
**Prepared by:** Heather Kohn - Democracy & Support Services Manager  
**Meeting Date:** Thursday 15 December 2022

---

Legal: No Financial: No Significance: **Low**

---

## Report to COUNCIL/TE KAUNIHERA for decision

### PURPOSE

The purpose of this report is to adopt an updated Board Appointments and Remuneration Policy (Policy).

### SUMMARY

At the 17 November 2022 Council meeting an Appointments Committee was established and members appointed.

The membership of this Committee consists of the Mayor, the Chief Executive, one independent and two elected members.

The Policy has been updated to reflect this change primarily replacing the Selection Panel with the Appointments Committee and having the Committee interview shortlisted candidates and making a recommendation to Council to appoint. Minor amendments have also been made to enable flexibility to appointment processes.

The updated draft Policy is **Attachment 1** with a track-changes version in **Attachment 2**.

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

**That the Council/Te Kaunihera:**

- 1. Adopts the revised Board Appointments and Remuneration Policy subject to any changes requested by Council.**

*Authorised by:*

**James Baty - Director Internal Partnerships**

---

**Keywords:** appointment, trustees, directors, policy, remuneration, review, GHL, Trust Tairāwhiti

---

## BACKGROUND

1. The Local Government Act 2002 (LGA) - section 57 requires Council to adopt a policy that sets out an objective and transparent process for appointing Board members to Council organisations and remunerating them.
2. The Policy was first created in 1993 and its first substantive review took place in 2018. The Policy was then updated in 2021 as some inconsistencies had arisen with appointments to smaller non-substantive organisations.
3. The Policy has once again been reviewed following Council's recent decision to have an Appointments Committee.

## DISCUSSION and OPTIONS

4. Changes include:
  - Clause 4.2 Appointment of Council staff – allowed for flexibility of policy application by way of Council resolution.
  - Clause 7.2 Candidate search – allowed external recruitment personnel to be appointed on determination.
  - Clause 7.3 Screening and shortlisting – the Selection panel has been replaced with the Appointments Committee.
  - Clause 7.4 Interviewing and assessment of candidates - the Appointments Committee will interview instead of Council.
  - Clause 7.5 Council decision - the Appointments Committee will make a recommendation to Council to appoint the preferred candidate.
  - Clause 7.6 Appointment Process Flowchart – has been updated to reflect these changes.
  - The sentence on Council's policy to stagger appointments so that approximately one-third of each board is rotated each year has been removed. This unnecessarily constrains Council from exercising its powers. Succession is a matter taken into account through the appointment process as noted in the policy objectives section 3.
5. Track changes have been used to demonstrate clearly where changes have been made.

## ASSESSMENT of 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

6. 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**

7. This is an internal update and as such there is no requirement for engagement with Tangata Whenua/Māori.

## **COMMUNITY ENGAGEMENT**

8. This is an internal update and as such there is no requirement for engagement with the community.

## **CLIMATE CHANGE – Impacts / Implications**

9. There are no climate change impacts/implications arising by adopting this Policy.

## **CONSIDERATIONS**

### **Financial/Budget**

10. The current Policy has been developed to provide long-term cost benefits through good decision making, greater local connections and increased efficiency.

### **Legal**

11. Council has a legal obligation – through founding documents like trust deeds, rules and constitutions – to contribute to the constitution of boards across the district. These include – but are not limited to – Trust Tairāwhiti, Gisborne Holdings Limited, Eastwood Hill Trust and the Tairāwhiti Museum Trust Board.

## **POLICY and PLANNING IMPLICATIONS**

12. There are no major policy and planning implications arising from the decision to adopt the updated Policy.

## **RISKS**

13. There are no major risks associated with the matters in this report.

## **ATTACHMENTS**

1. Attachment 1 - Draft Board Appointments and Remuneration Policy 2022 [22-283.1 - 17 pages]
2. Attachment 2 - Draft Board Appointments and Remuneration Policy Track changes 2022 [22-283.2 - 20 pages]



# Board Appointments and Remuneration Policy

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## 1. Purpose

The purpose of this policy is to set out, in accordance with Section 57(1) of the Local Government Act 2002 (LGA) an objective and transparent process for the:

- a) Identification and consideration of the skills, knowledge and experience required of directors of an Organisation.
- b) Appointment of directors to an Organisation.
- c) Remuneration of directors of an Organisation.

This policy applies to the appointment of directors to Gisborne Holdings Limited and trustees to Trust Tairāwhiti. This policy applies in principle to the appointment of trustees to Eastwoodhill Trust, Tairāwhiti Museum Trust Board, Barrington Miller Trust, and the Walter McLean Trust as the Policy is secondary to their Trust Deed/Act. In the event where other Organisations (see interpretation below) are established, – the policy also applies and should be revised to reflect the new entity as soon as practicable.

## 2. Interpretation

This policy uses the definitions for Council Organisation, Council Controlled Trading Organisation (CCTO) and Council Controlled Organisation (CCO) described in section 6 of the LGA and summarised here as:

An **Organisation** is the broadest category. For the purpose of this policy - is as an entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with LGA definition of a Council Organisation.

A **Council Controlled Organisation (CCO)** is an entity in which one or more local authorities control 50% or more of the voting rights or appoint 50% or more of the members of the governing body.

A CCO can be a company, trust, partnership, incorporated society, joint venture, or other similar profit-sharing arrangement.

A CCO that operates a trading undertaking for the purpose of making a profit is referred to as a **Council Controlled Trading Organisation (CCTO)**. Not-for-profit entities are CCOs.

This policy uses 'Organisation' to refer to all three categories, unless the point is specific to a CCTO, in which case CCTO is used.

## 3. Policy Objectives

The objectives of this policy are to ensure that:

- a) The process of appointing board members is undertaken in an objective and transparent manner, while protecting individual privacy.
- b) Diversity and inclusion in the boards of Organisations is increased so there is a larger - more diverse - pool of experienced board members serving on boards across the whole Tairāwhiti-Gisborne district.
- c) There is continuity through the smooth succession of board members and board chairs.

And that board appointments:

- Are made on the basis of an assessment of skills knowledge and experience, having regard to the nature of scope of the organisation's objectives and activities.
- Consider the contribution that directors can make to the board as a whole and to the achievement of the organisation's objectives and activities.
- Take into account the context in which Council, as a publicly accountable body, operates.
- Build a diverse pool of experienced board members for Tairāwhiti-Gisborne organisations and companies.

This policy takes precedence when the foundation documents are silent. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy.

Organisations that are companies are also subject to the Companies Act 1993.

There may be circumstances where it's not appropriate to adhere to this policy. Should Council decide not to comply with any provision, the decision should be recorded by way of resolution (which should also include the reason for deviation from the policy).

This policy is subject to annual review and may be modified by Council at any time.

### **Board diversity and inclusion**

Council values and supports the benefits that diversity of gender, thought, experience and skills bring to our Organisation boards. We recognise that increasing diversity and fostering inclusive board culture is an essential element in supporting high performing boards, driving long-term success and delivering better outcomes for the communities of Tairāwhiti -Gisborne.

The people appointed to the boards of Organisations need to be capable of representing the interests of the community as a whole. This includes, but is not limited to Māori – who make up 49 percent of our District's population (the highest proportion in New Zealand) and women – who make up 52 percent.

Through our policy *Tairāwhiti Piritahi: Fostering Māori participation in Council decision-making* we recognise that Tangata whenua have a long historical settlement connection to Tairāwhiti and an equally long-term role in the future planning and decision making for the region.

A diverse board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the board and when possible should be balanced appropriately.

All board appointments will be made on the basis of the skills, knowledge and experience which the board as a whole requires to be effective with due regard to the benefits of diversity on the board.

Council is committed to supporting and providing initiatives that:

- lead to an inclusive recruitment and selection process for board appointments
- support a diverse range of aspiring directors to develop skills, knowledge, boardroom experience and to establish relationships and networks
- foster Māori participation in Council decision-making
- build a diverse pool of experienced directors for Tairāwhiti-Gisborne Organisations and companies.

## **4 Appointments to Organisations**

### **Background**

Council has an interest in numerous entities (Appendix One). This may have been sought by Council, or requested by the entity. In some cases, Council's involvement may be a statutory requirement or provided for in the Organisation's founding document (such as a trust deed, rules, or constitution).

This policy applies the principles of good governance to guide the way that Council sets up, operates and monitors Organisations in the Gisborne district, in accordance with the requirements of the LGA.

### **Gisborne Holdings Limited - CCTO**

Council is the 100% shareholder of Gisborne Holdings Limited (GHL). GHL was established as a CCTO for the purpose of operating profitably and providing a non-rates income stream to Council.

GHL is Council's only CCTO as at September 2018.

GHL's constitution contains a number of provisions relating to the appointment of directors. These include the need for there to be at least three and no more than nine directors at any time, and a limit of one director who can be a member or employee of any Local Authority. GHL's constitution prohibits a director from taking up a job at Council as an employee or as Councillor. All other provisions relating to the appointment of directors are included in this policy.

### **Trust Tairāwhiti - CO**

Trust Tairāwhiti (TT) is the custodian of a public wealth trust held for the general benefit of Tairāwhiti residents and ratepayers. It was established on 7 May 1993 through a Trust Deed. The purpose of TT includes *"supporting business, community and other initiatives which - in the opinion of the Trustees - are likely to encourage or sustain economic growth within the district..."*

Council, as the capital beneficiary of TT, has the power to appoint Trustees and the period of time that person is to hold office. TT is Council's only major Organisation.

The Trust Deed is the ultimate document of reference for all activities conducted by TT trustees in pursuing Trust business. It contains a number of provisions relating to the appointment of Trustees. These include the role of Council in fixing the number of Trustees and the requirement that there be at least five and no more than seven Trust members, at any time.

The Trust Deed specifies that the Mayor of Gisborne or an elected member of Council who is appointed by the Mayor is one of the trustees of the Trust. That person (the Mayor, or their Nominee) is the only trustee who is also a currently elected member of Council. They are to remain a trustee until the Mayor leaves office or the nominee resigns.

## **4.1 Appointment of elected members**

Appointment of elected members (Councillors or the Mayor) to an Organisation, while permitted, should be the exception rather than norm. This is because elected members may be unable to participate in Council decision-making on matters about the Organisation because of their interest as a director. The founding document may provide guidance about the circumstances when the appointment of elected members may be appropriate.

If Council wishes to appoint elected members then the appointment must be open and transparent, and subject to the same selection criteria as for independent directors.

Where the Mayor or Councillor is being appointed to a board because it is a specific requirement that the appointee be the Mayor, or a Councillor nominated or appointed by the Mayor (for example the Trust Tairāwhiti Trust Deed), there is an understanding that the appointment will cease:

- In the case of the Mayor- when the Mayor ceases to hold office.
- In the case of the Councillor who is the nominee of the Mayor - when either the Councillor or the Mayor who nominated or appointed the Councillor ceases to hold office.

For the purposes of this policy, a Mayor or Councillor who is not re-elected shall have ceased to hold office on polling day.

A Mayor or Councillor who accepts an appointment to a board is expected to comply with this policy.

## **4.2 Appointment of Council staff, including Managers and the Chief Executive**

Gisborne District Council employees are not normally eligible to apply to be on the board of an Organisation unless there is a compelling reason to do so. Any Council employee applying for a director role on a board may be required to resign from Council immediately following an offer of appointment.

Board members should be independent from management and should not hold executive positions in the Organisation unless this is a requirement of the trust deed, a Council resolution or the equivalent founding document to do so.

## **4.3 Other Exclusions**

Immediate family members, of elected members, of the Chief Executive, and of second tier managers of the Gisborne District Council are also prohibited from serving as Organisation board members. Board members should not serve on the board of more than one Organisation but may be eligible for appointment to another Organisation board following retirement.

Persons who are disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993 (for example- a person who is an undischarged bankrupt) may not be appointed as a board member to an Organisation.



## **5. Board Competencies, Skills and Knowledge**

Organisation board members are expected to meet a number of core competencies as well as relevant industry, technical, or specialist skills required for that board.

### **5.1 Core Competencies**

The core competencies expected on Organisation boards are:

- sound judgement and decision-making
- commercial acumen
- public service ethos and awareness of a public media profile
- an understanding and commitment to Council's obligation to Te Tiriti o Waitangi
- a high standard of personal integrity
- clear communication and an ability to debate in a reasoned manner
- effective teamwork and collaboration
- the ability to think strategically
- risk assessment and contingency management
- commitment to the principles of good corporate citizenship
- understanding of the wider interests of Council as a publicly accountable shareholder
- experience in governance, preferably corporate governance.

The mix of skills and experience on the board will be taken into account through a skills matrix, and consideration given to complementing and reinforcing existing skills and reducing skill gaps where necessary.

Appointees to Organisation boards should undergo, or have undergone formal governance training, or have the requisite experience.

Council may waive the corporate governance requirement in order to attract a wider range of board members and to further its diversity policy if these skills and experience are already well represented on the board. Organisation boards are expected to provide director training for directors with limited corporate governance experience.

### **5.2 Board Chair Competencies**

In addition to demonstrating the core competencies listed in section 5.1 the following skills and competencies are required for the Chair and will be sought in the succession planning process (described at 10 in the policy):

- Board experience
- strong leadership skills
- political acumen
- strong interpersonal and relationship building skills
- sophisticated, analytically based, decision-making skills
- effective communication skills
- integrity and credibility within relevant sectors.

### 5.3 Role of the Board Chair and Deputy Chair

The role of the Board Chair is to provide effective leadership and:

- harness the collective skills of the board and executive team to achieve business objectives and maintain the confidence of the shareholders
- maximise the contribution of board members in board meetings
- maintain the trust of the Council
- maintain a close, but independent, working relationship with the Organisation Chief Executive
- lead the board review process
- lead the director induction process
- ensure that there is a succession plan in place for the board
- be the spokesperson for the Organisation
- work productively and openly with colleagues to achieve results and resolve problems
- to retain the confidence of the region and build relationships within the region's networks.

The role of the Deputy Chair which includes the ability to take on the Chair's role, as and when required, is to:

- provide effective leadership
- work productively and openly with colleagues to achieve results and resolve problems
- retain the confidence of the region and build relationships within the region's networks.

## 6. Terms of Appointment

Board members are to serve a maximum of three three-year terms, with the option of further reappointment possible where appropriate. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy. To reflect current national and international best practice, Council's policy regarding board tenure is as follows:

**Tenure of three years:** Board members shall hold office for a term of up to three years from the date of appointment.

**Expiry of tenure:** upon expiry of that three-year term, the board member retires from the board and, subject to the board members' performance and skills continuing to be relevant to the board may be eligible for reappointment.

Board members should not be given any expectation that they will be offered a subsequent term of office.

Any board member reappointed for a third term retires upon expiry of the additional three-year term.

**Tenure exceeding nine consecutive years:** for circumstances where there are good reasons for extension, a board member retiring from a third tenure of three years may be reappointed for a further term but the board member's total tenure on the board must not exceed twelve years. Each case will be considered on its own merits and is at the sole discretion of the Council. The types of circumstances that could require this include, the:

- Board member has a particular skill that would be hard to replace
- Board has undergone substantial change and stability is needed
- Board member has institutional knowledge not held by other directors
- Board member is a likely successor as a chair.

Board members hold office at the discretion of the Council and may be removed at any time by Council resolution.

## **7. Appointment Process**

### **7.1 Strategic review and needs assessment**

Once a vacancy has been established, Council will identify the skills, knowledge and experience required for the position, including whether knowledge of Tikanga Māori may be of relevance to the governance of that Organisation (as required by section 60(3) of the LGA 2002), with the assistance of Council's Internal Partnerships hub. This should involve discussions with the chair, consideration of the current composition and skill profile of the board and a strategic review of future skill requirements – including succession planning.

### **7.2 Candidate search**

Candidates may be sought through a combination of the following search methods: advertising of the position, executive recruitment search, a review of Companies Office register of directors, nominations from the Mayor, governing body and local board members and crown agencies such as the Ministry of Women's Affairs and Te Puni Kokiri, on the advice of the board chairperson, and by invitation.

A complete list of candidates will be compiled with the assistance of Council's executive recruitment consultant if used.

Determination for enlisting an external recruitment agent will reside with the Chief Executive.

### **7.3 Screening and short-listing**

The Appointments Committee will be appointed by Council and will be serviced through the Chief Executive. The Committee undertake short listing of candidates to be interviewed by the Committee. They will ensure due diligence has been carried out in preparation of a short-list, including candidate's declaration of interests.

The Appointments Committee will screen the list to ensure that the candidates have the required core competencies (see 5.1 of the policy) as well as the specific skills and expertise required for the position. The names of all candidates from the long list will be included in a Public Excluded report to Council.

The Committee will comprise of the Mayor, two elected members, the Chief Executive, the independent recruitment consultant (ex-officio) and, if appropriate, relevant external people including the board chair.

A summary of skills or CVs will be included in the report to Council with the public excluded.

#### **7.4 Interviewing and assessment of candidates.**

The Appointments Committee will interview and assess shortlisted candidates against the required skills, knowledge and experience and may take into account other factors such as:

- Council's board diversity and inclusion policy (see policy objectives)
- candidates with knowledge of Te Ao Māori and established Māori networks
- alignment with the council's objectives for that entity
- board dynamics and stakeholder relationships
- the capacity of candidates to attend regular board meetings and fulfil the other requirements of the directorship
- Chair and deputy Chair succession planning.

#### **7.5 Council decision**

The Appointments Committee will interview candidates from the short-list with the public excluded to protect the interests and privacy of the candidates. This process will include a discussion of whether any actual or perceived conflicts of interest have been identified.

The Appointments Committee will then make a recommendation to Council to appoint the preferred candidate.

A decision on the appointment of board members will be a decision for the whole Council. Under Standing Orders, this vote is required to be taken by division.

Council will undertake this process in private and in accordance with the provisions of the Local Government Official Information and Meetings Act 1987.

The successful candidate(s) can be decided at a Council meeting (tenure effective immediately). All appointments will specify a term.

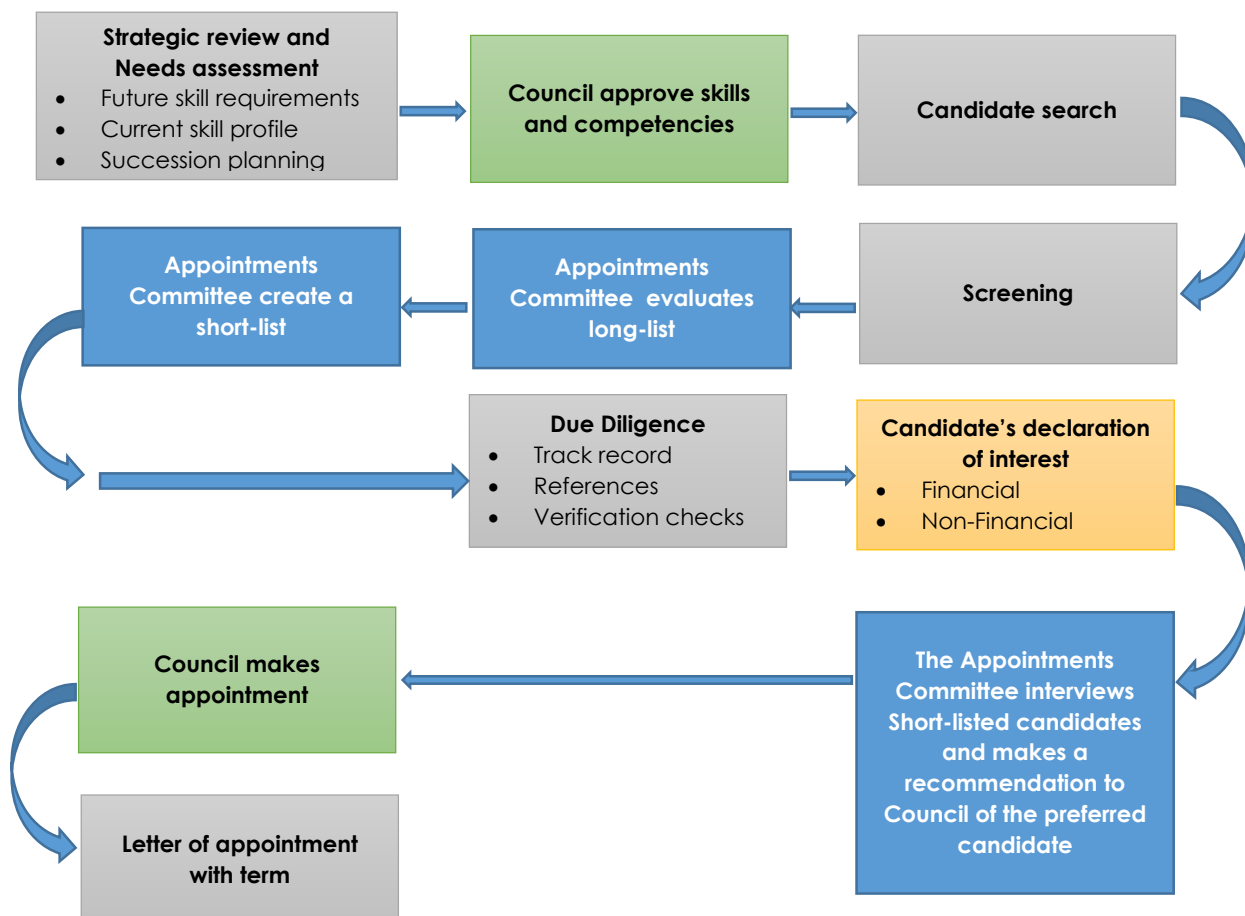
Public announcement of the appointment will be made as soon as practicable after the meeting where Council has made its decision.

Unsuccessful candidates will be notified.

Council may wish to signal to its Chief Executive other candidates who on interview, have presented with appropriate skills that match or are of benefit to Organisations for future vacancies within the next twelve-month period.

## 7.6 Appointment Process Flowchart

The diagram below provides an overview for the process for appointments.



## 8. Review of Board Member Performance

The review of board member performance will be conducted by Council within a sufficient timeframe in relation to board appointment rounds.

The review will be conducted by Council with the cooperation of the Organisation Chairperson. The process for that review will be:

- An interview with the Chairperson - with the objective of assessing individual director performance and contribution or in the case of reviewing the Chairperson an interview with the deputy Chair.
- Peer review summaries (this may include written questionnaires) – conducted six weeks before board appointment rounds.
- An assessment of the board's performance against stated objectives, quality of strategic initiatives, the implementation of those initiatives, and overall communication with the shareholder.

The review criteria for individual board members will include:

- preparedness for and attendance at meetings
- strategic perspective
- the ability to identify emerging trends and take action on a proactive basis
- understanding and performing governance functions
- constructive input to discussion.

Chairperson review (additional criteria):

- leadership of the board 'team'
- consistency and even-handedness
- judgement and decision making
- communication and mentoring.

## **9. Consent and Conflicts Of Interest**

Board members are required to declare any real or potential conflicts of interest that may arise during the course of carrying out their duties for Organisations. Likewise, all candidates will be required to complete a consent form and to declare any relevant interests, prior to being interviewed for a position on a board, so that the potential for a conflict of interest can be assessed.

In making appointments to boards, Council will take into consideration a candidate's existing directorships, and any other potential conflicts of interest.

In the event of a real or potential conflict of interest (where the person involved has an "interest in a proposed transaction" for example may derive a personal financial benefit) the director must exclude themselves from participation in any debate with respect to the transaction and any resulting dealings with the third parties or approval of transactions. In the rare event where exclusion is not deemed to be practicable, directors must obtain formal written permission to proceed from the chair of the board.

In considering any appointment or reappointment where a potential conflict of interest has been identified, Council needs to be confident that:

- The board member or candidate will be able to make an effective contribution, even if their interest means they cannot participate in an activity of the Organisation that relates to a particular matter.
- The board member, or their parent, spouse or child will not derive a personal financial benefit from the transaction.
- Measures can be put in place to manage the conflict.

Further guidance on conflicts of interest can be found in sections 139 to 149 of the Companies Act 1993.

The Office of the Auditor-General also provides guidance on the management of interests and conflicts: [www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities](http://www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities)

## 10. Chair Succession Planning

These provisions are specifically for the position of chairperson of the GHL and Trust Tairāwhiti boards.

The purpose of succession planning is to provide for smooth transition of leadership in the event of a planned or unexpected retirement of an incumbent chair.

A person appointed as chair in their second term may be appointed for a further three-year term as chair, however their tenure as chair must not exceed six years. Council will generally consider the need for a potential successor as they make each board member appointment.

The selection panel will be responsible for managing the succession planning process, which may (but not necessarily) be initiated by the board. The process will include discussions with the chairperson, assessing the skills, knowledge and expertise required for the role, and identifying any board members who may be possible candidates. This must commence at least six months before the settling-in period referred to below, and one year before the proposed retirement of the current chairperson.

If the proposed candidate is new to the board there must be time for a settling-in period of at least one year before that person can be nominated for the role of chairperson.

The qualities expected of the chairperson include (but not exclusively) the ability to develop and maintain a:

- Sound relationship with Council based on mutual trust and confidence.
- Close but independent working relationship with the Organisation's Chief Executive.
- And, use the collective skills of the board and executive team for the purpose of achieving the Council's objectives (described in the 2018-2028 Long Term Plan).

It's expected that the board chair will identify potential successors or signal to Council if there are no candidates for future chair.

## 11. Removal of Board Members

Board members hold office at the pleasure of Council and may be removed at any time by Council resolution.

Without limiting the right of Council, the following are likely reasons for Council to remove a board member, where that board member:

- is regularly absent from board meetings without good justification
- no longer has the confidence of the board or Council
- has breached ethical standards and this reflects badly on the board or Council
- does not act in the best interests of the Organisation
- breaches the confidence of the board in any way, including speaking publicly on board issues without the authority of the board or
- does not act in accordance with the principles of collective responsibility
- is now disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993.



Where the board has concerns regarding the behaviour of one of its members it should be considered by the board in the first instance and, where necessary, the board may recommend the removal of the board member to Council.

No payment will be made - by way of compensation - to board members who have been removed from boards.

## **12. Board Members Standing for Political Office**

Board members who have been selected to stand as a candidate in a local body or general election should advise the chair of their board immediately. Chairs need to advise Council, through the Chief Executive as soon as any members of their boards have been identified as candidates.

Any board member who is formally selected to stand as a candidate for election at a local body or general election, or placed on any political party's list, must stand down from their board position from nomination day until the election results are notified or such earlier day as may be determined. This measure aims to ensure that governance of the Organisation is not distracted by the board member's election activity, and to prevent the possibility of any conflicts of interest, real or perceived.

In the event that the board member is successful in their bid for political office, they must formally retire from their board position. They may be eligible for appointment to another Organisation board following retirement.

## **13. Remuneration**

Board members' fees will compensate board members fully for their normal contribution to the board, including attending board and Committee meetings, meeting preparation, stakeholder management and any other agreed tasks.

Board members' fees will reflect the element of public service in serving on the board of an Organisation and will accordingly be set at or below the average for comparable private sector entities.

To ensure transparency, fees will be set by Council for the board members and chairs, rather than allocating a pool to be distributed by the board. Fees are to be met from the Organisation's own resources.

Where Council is the sole shareholder (for example GHL) Council will set the remuneration by resolution at the Annual General Meeting of the Organisation or by resolution of Council. Such resolution shall state whether the remuneration is to be allocated by the Board or is to be specified for Directors and Chairperson.

In the instance of Trust Tairāwhiti trustees, the Trust Deed requires prior approval of Council before any changes are made to trustee remuneration.

There is no provision for the payment of retiring or other gratuities to board members.

### 13.1 Fee Setting

Board members' remuneration will be reviewed once per triennium following local body elections. A full review will be conducted and will include benchmarking against comparative entities. The review will consider market movement and the final decision on board members' remuneration will be made by a resolution of Council. Fees will be set taking into consideration the following:

- The size and scale of the Organisation (for example turnover, value of assets, number of employees).
- Complexity and scope of operations (for example complexity of issues, level of guidance for decision-making, relationship management responsibilities).
- Accountability (for example scale of market risk, public interest and profile, potential risk to board member reputation, and other key risks).
- Skills - the type of expertise and specialisation needed.

Special considerations may also be included in setting fees, such as a temporary increase in workload for the board, or difficulties in recruiting particular skills.

### 13.2 Ordinary Fees

Ordinary fees are calculated based on:

- The designated base fee per board member.
- Board Chairs will be remunerated at twice the designated base fee.
- 1.25 times the designated board member base fee for the Deputy Chair, to reflect either an actual appointment, or to provide the capacity for the council committee to later make such an appointment.
- 1.15 times the designated board member base fee for those members with duties as Chair.

There are no additional fees for board committee meetings.

Council supports the payment by Organisations of their board members liability insurance and indemnity.

### 13.3 Remuneration for Consultancy Services

Council expects that no board member will undertake consulting work for the Organisation. In the event that an exception to this rule appears appropriate, the Chair should seek Council approval in advance.

**Authorised by Nedine Thatcher Swann – Chief Executive**

**Date of approval:**

## **14. Glossary**

### **Definitions**

#### **Organisation**

An entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with the definition in section 6 of the LGA of a Council Organisation.

#### **Council-controlled organisation**

A council-controlled organisation (CCO) is defined in section 6 of the LGA as an organisation in which the council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers.

#### **Council-controlled trading organisation**

A council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit.

#### **Director**

An appointed member of the board of directors of an Organisation who, with other directors, has the responsibility for determining and implementing the Organisation's policy. Directors also assist the Organisation to meet its objectives and the requirements in its Statement of Intent. The Director's role is defined in S58 (1) of the LGA 2002.

Directors have responsibilities to their company and shareholders, and under the Companies Act 1993 must be registered with the New Zealand Companies Office.

#### **Trustee**

A trustee is a person that holds and administers property or assets for the benefit of a third party.

Directors and Trustee remuneration - Payments made to directors and trustees in accordance with this policy.

#### **Board and board member**

Refers to a Company Board, Trust Board and any other governing body however it may be referred to. The term board member includes directors, trustees, managers or office holders (however described by that entity) and is applied in this policy to mean role of director – as described in the LGA.

#### **Candidate**

Is a person who has been nominated, submitted a written application, or identified through search activities.

## **Appendix One**

### **Organisations to which this Policy Applies**

#### **As at March 2020**

1. Council-controlled Trading Organisation (CCTO) in which Gisborne District Council are the 100% shareholder:
  - Gisborne Holdings Limited
2. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed:
  - Trust Tairāwhiti
3. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed but are non-substantive:
  - Eastwoodhill Trust
  - Tairāwhiti Museum Trust Board
  - Barrington Miller Trust
  - Walter McLean Trust



# Board Appointments and Remuneration Policy

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## 1. Purpose

The purpose of this policy is to set out, in accordance with Section 57(1) of the Local Government Act 2002 (LGA) an objective and transparent process for the:

- a) Identification and consideration of the skills, knowledge and experience required of directors of an Organisation.
- b) Appointment of directors to an Organisation.
- c) Remuneration of directors of an Organisation.

This policy applies to the appointment of directors to Gisborne Holdings Limited and trustees to Trust Tairāwhiti. This policy applies in principle to the appointment of trustees to Eastwoodhill Trust, Tairāwhiti Museum Trust Board, Barrington Miller Trust, and the Walter McLean Trust as the Policy is secondary to their Trust Deed/Act. In the event where other Organisations (see interpretation below) are established, – the policy also applies and should be revised to reflect the new entity as soon as practicable.

## 2. Interpretation

This policy uses the definitions for Council Organisation, Council Controlled Trading Organisation (CCTO) and Council Controlled Organisation (CCO) described in section 6 of the LGA and summarised here as:

An **Organisation** is the broadest category. For the purpose of this policy - is as an entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with LGA definition of a Council Organisation.

A **Council Controlled Organisation (CCO)** is an entity in which one or more local authorities control 50% or more of the voting rights or appoint 50% or more of the members of the governing body.

A CCO can be a company, trust, partnership, incorporated society, joint venture, or other similar profit-sharing arrangement.

A CCO that operates a trading undertaking for the purpose of making a profit is referred to as a **Council Controlled Trading Organisation (CCTO)**. Not-for-profit entities are CCOs.

This policy uses 'Organisation' to refer to all three categories, unless the point is specific to a CCTO, in which case CCTO is used.

## 3. Policy Objectives

The objectives of this policy are to ensure that:

- a) The process of appointing board members is undertaken in an objective and transparent manner, while protecting individual privacy.
- b) Diversity and inclusion in the boards of Organisations is increased so there is a larger - more diverse - pool of experienced board members serving on boards across the whole Tairāwhiti-Gisborne district.
- c) There is continuity through the smooth succession of board members and board chairs.



And that board appointments:

- Are made on the basis of an assessment of skills knowledge and experience, having regard to the nature of scope of the organisation's objectives and activities.
- Consider the contribution that directors can make to the board as a whole and to the achievement of the organisation's objectives and activities.
- Take into account the context in which Council, as a publicly accountable body, operates.
- Build a diverse pool of experienced board members for Tairāwhiti-Gisborne organisations and companies.

This policy takes precedence when the foundation documents are silent. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy.

Organisations that are companies are also subject to the Companies Act 1993.

There may be circumstances where it's not appropriate to adhere to this policy. Should Council decide not to comply with any provision, the decision should be recorded by way of resolution (which should also include the reason for deviation from the policy).

This policy is subject to annual review and may be modified by Council at any time.

### **Board diversity and inclusion**

Council values and supports the benefits that diversity of gender, thought, experience and skills bring to our Organisation boards. We recognise that increasing diversity and fostering inclusive board culture is an essential element in supporting high performing boards, driving long-term success and delivering better outcomes for the communities of Tairāwhiti -Gisborne.

The people appointed to the boards of Organisations need to be capable of representing the interests of the community as a whole. This includes, but is not limited to Māori – who make up 49 percent of our District's population (the highest proportion in New Zealand) and women – who make up 52 percent.

Through our policy *Tairāwhiti Piritahi: Fostering Māori participation in Council decision-making* we recognise that Tangata whenua have a long historical settlement connection to Tairāwhiti and an equally long-term role in the future planning and decision making for the region.

A diverse board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the board and when possible should be balanced appropriately.

All board appointments will be made on the basis of the skills, knowledge and experience which the board as a whole requires to be effective with due regard to the benefits of diversity on the board.

Council is committed to supporting and providing initiatives that:

- lead to an inclusive recruitment and selection process for board appointments
- support a diverse range of aspiring directors to develop skills, knowledge, boardroom experience and to establish relationships and networks
- foster Māori participation in Council decision-making
- build a diverse pool of experienced directors for Tairāwhiti-Gisborne Organisations and companies.

## 4 Appointments to Organisations

### Background

Council has an interest in numerous entities (Appendix One). This may have been sought by Council, or requested by the entity. In some cases, Council's involvement may be a statutory requirement or provided for in the Organisation's founding document (such as a trust deed, rules, or constitution).

This policy applies the principles of good governance to guide the way that Council sets up, operates and monitors Organisations in the Gisborne district, in accordance with the requirements of the LGA.

### Gisborne Holdings Limited - CCTO

Council is the 100% shareholder of Gisborne Holdings Limited (GHL). GHL was established as a CCTO for the purpose of operating profitably and providing a non-rates income stream to Council.

GHL is Council's only CCTO as at September 2018.

GHL's constitution contains a number of provisions relating to the appointment of directors. These include the need for there to be at least three and no more than nine directors at any time, and a limit of one director who can be a member or employee of any Local Authority. GHL's constitution prohibits a director from taking up a job at Council as an employee or as Councillor. All other provisions relating to the appointment of directors are included in this policy.

### Trust Tairāwhiti - CO

Trust Tairāwhiti (TT) is the custodian of a public wealth trust held for the general benefit of Tairāwhiti residents and ratepayers. It was established on 7 May 1993 through a Trust Deed. The purpose of TT includes *"supporting business, community and other initiatives which - in the opinion of the Trustees - are likely to encourage or sustain economic growth within the district..."*

Council, as the capital beneficiary of TT, has the power to appoint Trustees and the period of time that person is to hold office. TT is Council's only major Organisation.

The Trust Deed is the ultimate document of reference for all activities conducted by TT trustees in pursuing Trust business. It contains a number of provisions relating to the appointment of Trustees. These include the role of Council in fixing the number of Trustees and the requirement that there be at least five and no more than seven Trust members, at any time.

The Trust Deed specifies that the Mayor of Gisborne or an elected member of Council who is appointed by the Mayor is one of the trustees of the Trust. That person (the Mayor, or their Nominee) is the only trustee who is also a currently elected member of Council. They are to remain a trustee until the Mayor leaves office or the nominee resigns.

## 4.1 Appointment of elected members

Appointment of elected members (Councillors or the Mayor) to an Organisation, while permitted, should be the exception rather than norm. This is because elected members may be unable to participate in Council decision-making on matters about the Organisation because of their interest as a director. The founding document may provide guidance about the circumstances when the appointment of elected members may be appropriate.

If Council wishes to appoint elected members then the appointment must be open and transparent, and subject to the same selection criteria as for independent directors.

Where the Mayor or Councillor is being appointed to a board because it is a specific requirement that the appointee be the Mayor, or a Councillor nominated or appointed by the Mayor (for example the Trust Tairāwhiti Trust Deed), there is an understanding that the appointment will cease:

- In the case of the Mayor- when the Mayor ceases to hold office.
- In the case of the Councillor who is the nominee of the Mayor - when either the Councillor or the Mayor who nominated or appointed the Councillor ceases to hold office.

For the purposes of this policy, a Mayor or Councillor who is not re-elected shall have ceased to hold office on polling day.

A Mayor or Councillor who accepts an appointment to a board is expected to comply with this policy.

## 4.2 Appointment of Council staff, including Managers and the Chief Executive

Gisborne District Council employees are not normally eligible to apply to be on the board of an Organisation unless there is a compelling reason to do so. Any Council employee applying for a director role on a board ~~should~~ may be required to resign from Council immediately following an offer of appointment.

Board members should be independent from management and should not hold executive positions in the Organisation unless this is a requirement of the trust deed, a Council resolution or the equivalent founding document to do so.

## 4.3 Other Exclusions

Immediate family members, of elected members, of the Chief Executive, and of second tier managers of the Gisborne District Council are also prohibited from serving as Organisation board members. Board members should not serve on the board of more than one Organisation but may be eligible for appointment to another Organisation board following retirement.

Persons who are disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993 (for example- a person who is an undischarged bankrupt) may not be appointed as a board member to an Organisation.

## 5. Board Competencies, Skills and Knowledge

Organisation board members are expected to meet a number of core competencies as well as relevant industry, technical, or specialist skills required for that board.

### 5.1 Core Competencies

The core competencies expected on Organisation boards are:

- sound judgement and decision-making
- commercial acumen
- public service ethos and awareness of a public media profile
- an understanding and commitment to Council's obligation to Te Tiriti o Waitangi
- a high standard of personal integrity
- clear communication and an ability to debate in a reasoned manner
- effective teamwork and collaboration
- the ability to think strategically
- risk assessment and contingency management
- commitment to the principles of good corporate citizenship
- understanding of the wider interests of Council as a publicly accountable shareholder
- experience in governance, preferably corporate governance.

The mix of skills and experience on the board will be taken into account through a skills matrix, and consideration given to complementing and reinforcing existing skills and reducing skill gaps where necessary.

Appointees to Organisation boards should undergo, or have undergone formal governance training, or have the requisite experience.

Council may waive the corporate governance requirement in order to attract a wider range of board members and to further its diversity policy if these skills and experience are already well represented on the board. Organisation boards are expected to provide director training for directors with limited corporate governance experience.

### 5.2 Board Chair Competencies

In addition to demonstrating the core competencies listed in section 5.1 the following skills and competencies are required for the Chair and will be sought in the succession planning process (described at 10 in the policy):

- Board experience
- strong leadership skills
- political acumen
- strong interpersonal and relationship building skills
- sophisticated, analytically based, decision-making skills
- effective communication skills
- integrity and credibility within relevant sectors.

### 5.3 Role of the Board Chair and Deputy Chair

The role of the Board Chair is to provide effective leadership and:

- harness the collective skills of the board and executive team to achieve business objectives and maintain the confidence of the shareholders
- maximise the contribution of board members in board meetings
- maintain the trust of the Council
- maintain a close, but independent, working relationship with the Organisation Chief Executive
- lead the board review process
- lead the director induction process
- ensure that there is a succession plan in place for the board
- be the spokesperson for the Organisation
- work productively and openly with colleagues to achieve results and resolve problems
- to retain the confidence of the region and build relationships within the region's networks.

The role of the Deputy Chair which includes the ability to take on the Chair's role, as and when required, is to:

- provide effective leadership
- work productively and openly with colleagues to achieve results and resolve problems
- retain the confidence of the region and build relationships within the region's networks.

## 6. Terms of Appointment

Board members are to serve a maximum of three three-year terms, with the option of further reappointment possible where appropriate. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy. To reflect current national and international best practice, Council's policy regarding board tenure is as follows:

**Tenure of three years:** Board members shall hold office for a term of up to three years from the date of appointment.

**Expiry of tenure:** upon expiry of that three-year term, the board member retires from the board and, subject to the board members' performance and skills continuing to be relevant to the board may be eligible for reappointment.

Board members should not be given any expectation that they will be offered a subsequent term of office.

Any board member reappointed for a third term retires upon expiry of the additional three-year term.

**Tenure exceeding nine consecutive years:** for circumstances where there are good reasons for extension, a board member retiring from a third tenure of three years may be reappointed for a further term but the board member's total tenure on the board must not exceed twelve years. Each case will be considered on its own merits and is at the sole discretion of the Council. The types of circumstances that could require this include, the:

- Board member has a particular skill that would be hard to replace
- Board has undergone substantial change and stability is needed
- Board member has institutional knowledge not held by other directors
- Board member is a likely successor as a chair.

~~Council's policy is to stagger appointments so that approximately one-third of each board is rotated each year. Staggering appointments to the boards ensures there is an appropriate level of institutional knowledge retained on each board, which in turn provides for continuity in the management of the Organisation.~~

Board members hold office at the discretion of the Council and may be removed at any time by Council resolution.

## 7. Appointment Process

### 7.1 Strategic review and needs assessment

Once a vacancy has been established, Council will identify the skills, knowledge and experience required for the position, including whether knowledge of Tikanga Māori may be of relevance to the governance of that Organisation (as required by section 60(3) of the LGA 2002), with the assistance of Council's Internal Partnerships hub. This should involve discussions with the chair, consideration of the current composition and skill profile of the board and a strategic review of future skill requirements – including succession planning.

### 7.2 Candidate search

Candidates may be sought through a combination of the following search methods: advertising of the position, executive recruitment search, a review of Companies Office register of directors, nominations from the Mayor, governing body and local board members and crown agencies such as the Ministry of Women's Affairs and Te Puni Kokiri, on the advice of the board chairperson, and by invitation.

A complete list of candidates will be compiled with the assistance of Council's executive recruitment consultant if used.

Determination for enlisting an external recruitment agent will reside with the Chief Executive.

### 7.3 Screening and short-listing

The ~~selection panel~~Appointments Committee will be appointed by Council and will be serviced ~~by through~~ the Chief Executive. The ~~panel Committee~~ will ~~undertake prepare a recommended~~ short listing of candidates to be interviewed by the Committee-Council. They will ensure due

diligence has been carried out in preparation of a short-list, including candidate's declaration of interests.



The ~~Selection Panel Appointments Committee~~ will screen the list to ensure that the candidates have the required core competencies (see 5.1 of the policy) as well as the specific skills and expertise required for the position. ~~Any applicants from the Companies Office register of directors will automatically be included on the long list.~~ The names of all candidates from the long list will be included in a Public Excluded report to Council.

The ~~panel C~~ will comprise of the Mayor, two elected members, the Chief Executive, ~~the independent recruitment consultant~~ (ex officio) and, if appropriate, relevant external people including the board chair, ~~and an independent recruitment consultant.~~

The short list will normally include three to four candidates per position. A summary of skills or CVs will be included in the report to Council with the public excluded.

## **7.4 Interviewing and assessment of candidates.**

~~Council~~ The Appointments Committee will interview and assess shortlisted candidates against the required skills, knowledge and experience and may take into account other factors such as:

- Council's board diversity and inclusion policy (see policy objectives)
- candidates with knowledge of Te Ao Māori and established Māori networks
- alignment with the council's objectives for that entity
- board dynamics and stakeholder relationships
- the capacity of candidates to attend regular board meetings and fulfil the other requirements of the directorship
- Chair and deputy Chair succession planning.

## **7.5 Council decision**

~~Council~~ The Appointments Committee will interview candidates from the ~~recommended~~ short-list with the public excluded to protect the interests and privacy of the candidates. This process will include a discussion of whether any actual or perceived conflicts of interest have been identified.

The Appointments Committee will then make a recommendation to Council to appoint the preferred candidate.

A decision on the appointment of board members will be a decision for the whole Council. Under Standing Orders, this vote is required to be taken by division.

Council will undertake this process in private and in accordance with the provisions of the Local Government Official Information and Meetings Act 1987.

The successful candidate(s) can be decided at a Council meeting (tenure effective immediately). All appointments will specify a term.

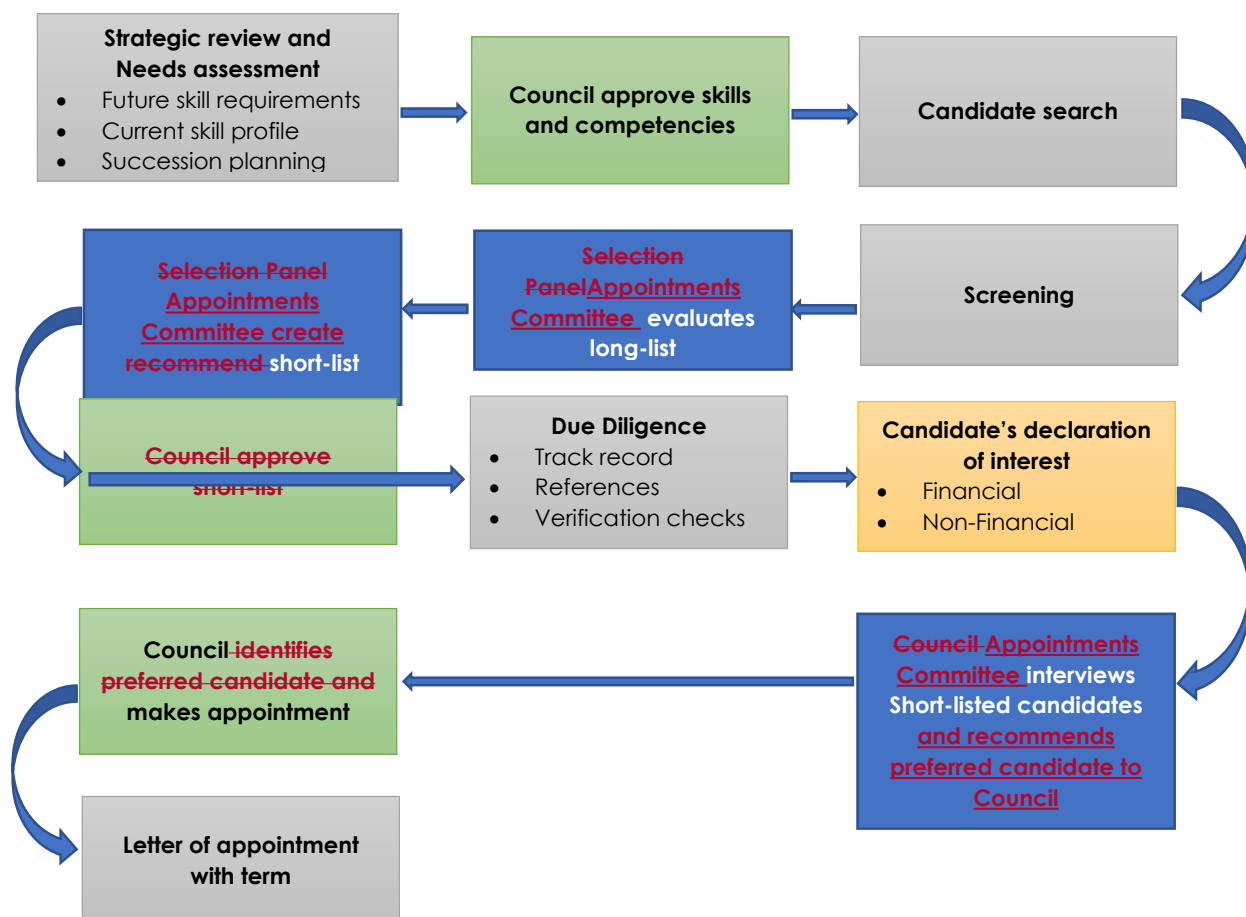
Public announcement of the appointment will be made as soon as practicable after the meeting where Council has made its decision.

Unsuccessful candidates will be notified.

Council may wish to signal to its Chief Executive other candidates who on interview, have presented with appropriate skills that match or are of benefit to Organisations for future vacancies within the next twelve-month period.

## 7.6 Appointment Process Flowchart

The diagram below provides an overview for the process for appointments.



## 8. Review of Board Member Performance

The review of board member performance will be conducted by Council within a sufficient timeframe in relation to board appointment rounds.

The review will be conducted by Council with the cooperation of the Organisation Chairperson. The process for that review will be:

- An interview with the Chairperson - with the objective of assessing individual director performance and contribution or in the case of reviewing the Chairperson an interview with the deputy Chair.
- Peer review summaries (this may include written questionnaires) – conducted six weeks before board appointment rounds.
- An assessment of the board's performance against stated objectives, quality of strategic initiatives, the implementation of those initiatives, and overall communication with the shareholder.

The review criteria for individual board members will include:

- preparedness for and attendance at meetings
- strategic perspective
- the ability to identify emerging trends and take action on a proactive basis
- understanding and performing governance functions
- constructive input to discussion.

Chairperson review (additional criteria):

- leadership of the board 'team'
- consistency and even-handedness
- judgement and decision making
- communication and mentoring.

## 9. Consent and Conflicts of Interest

Board members are required to declare any real or potential conflicts of interest that may arise during the course of carrying out their duties for Organisations. Likewise, all candidates will be required to complete a consent form and to declare any relevant interests, prior to being interviewed for a position on a board, so that the potential for a conflict of interest can be assessed.

In making appointments to boards, Council will take into consideration a candidate's existing directorships, and any other potential conflicts of interest.

In the event of a real or potential conflict of interest (where the person involved has an "interest in a proposed transaction" for example may derive a personal financial benefit) the director must exclude themselves from participation in any debate with respect to the transaction and any resulting dealings with the third parties or approval of transactions. In the rare event where exclusion is not deemed to be practicable, directors must obtain formal written permission to proceed from the chair of the board.

In considering any appointment or reappointment where a potential conflict of interest has been identified, Council needs to be confident that:

- The board member or candidate will be able to make an effective contribution, even if their interest means they cannot participate in an activity of the Organisation that relates to a particular matter.
- The board member, or their parent, spouse or child will not derive a personal financial benefit from the transaction.
- Measures can be put in place to manage the conflict.

Further guidance on conflicts of interest can be found in sections 139 to 149 of the Companies Act 1993.

The Office of the Auditor-General also provides guidance on the management of interests and conflicts: [www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities](http://www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities)

## 10. Chair Succession Planning

These provisions are specifically for the position of chairperson of the GHL and Trust Tairāwhiti boards.

The purpose of succession planning is to provide for smooth transition of leadership in the event of a planned or unexpected retirement of an incumbent chair.

A person appointed as chair in their second term may be appointed for a further three-year term as chair, however their tenure as chair must not exceed six years. Council will generally consider the need for a potential successor as they make each board member appointment.

The selection panel will be responsible for managing the succession planning process, which may (but not necessarily) be initiated by the board. The process will include discussions with the chairperson, assessing the skills, knowledge and expertise required for the role, and identifying any board members who may be possible candidates. This must commence at least six months before the settling-in period referred to below, and one year before the proposed retirement of the current chairperson.

If the proposed candidate is new to the board there must be time for a settling-in period of at least one year before that person can be nominated for the role of chairperson.

The qualities expected of the chairperson include (but not exclusively) the ability to develop and maintain a:

- Sound relationship with Council based on mutual trust and confidence.
- Close but independent working relationship with the Organisation's Chief Executive.
- And, use the collective skills of the board and executive team for the purpose of achieving the Council's objectives (described in the 2018-2028 Long Term Plan).

It's expected that the board chair will identify potential successors or signal to Council if there are no candidates for future chair.

## 11. Removal of Board Members

Board members hold office at the pleasure of Council and may be removed at any time by Council resolution.

Without limiting the right of Council, the following are likely reasons for Council to remove a board member, where that board member:

- is regularly absent from board meetings without good justification
- no longer has the confidence of the board or Council
- has breached ethical standards and this reflects badly on the board or Council
- does not act in the best interests of the Organisation
- breaches the confidence of the board in any way, including speaking publicly on board issues without the authority of the board or
- does not act in accordance with the principles of collective responsibility
- is now disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993.

Where the board has concerns regarding the behaviour of one of its members it should be considered by the board in the first instance and, where necessary, the board may recommend the removal of the board member to Council.

No payment will be made - by way of compensation - to board members who have been removed from boards.

## 12. Board Members Standing for Political Office

Board members who have been selected to stand as a candidate in a local body or general election should advise the chair of their board immediately. Chairs need to advise Council, through the Chief Executive as soon as any members of their boards have been identified as candidates.

Any board member who is formally selected to stand as a candidate for election at a local body or general election, or placed on any political party's list, must stand down from their board position from nomination day until the election results are notified or such earlier day as may be determined. This measure aims to ensure that governance of the Organisation is not distracted by the board member's election activity, and to prevent the possibility of any conflicts of interest, real or perceived.

In the event that the board member is successful in their bid for political office, they must formally retire from their board position. They may be eligible for appointment to another Organisation board following retirement.

## 13. Remuneration

Board members' fees will compensate board members fully for their normal contribution to the board, including attending board and Committee meetings, meeting preparation, stakeholder management and any other agreed tasks.

Board members' fees will reflect the element of public service in serving on the board of an Organisation and will accordingly be set at or below the average for comparable private sector entities.

To ensure transparency, fees will be set by Council for the board members and chairs, rather than allocating a pool to be distributed by the board. Fees are to be met from the Organisation's own resources.

Where Council is the sole shareholder (for example GHL) Council will set the remuneration by resolution at the Annual General Meeting of the Organisation or by resolution of Council. Such resolution shall state whether the remuneration is to be allocated by the Board or is to be specified for Directors and Chairperson.

In the instance of Trust Tairāwhiti trustees, the Trust Deed requires prior approval of Council before any changes are made to trustee remuneration.

There is no provision for the payment of retiring or other gratuities to board members.

### **13.1 Fee Setting**

Board members' remuneration will be reviewed once per triennium following local body elections. A full review will be conducted and will include benchmarking against comparative entities. The review will consider market movement and the final decision on board members' remuneration will be made by a resolution of Council. Fees will be set taking into consideration the following:

- The size and scale of the Organisation (for example turnover, value of assets, number of employees).
- Complexity and scope of operations (for example complexity of issues, level of guidance for decision-making, relationship management responsibilities).
- Accountability (for example scale of market risk, public interest and profile, potential risk to board member reputation, and other key risks).
- Skills - the type of expertise and specialisation needed.

Special considerations may also be included in setting fees, such as a temporary increase in workload for the board, or difficulties in recruiting particular skills.

### **13.2 Ordinary Fees**

Ordinary fees are calculated based on:

- The designated base fee per board member.
- Board Chairs will be remunerated at twice the designated base fee.
- 1.25 times the designated board member base fee for the Deputy Chair, to reflect either an actual appointment, or to provide the capacity for the council committee to later make such an appointment.
- 1.15 times the designated board member base fee for those members with duties as Chair.

There are no additional fees for board committee meetings.



Council supports the payment by Organisations of their board members liability insurance and indemnity.

### 13.3 Remuneration for Consultancy Services

Council expects that no board member will undertake consulting work for the Organisation. In the event that an exception to this rule appears appropriate, the Chair should seek Council approval in advance.



**Authorised by Nedine Thatcher Swann – Chief Executive**

**Date of approval:** ~~18 March 2021~~

## 14. Glossary

### Definitions

#### Organisation

An entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with the definition in section 6 of the LGA of a Council Organisation.

#### Council-controlled organisation

A council-controlled organisation (CCO) is defined in section 6 of the LGA as an organisation in which the council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers.

#### Council-controlled trading organisation

A council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit.

#### Director

An appointed member of the board of directors of an Organisation who, with other directors, has the responsibility for determining and implementing the Organisation's policy. Directors also assist the Organisation to meet its objectives and the requirements in its Statement of Intent. The Director's role is defined in S58 (1) of the LGA 2002.

Directors have responsibilities to their company and shareholders, and under the Companies Act 1993 must be registered with the New Zealand Companies Office.

**Trustee**

A trustee is a person that holds and administers property or assets for the benefit of a third party.

Directors and Trustee remuneration - Payments made to directors and trustees in accordance with this policy.

**Board and board member**

Refers to a Company Board, Trust Board and any other governing body however it may be referred to. The term board member includes directors, trustees, managers or office holders (however described by that entity) and is applied in this policy to mean role of director – as described in the LGA.

**Candidate**

Is a person who has been nominated, submitted a written application, or identified through search activities.

## Appendix One

### **Organisations to which this Policy Applies**

#### **As at March 2020**

1. Council-controlled Trading Organisation (CCTO) in which Gisborne District Council are the 100% shareholder:
  - Gisborne Holdings Limited
2. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed:
  - Trust Tairāwhiti
3. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed but are non-substantive:
  - Eastwoodhill Trust
  - Tairāwhiti Museum Trust Board
  - Barrington Miller Trust
  - Walter McLean Trust

**Title:** 22-267 Council & Committee Meeting Schedule 2023  
**Section:** Democracy & Support Services  
**Prepared by:** Penny Lilburn - Governance Advisor  
**Meeting Date:** Thursday 15 December 2022

Legal: Yes

Financial: No

Significance: **Low**

## Report to COUNCIL/TE KAUNIHERA for decision

### PURPOSE - TE TAKE

The purpose of this report is to enable Council to adopt the Council & Committee meeting schedule for the 2023 year.

### SUMMARY - TE WHAKARĀPOPOTOTANGA

Clause 19(6) Schedule 7 of the Local Government Act 2002 states:

- (6) If a local authority adopts a schedule of meetings –
  - (a) the schedule –
    - (i) may cover any future period that the local authority considers appropriate; and
    - (ii) may be amended; and
  - (b) notification of the schedule or of any amendment to that schedule constitutes a notification of every meeting on the schedule or amendment.

The year's meeting schedule for adoption is outlined in **Attachment 1**. Elected members and staff will also have available a meeting schedule for 2023 including Local Government New Zealand meetings, Citizenship ceremonies and Civic Awards.

Please note that the previously scheduled 9 March 2023 Sustainable Tairāwhiti has been moved to 16 March 2023 to accommodate a change in Local Government New Zealand's Zone 3 meeting which is attended by the Mayor and Chief Executive.

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. **Adopts the attached meeting schedule until the end of 2023.**

*Authorised by:*

**James Baty - Director Internal Partnerships**

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**Keywords:** adopt, meeting schedule, 2023, meetings

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## **BACKGROUND - HE WHAKAMĀRAMA**

1. There are two common meeting frequencies in New Zealand local government – monthly and six weekly. Historically, Council had a monthly meeting schedule until 2013 when a six weekly cycle was trialled for a year. The six weekly cycle resulted in fewer meeting cancellations and has been used ever since.
2. At the first Council meeting 17 November 2022, Council adopted the Committee structure.
3. Council meetings are required at the end of June for the adoption of the Annual Plan or Long-Term Plan, and at the end of September to adopt the Annual Report.
4. Where possible, meetings are held on Wednesdays and Thursdays to enable elected members to schedule and plan around these days.
5. Every second Council meeting beginning in March 2023 will be held on a Marae.
6. The Operations Committee will be split into two separate committees: Operations Environmental & Communities and Operations Infrastructure. These will both occur on the same day.
7. The Civil Defence Emergency Management Group no longer requires all councillors but consists of the Mayor, Deputy Mayor and four other councillors.
8. The Regulatory Hearings Panel and District Licensing will be scheduled as and when the need arises.
9. There are three new committees: The Tairāwhiti Resource Management Plan Review (TRMP), the Bylaw Submissions Hearing Panel and the Appointments Committee. The TRMP Review Committee consists of the Mayor or nominee plus five elected members, and up to six iwi appointees. The Committee will meet quarterly. The Bylaw Submissions Hearing Panel is made up of six councillors and meets as required, usually with three members on the panel. The Appointments Committee is made up of the Mayor (or the Mayor's appointee), Chief Executive, one independent and up to two councillors.
10. The Chief Executive Performance committee has changed from consisting of the Mayor and five councillors to consisting of the Mayor, Deputy and up to three councillors.
11. The number of meetings in 2023 are as follows;
  - Council - nine meetings
  - Finance & Performance - six meetings
  - Sustainable Tairāwhiti - five meetings
  - Operations - six meetings
  - Civil Defence Emergency Group - four meetings
  - Regional Transport - four meetings
  - Audit & Risk - four meetings
  - Wastewater Management - two meetings.
12. Consideration has been given to the NZ Primary and Secondary School holiday dates whenever possible.

[School terms and holiday dates 2023](#)

## **DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO ME NGĀ KŌWHIRINGA**

13. Council is required to adopt a meeting schedule – the only realistic options are whether it is a four or six weekly meeting cycle. Staff have only proposed a six-weekly cycle with the new Council and Committee structure.

## **ASSESSMENT of SIGNIFICANCE – TE 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

14. 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**

15. No external consultation is required when deciding on Council's governance arrangements.

## **COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI**

16. No external consultation is required when deciding on Council's governance arrangements.

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

17. There are no impacts or implications on climate change.

## **CONSIDERATIONS - HEI WHAKAARO**

### **Financial/Budget**

18. There are no financial implications in adopting Council's meeting schedule.

### **Legal**

19. Adopting a meeting schedule is in line with the Local Government Act 2002.

## **POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE ME NGĀ RITENGA WHAKAMAHERE**

20. There are no policy and planning implications in adopting a meeting schedule.

### **RISKS - NGĀ TŪRARU**

21. There are no known risks in adopting a meeting schedule.

## **ATTACHMENTS - NGĀ TĀPIRITANGA**

1. Attachment 1 - 2023 Council and Committee Meeting Calendar Council [22-267.1 - 2 pages]



# 2023 COUNCIL/COMMITTEE MEETING CALENDAR

Attachment 22-267.1

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
SUN 1	WED 1	WED 1	SAT 1	MON 1	THU 1 SUSTAINABLE TAIRĀWHITI
MON 2 DAY AFTER NEW YEAR'S DAY	THU 2	THU 2	SUN 2	TUE 2	FRI 2
TUE 3 NEW YEARS DAY OBSERVED	FRI 3	FRI 3	MON 3	WED 3	SAT 3
WED 4	SAT 4	SAT 4	TUE 4	THU 4	SUN 4
THU 5	SUN 5	SUN 5	WED 5	FRI 5	MON 5 KINGS BIRTHDAY
FRI 6	MON 6 WAITANGI DAY	MON 6	THU 6	SAT 6	TUE 6
SAT 7	TUE 7	TUE 7	FRI 7 GOOD FRIDAY	SUN 7	WED 7 FINANCE & PERFORMANCE
SUN 8	WED 8	WED 8	SAT 8	MON 8	THU 8 OPERATIONS
MON 9	THU 9	THU 9	SUN 9	TUE 9	FRI 9
TUE 10	FRI 10	FRI 10	MON 10 EASTER MONDAY	WED 10	SAT 10
WED 11	SAT 11	SAT 11	TUE 11	THU 11	SUN 11
THU 12	SUN 12	SUN 12	WED 12	FRI 12	MON 12
FRI 13	MON 13	MON 13	THU 13	SAT 13	TUE 13
SAT 14	TUE 14	TUE 14	FRI 14	SUN 14	WED 14
SUN 15	WED 15 FINANCE & PERFORMANCE	WED 15 AUDIT & RISK	SAT 15	MON 15	THU 15
MON 16	THU 16 OPERATIONS	THU 16 SUSTAINABLE TAIRĀWHITI	SUN 16	TUE 16	FRI 16
TUE 17	FRI 17	FRI 17	MON 17	WED 17 AUDIT & RISK	SAT 17
WED 18	SAT 18	SAT 18	TUE 18	THU 18 COUNCIL	SUN 18
THU 19	SUN 19	SUN 19	WED 19 FINANCE & PERFORMANCE	FRI 19	MON 19
FRI 20	MON 20	MON 20	THU 20 OPERATIONS	SAT 20	TUE 20
SAT 21	TUE 21	TUE 21	FRI 21	SUN 21	WED 21
SUN 22	WED 22 9AM: CDEM 1PM: RT	WED 22	SAT 22	MON 22	THU 22
MON 23	THU 23 COUNCIL	THU 23	SUN 23	TUE 23	FRI 23
TUE 24	FRI 24	FRI 24	MON 24	WED 24 CDEM	SAT 24
WED 25	SAT 25	SAT 25	TUE 25 ANZAC DAY	THU 25 9AM: WWM 1PM: RT	SUN 25
THU 26 9AM: SUSTAINABLE TAIRĀWHITI COUNCIL	SUN 26	SUN 26	WED 26	FRI 26	MON 26
FRI 27	MON 27	MON 27	THU 27	SAT 27	TUE 27
SAT 28	TUE 28	TUE 28	FRI 28	SUN 28	WED 28
SUN 29		WED 29	SAT 29	MON 29	THU 29 COUNCIL
MON 30 AUCKLAND ANNIVERSARY		THU 30 COUNCIL	SUN 30	TUE 30	FRI 30
TUE 31		FRI 31		WED 31	

Note – All meetings start at 9am unless otherwise specified. | Regulatory and District Licensing Committees will meet as required.

JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
SAT 1	TUE 1	FRI 1	SUN 1	WED 1	FRI 1
SUN 2	WED 2 FINANCE & PERFORMANCE	SAT 2	MON 2	THU 2	SAT 2
MON 3	THU 3 OPERATIONS	SUN 3	TUE 3	FRI 3	SUN 3
TUE 4	FRI 4	MON 4	WED 4	SAT 4	MON 4
WED 5	SAT 5	TUE 5	THU 5	SUN 5	TUE 5
THU 6	SUN 6	WED 6 9AM: CDEM 1PM: RT	FRI 6	MON 6	WED 6
FRI 7	MON 7	THU 7 SUSTAINABLE TAIRĀWHITI	SAT 7	TUE 7	THU 7
SAT 8	TUE 8	FRI 8	SUN 8	WED 8 FINANCE & PERFORMANCE	FRI 8
SUN 9	WED 9	SAT 9	MON 9	THU 9 OPERATIONS	SAT 9
MON 10	THU 10 COUNCIL	SUN 10	TUE 10	FRI 10	SUN 10
TUE 11	FRI 11	MON 11	WED 11	SAT 11	MON 11
WED 12	SAT 12	TUE 12	THU 12 COUNCIL	SUN 12	TUE 12
THU 13	SUN 13	WED 13 FINANCE & PERFORMANCE	FRI 13	MON 13	WED 13
FRI 14 MATARIKI	MON 14	THU 14 OPERATIONS	SAT 14	TUE 14	THU 14 COUNCIL
SAT 15	TUE 15	FRI 15	SUN 15	WED 15 CDEM	FRI 15
SUN 16	WED 16	SAT 16	MON 16	THU 16 COUNCIL	SAT 16
MON 17	THU 17	SUN 17	TUE 17	FRI 17	SUN 17
TUE 18	FRI 18	MON 18	WED 18	SAT 18	MON 18
WED 19	SAT 19	TUE 19	THU 19	SUN 19	TUE 19
THU 20	SUN 20	WED 20 AUDIT & RISK	FRI 20	MON 20	WED 20
FRI 21	MON 21	THU 21	SAT 21	TUE 21	THU 21
SAT 22	TUE 22	FRI 22	SUN 22	WED 22 AUDIT & RISK	FRI 22
SUN 23	WED 23	SAT 23	MON 23 LABOUR DAY	THU 23 SUSTAINABLE TAIRĀWHITI	SAT 23
MON 24	THU 24	SUN 24	TUE 24	FRI 24	SUN 24
TUE 25	FRI 25	MON 25	WED 25	SAT 25	MON 25 CHRISTMAS DAY
WED 26	SAT 26	TUE 26	THU 26	SUN 26	TUE 26 BOXING DAY
THU 27	SUN 27	WED 27	FRI 27	MON 27	WED 27
FRI 28	MON 28	THU 28	SAT 28	TUE 28	THU 28
SAT 29	TUE 29	FRI 29	SUN 29	WED 29	FRI 29
SUN 30	WED 30	SAT 30	MON 30	THU 30 9AM: WWM 1PM: RT	SAT 30
MON 31	THU 31		TUE 31		SUN 31

Note – All meetings start at 9am unless otherwise specified. | Regulatory and District Licensing Committees will meet as required.

## 11. Reports of the Chief Executive and Staff for INFORMATION



22-262

**Title:** 22-262 Climate Change Update  
**Section:** Strategy  
**Prepared by:** Magnus Abraham-Dukuma - Senior Policy Advisor - Climate Change Focus  
**Meeting Date:** Thursday 15 December 2022

Legal: Yes

Financial: No

Significance: **Low**

### Report to COUNCIL/TE KAUNIHERA for information

#### PURPOSE – TE TAKE

The purpose of this report is to provide an update on our climate change response covering key national, regional, and organisational developments.

#### SUMMARY – TE WHAKARĀPOPOTOTANGA

Climate change remains a major environmental risk to the world, with 2022 likely to be the sixth warmest year on record. The scientific evidence tells us we have a short window (just under a decade) to significantly cut emissions to avoid the worst impacts of climate change. However, actions to reduce emissions and adapt to the locked-in impact of a warming world continue at international, national and local levels.

As a local authority, we are at the forefront of driving climate action here in Tairāwhiti. Council set an ambitious net-zero 2030 target in March 2022 [[Report 22-30](#)] and adopted a climate change roadmap to 2050 to inform our broad response to the climate change [[Report 22-143](#)]. We are working on a draft Emissions Reduction Plan (ERP) for Council's consideration.

This report provides a general update on climate change developments in the following order:

- **key international developments** — covering the global emissions gap report, the global land use gap report, and a summary of the United Nations 27<sup>th</sup> annual conference on climate change (COP27) held 6-18 November 2022.
- **National level climate change update** — covering Government's consultation on pricing agricultural emissions, Government's biofuels mandate programme, the upcoming standards of the Task Force on Climate-related Financial Disclosures (TCFD), and work on an Equitable Transition Strategy.
- **Regional and organisational climate change update** — covering various pieces of work such as the state of regional decarbonisation and just/equitable transition planning, the Tairāwhiti climate change risk assessment project, and progress on our climate change work programme.
- **Notable local government climate change-related events/actions** — covering events/actions by some councils, including our organisational mitigation and adaptation planning.

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. Notes the contents of this report.**

*Authorised by:*

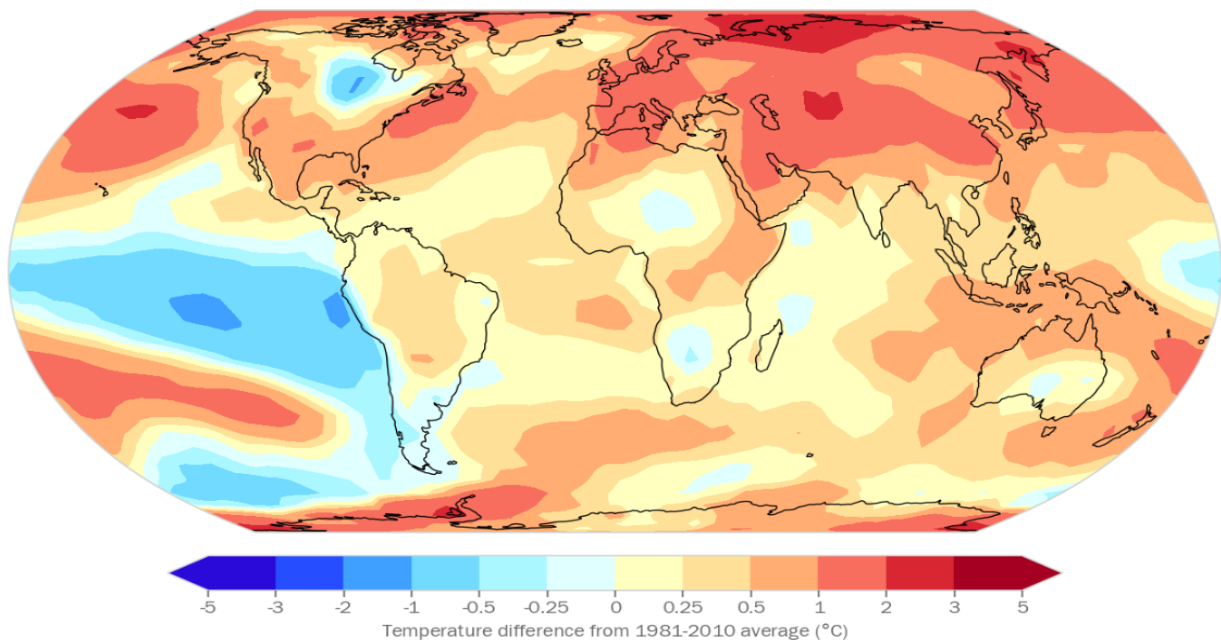
**Joanna Noble - Chief of Strategy & Science**

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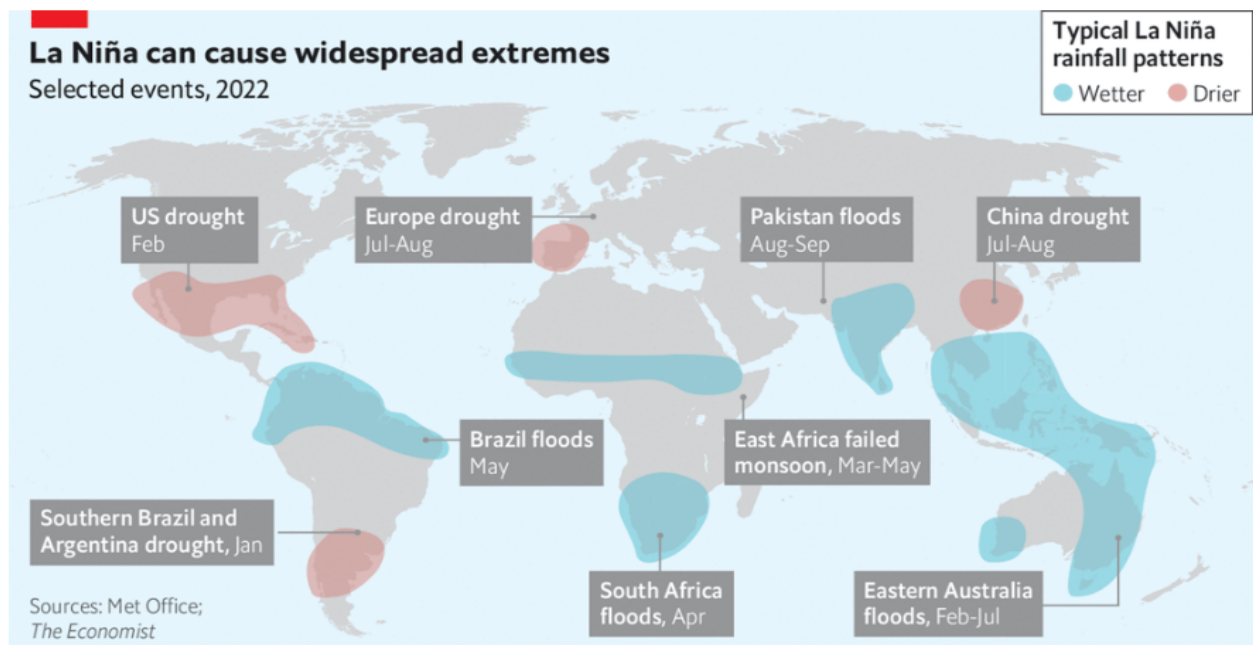
**Keywords:** Climate change; Climate action; Climate change update.

## BACKGROUND - HE WHAKAMĀRAMA

1. Our world and international economic systems are still heavily carbon driven, and this ongoing trend continues to cause warmer temperatures and disrupt the balance in nature.
2. The World Meteorological Organization (WMO) [estimates](#) the global mean temperature of 2022 to be about 1.15°C above the 1850-1900 pre-industrial average. 2022 is likely to be the sixth warmest year on record. This means that the world is getting warmer, with various countries experiencing temperature anomalies and widespread extreme weather events (**Figures 1 and 2**).



**Figure 1:** Annual temperature anomalies in 2022 (**Source:** [Berkeley Earth](#)).



**Figure 2:** Widespread extreme weather conditions linked to climate change.

3. These climatic events and impacts call for more serious actions to reduce emissions and adapt to the already locked-in impact of climate change globally.
4. They also inform the need to keep progressing our organisational and regional climate change work.

## DISCUSSION and OPTIONS – WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

### KEY INTERNATIONAL DEVELOPMENTS

#### The global emissions gap report

##### What is the Emissions Gap Report (EGR)?

*This is a series of assessments that track the progress of the world in limiting temperature increase below 2 degrees Celsius while making additional efforts to stay within 1.5 degrees Celsius in line with the Paris Agreement. The United Nations Environmental Programme (UNEP) has published these assessments annually since 2010.*

5. The United Nations Environment Programme (UNEP) released the 13<sup>th</sup> edition of the global [Emissions Gap Report \(EGR\)](#) in October 2022.
6. The EGR shows that the national commitments and actions of countries do not make a significant difference in comparison to the scale of action needed to limit increasing global temperature.
7. According to the [report](#), implementing the current policies of countries suggest a high probability of a 2.8°C temperature rise by the end of the century, while implementation of the current pledges made will only reduce this projected temperature increase (2.8°C) to between 2.4-2.6°C temperature rise by the end of the century.
8. Another [assessment](#) shows that the world is on track to emit a record 40.6 billion metric tons of carbon dioxide by the end of 2022, leaving a 50% chance the planet will warm an average of 1.5°C by 2030/31.
9. These all suggest that all countries must drive an urgent system-wide transformational change to deliver the needed cuts to emissions by 2030 to about 45% to achieve or come close to achieving the goal of limiting global temperature rise to between 1.5-2°C.

#### The global land use gap report

##### What is the Land Use Gap Report (LUG)?

*This is an assessment of how countries are using land in climate pledges around the world. The assessment is done by an international team of researchers from different universities and research institutes across various continents.*

10. The [Land Use Gap Report](#), published in November 2022 by a group of institutions, shows that the carbon removal/sequestration aspects of countries' climate pledges will require a vegetation cover of about 1.2 billion hectares (ha) of land.
11. This landmass is equivalent to an area larger than the United States of America and approximately four times the size of India and near the total land size currently used for agriculture worldwide.
12. The report suggests significant land use disruptions which will have adverse impacts on food production and other socio-economic impacts.
13. One other important implication of the report is that we cannot plant our way out of the climate change crisis.

## Summary of the United Nations 27<sup>th</sup> annual conference on climate change (COP27)

### What is COP27?

*COP27 is the 27<sup>th</sup> annual Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC). The first COP (COP1) was held in Berlin, Germany in March 1995 and the COP meetings have continued annually since then across various countries of the world. COP27 was held in Sharm El Sheikh, Egypt from 6-18 November 2022.*

14. COP27 held in Egypt from 6-18 November 2022 with discussions around four key themes:

- Mitigation — driving actions to significantly reduce emissions.
- Adaptation — supporting countries to adapt to climate change.
- Finance — providing the funds needed to mitigate and adapt to climate change, especially to developing countries. This is now known as **"payments for loss and damage."**
- Collaboration — countries working together to drive climate action globally.

15. Some key take-aways from the conference are as follows:

- Loss and damage at the forefront of talks — developed countries expected to make significant contributions to ensure equitable action and adaptation in developing countries, especially as developed countries were majorly responsible for climate change.
- US-China climate cooperation signalled — officials from both countries to empower key senior officials to progress cooperation on climate action and other things.
- Global early warning system action launched — countries to invest \$3.1 billion between 2023 and 2027 in a system that will provide early warning on significant climate impacts before they happen.
- European Union made a new emissions reduction target — to cut emissions by 57% by 2030.
- An indigenous-led blue carbon<sup>4</sup> regime, Hinemoana Halo, was launched — the initiative aims to attract investment of \$100 million to support Māori to protect, care for, manage and monitor New Zealand's coastal waters and high seas in partnership with local communities, using traditional and science-based approaches.
- No direct promise to end the use of fossil fuels, but agreement to phase down the use of coal and other fossil fuels.
- Criticism by climate activists for countries backing fossil fuel projects.
- Environmental damages of the Russia-Ukraine war emphasised.
- Over-consumption linked to rising emissions and climate change.
- Initiatives launched for Africa — the Energy Transition Accelerator to support African countries in their shift to a low carbon future, and the Africa Carbon Markets Initiative to develop a credible emission trading scheme for African countries.
- Private sector collaboration and pledge to provide financing for the net-zero agenda.

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<sup>4</sup> Blue carbon is the term for carbon captured by the world's ocean and coastal ecosystems. The ecosystem for blue carbon consists of mangroves, salt marshes and seagrass and these highly productive coastal ecosystems are particularly significant for their ability to store carbon in the plants and sediments.



## NATIONAL LEVEL CLIMATE CHANGE DEVELOPMENTS

### Consultation on pricing agricultural emissions

16. The Ministry for Primary Industries (MPI) and Ministry for the Environment (MfE) have just finished consulting on options to price agriculture emissions: [Pricing agricultural emissions](#).
17. The consultation seeks to provide an acceptable option to price emissions from the agricultural sector, which accounts for 50% of our national emissions. It builds on the [previous consultation](#) by the He Waka Eke Noa (the Primary Sector Climate Action Partnership<sup>5</sup>), which concluded in April 2022 on options to price emissions from the agricultural sector — whether at the **farm-level** or at the **processor-level**.
18. **Attachment 1** is a summary information sheet, including the options Government is proposing and who will be impacted. There is no impact on Council; however, if adopted, it will impact on the agriculture sector of our region due to our high involvement in agricultural activities that are covered under the emissions pricing options. These include dairy, sheep and beef, lamb, wool and venison.
19. The consultation closed on 18 November 2022. Council did not make a submission due to the very short window and other pieces of work during the period being a priority.
20. Government is expected to finalise the pricing regulation early 2023 to be effective by 1 January 2025.

### Government postpones implementation date for biofuels mandate

21. In 2021, Central Government agreed to implement a biofuels mandate (to be known as the Sustainable Biofuels Obligation) as part of the policy package to reduce transport emissions in New Zealand.
22. The Sustainable Biofuels Mandate was supposed to be effective by April 2023 following needed policy work by relevant Government agencies, but Government announced in November that it was postponing the implementation date for the mandate to April 2024 to avoid significant adverse impacts on New Zealanders.
23. When implemented the expected Sustainable Biofuels Mandate is expected to prevent up to 9 million tonnes of emission from cars, trucks, trains and ships by 2035 by requiring fuel wholesalers to reduce the carbon intensity<sup>6</sup> of fuels in support of the national emission reduction targets.

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<sup>5</sup> **He Waka Eke Noa** is made up of 13 partners: Beef and Lamb New Zealand, Federated Farmers of New Zealand, DairyNZ, Apiculture New Zealand, Deer Industry New Zealand, Horticulture New Zealand, Irrigation New Zealand, Meat Industry Association (MIA), Dairy Companies Association of New Zealand, Foundation for Arable Research (FAR), Federation of Māori Authorities (FoMA), Ministry for Primary Industries (MPI) and Ministry for the Environment (MfE).

<sup>6</sup> This means the rate at which greenhouse gas emissions occur through the production of fuels. Heavy fuels have greater emissions intensity and are more harmful to the environment.



### **Climate reporting standards are coming**

24. In 2020, Government announced its intention to implement mandatory reporting on climate risks and tasked the External Reporting Board (XRB)<sup>7</sup> with developing reporting standards to support the new reporting regime.
25. The XRB recently concluded its third consultation on how some institutions in the country might be required to disclose their climate-related risks.
26. The XRB is expected to finalise and publish the standards to inform such disclosures in December 2022.
27. When finalised, the standards will require mandatory climate-related disclosures by large listed companies (companies with a market capitalisation of more than \$60 million); large registered banks, licensed insurers, credit unions, building societies and managers of investment schemes (with more than \$1 billion in assets) and some Crown financial institutions (via letters of expectation).
28. The forthcoming standards are not likely to impact Council as we are not under the category of entities that will be required to complete climate-related financial disclosures. However, this may become mandatory for the local government sector in the future, so it is worth monitoring and preparing ahead of time. Council could voluntarily produce a disclosure.

### **Government starts work on an Equitable Transitions Strategy**

29. In November 2022, Government started asking for public input to inform New Zealand's Equitable Transitions Strategy. This work was identified in the [National Emissions Reduction Plan](#) as an important step to ensure an equitable process through which the country will transition to a low emissions future without significant adverse impacts on vulnerable groups.
30. The Ministry of Business, Innovation & Employment (MBIE) and Ministry for Social Development (MSD) are leading a [process to get public input](#) from now until April 2023. An online survey is live and there will be opportunities for discussions through workshops and targeted hui. This feedback will inform the drafting of the Equitable Transitions Strategy that will be ready for public consultation in June 2023.
31. Government plans to finalise the Equitable Transitions Strategy by June 2024.<sup>8</sup>

## **REGIONAL AND ORGANISATIONAL CLIMATE CHANGE RESPONSE**

### **Update on the Tairāwhiti Climate Change Risk Assessment (TCCRA) Project**

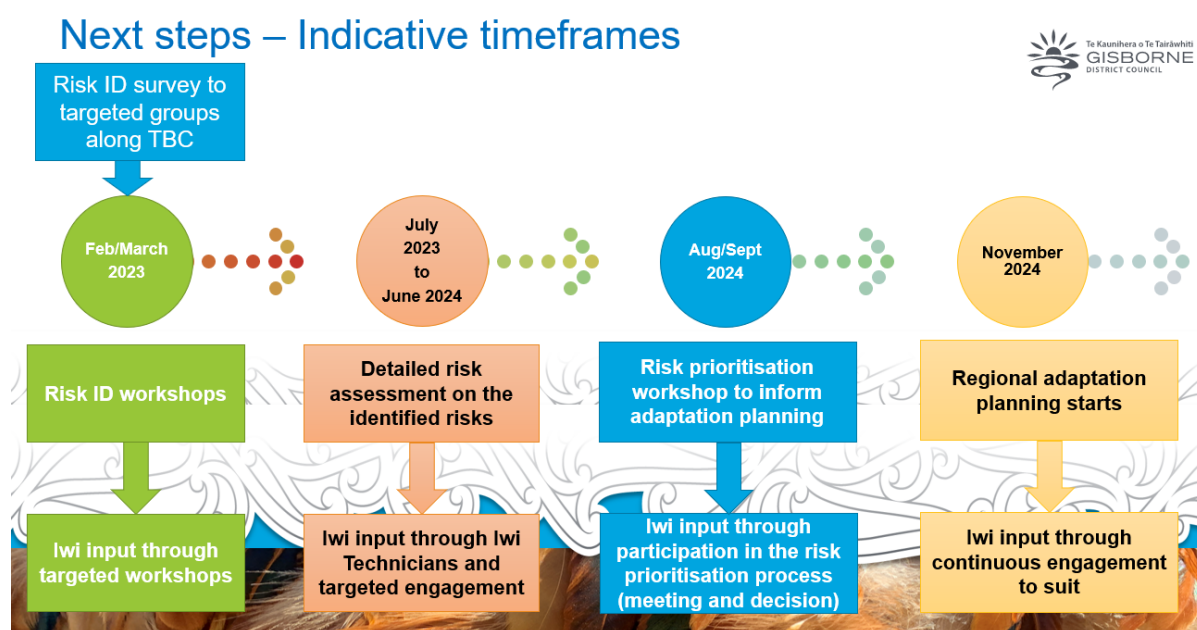
32. Completing a regional climate change risk assessment is a key piece of work in our climate change work programme and a fundamental step for our regional climate change adaptation planning.
33. Work on TCCRA started in May and Tonkin & Taylor was contracted to provide technical support in the delivery of the project.

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<sup>7</sup> The XRB is an independent Crown Entity established under New Zealand law, particularly the Financial Reporting Act 2013. It develops and issues reporting standards on accounting, audit and assurance, and climate, for entities across the private, public, and not-for profit sectors.

<sup>8</sup> Click [here](#) for more details about the terms of reference of the Equitable Transitions Strategy.

34. The project involves a climate risk survey, some workshops for iwi and stakeholders, risk rating, and risk prioritisation.
35. The TCCRA will help us deepen our understanding of the climate change risks we face as a region. We already know some of the risks, but we need to get a better understanding to inform our adaptation planning.
36. Staff formally introduced the project to Iwi Chief Executives on 31 August 2022 and received valuable feedback which has informed a revision of the project set up to aid better delivery.
37. Staff are also finalising engagement options for iwi and the wider community.
38. The indicative timeframes for next steps in the project are below:



### Regional Decarbonisation Planning

39. Developing a Tairāwhiti Just Transition Plan is an action (Task 9.1) in the [Tairāwhiti Economic Action Plan \(TEAP\)](#). Trust Tairāwhiti and Council are the co-leads for this piece of work, which will focus on informing how our region shifts to a low carbon future while avoiding adverse economic impacts on our communities. This is what we mean by just or equitable transition.
40. We have agreed to develop a regional decarbonisation roadmap to inform the key milestones and timeframes for an equitable decarbonisation to occur in the region.
41. We have recently contracted Beca<sup>9</sup> for technical support for this kaupapa.
42. Stakeholder and iwi engagement is being scoped as one of the first steps in the project. It is expected to begin between January and ending early February 2023.
43. Work is currently ongoing to agree on the governance set up for the project — Governance Body, Regional Project Working Group and Community Advisory Group.
44. Staff expect that the regional decarbonisation roadmap will be developed and presented to Council in 2023.

<sup>9</sup> Beca is an external consultancy with climate change and socio-economic transition expertise.

## **Our Climate Change Roadmap Project**

45. Staff have been working on Council's overall climate change roadmap. This document captures the key timeframes and milestones for our climate change response actions.
46. At its meeting on 28 July 2022, Council adopted the draft roadmap with edits [[Report 22-143](#)].
47. Staff have revised and finalised the document following Council's direction. It is now set for official launch/release to the wider organisation and public. An indicative timeframe for this is between December 2022 and early 2023.

## **Our Organisational Emissions Reduction Plan (ERP)**

48. Staff are finalising a draft Emissions Reduction Plan (ERP) for Council. The original intent was to present to the December Council meeting; however, we need to do some further work on the costings. It will be presented to Council in early 2023.
49. Once adopted by Council, the ERP will guide the key actions that Council will take to achieve its net-zero 2030 target.

## **Mode shift strategy**

50. Staff are planning to deliver a transport mode shift strategy<sup>10</sup>. This will be the key policy to help our region adopt low carbon transport options outside fossil fuel-powered options.
51. The reason for the mode shift strategy is the need to reduce emissions nationally and regionally. New Zealand needs to reduce reliance on private cars and move more of our short urban trips into active and shared modes of travel such as walking, cycling and public transport.
52. As with many regions, Tairāwhiti has seen growth in private vehicle travel while public transport patronage declines and walking and cycling remains consistently low. Some reasons for this situation are as follows:
  - Cities that have been designed to prioritise travel by cars
  - A lack of good alternatives for shared and active travel due to historic under-investment
  - Limited incentives and disincentives for people to change how they travel.
53. Alongside development of Council's Walking and Cycling Strategy, staff are currently collecting the data necessary to understand transport choices in Tairāwhiti including:
  - Regional picture – who drives, who cycles and who rides the bus?
  - Understanding barriers to active and shared modes
  - What would reduce/remove those barriers.
54. The data collection will potentially be finalised early 2023 to inform the next steps we need to take to define needed solutions and deliver the strategy.

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<sup>10</sup> This means to change from one form of transportation to another.

## NOTABLE CLIMATE CHANGE DEVELOPMENT ACROSS COUNCILS

### Auckland's Electric Tug Gets International Recognition

55. Auckland's full electric tugboat (named **Sparky**) is the world's first full-sized electric tug. It has been named among [TIME Magazine's Best Inventions for 2022](#). Sparky is expected to save about 465 tonnes of CO<sub>2</sub> in diesel emissions annually and thereby contributing to Auckland's emission reduction goals.
56. The idea of building a fully electric tugboat was pitched in 2016.

### Christchurch Completes a Sustainability Showcase

57. On 28 October 2022, the Christchurch City Council partnered with experts at the University of Canterbury to present a climate change showcase.
58. The showcase was a collection of research by researchers at the University of Canterbury and actions by Christchurch Council towards addressing climate change and building a more sustainable future.
59. There were talks by dignitaries from Government and the academia; among them was Dr Rod Carr, the Climate Change Commission Chairperson.

### Auckland's Completes Annual Climate Action Festival

60. Throughout the month of October 2022, Auckland had a climate action festival. This is an annual event that started in October 2022 with a virtual public launch that coincided with the Auckland Harbour Bridge being lit up in the festival colours.
61. The idea behind the festival is to choose a theme to guide conversations around climate change and long-term sustainability in the Auckland region. The theme for this year's edition — **Ancestor, Me** — was designed to encourage inter-generational climate action and sustainability by Aucklanders.

### Climate Wellbeing Guide Developed for Communities

62. The New Zealand Association for Environmental Education (NZAEE) has recently developed a climate wellbeing guide — [Climate change: prepare today, live well tomorrow](#).
63. The guide is meant to be a learning guide for years seven and eight across communities and regions in New Zealand in supporting children to learn about climate change and what they can do to act in their own small ways.
64. The guide was informed by in-depth consultation with a diverse group of children and young people: rangatahi Māori, Pacific young people, and high school climate activists.

## ASSESSMENT of SIGNIFICANCE - TE 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:** Medium Significance

**This Report:** Medium Significance

The effects on individuals or specific communities

**Overall Process:** Medium Significance

**This Report:** Low Significance

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

**Overall Process:** Medium Significance

**This Report:** Medium Significance

65. 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

66. There has been no engagement with Tangata Whenua in the preparation of this report. Climate change will impact four key areas of Māori wellbeing. The areas include He Kura Taiao (living treasures), Whakatipu Rawa (Māori enterprise), He Oranga Tāngata (healthy people), Ahurea Māori, Tikanga Māori (Māori culture and practices).
67. As part of the Council-led regional climate change risk assessment, there will be engagement with iwi on how we work together to identify the climate risks Tairāwhiti faces and prioritise them for effective adaptation action.
68. Engagement with iwi is also planned in the regional decarbonisation roadmap work staff are leading with Trust Tairāwhiti. Staff will consider how this can be integrated with other projects, such as the Tairāwhiti Resource Management Plan review.

## COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

69. There has been no engagement with the community in the preparation of this report.
70. There will be community engagement for individual pieces of work where it is needed. Staff are currently looking into how best to integrate and complete engagements with similar themes.

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

71. This report has no climate change implications.

## **CONSIDERATIONS - HEI WHAKAARO**

### **Financial/Budget**

72. This report has no financial implications. Staff will present the financial implications of various pieces of work as we continue our climate response journey.

### **Legal**

73. We have a legal obligation under the Resource Management Act (RMA) to plan for the effects of climate change. There are no legal obligations identified in this report, but staff will ensure that various pieces of climate change-related work align with Council's legal obligations under the law.

## **POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE ME NGĀ RITENGA WHAKAMAHERE**

74. Current climate events and the scientific evidence presented above suggest the need to plan for mitigation and adaptation as required by the RMA. Staff are currently delivering various pieces of work identified in Council's climate change portfolio.

75. Our future Annual Plans, Long-Term Plans and other policy planning processes will need to align with best practices and needed changes to progress our climate response journey.

## **RISKS**

76. There are no risks associated with this report.

## **NEXT STEPS - NGĀ MAHI E WHAI AKE**

Date	Action/Milestone	Comments
March/April 2023	Staff will present the next climate change update report to Council.	This aligns with the reporting system detailed in the climate change portfolio.

## **ATTACHMENTS - NGĀ TĀPIRITANGA**

1. Attachment 1 - Summary information sheet on consultation to price agriculture emissions [22-262.1 - 1 page]

## Attachment 1: Summary information sheet on consultation to price agriculture emissions: Pricing agricultural emissions.

## Why the consultation?

Greenhouse gas (GHG) emissions continue to cause warmer temperatures globally and nationally. According to our [latest national emissions inventory](#), **agriculture accounts for 50% of our national emissions**. The New Zealand Emissions Trading Scheme (NZ ETS) was set up to put a price on GHG-emitting activities. To date, the **NZ ETS captures only 5% of agricultural emissions**. This is not a good system to encourage farmers to reduce emissions, although it is a difficult issue which has been the subject of ongoing discussion and negotiation by Government, farmers, growers, Māori, and other agricultural sector players. The current [consultation](#) seeks to provide an acceptable solution for all parties affected. This builds on the [previous consultation](#) by the **He Waka Eke Noa** (the Primary Sector Climate Action Partnership<sup>1</sup>), which concluded in April 2022 on options to price emissions from the agricultural sector — whether at the **farm-level** or at the **processor-level**.

## What are the 5 key take-aways from the deal?

1. Farm-levy levy option from 2025	2. Interim processor-level levy option	3. How about the 95% allocation?
<b>Who is affected?</b> Farmers and growers that meet defined thresholds will be required to calculate, report, and pay a prescribed levy for their emissions.	<b>What's the deal here?</b> If it is difficult to start the farm-level levy option by 1 January 2025, there will be a transitional plan to price agriculture emissions at the process level.	As noted above, till date, the NZ ETS captures <b>only 5%</b> of agricultural emissions and allows <b>95% free allocation</b> to farmers and growers. This will not change quickly under any new pricing system Government adopts, but <b>the 5% coverage will increase by 1% annually</b> to ease implementation burden on the agricultural sector.
<b>How will the levy work?</b> Farmers and growers will be compensated for any measures they put in place to reduce emissions or sequester emissions. These will be deducted from the levy they are supposed to pay for their emissions.	<b>Who will be affected at this level?</b> Meat and milk processors; manufacturers and importers of synthetic nitrogen fertiliser.	
<b>What happens to the revenue from the pricing/levy?</b> Funding management of system and emissions reduction measures.	<b>What happens to the revenue from the pricing/levy?</b> Funding for the system's operating costs, research and development, cost for setting up a feasible farm-level levy system in the future and emissions reduction measures on farms.	<b>4. Who will be directly impacted?</b> Farmers and growers generally (for the farm-level option). Meat and milk processors, manufacturers, and importers of synthetic nitrogen fertiliser (for the processor-level option).
5. Expected costs and impacts to the sector and others based on known modelling results		
Changes in sector revenue (% reduction in revenue relative to 2030)		
Dairy	6-7% under the farm-level pricing option	6-10% under the processor-level option
Sheep and beef	18-24% under the farm-level option	17-32% under the processor-level option
Changes in production (% reduction in production relative to 2030)		
Milk solids	4-5% under the farm-level option	5-8% under the processor-level option
Lamb	16-20% under the farm-level option	9-19% under the processor-level option
Beef	8-14% under the farm-level option	38-44% under the processor-level option
Wool	16-20% under the farm-level option	8-18% under the processor-level option
Venison	13-17% under the farm-level option	20-37% under the processor-level option
Potential cascading or indirect impacts to others		
<ul style="list-style-type: none"> <li>Scarcity of some agricultural products due to reduced production.</li> <li>Higher cost of agricultural goods and services due to internalised cost/pricing of emissions.</li> <li>Inequities (affordability concerns) for vulnerable groups already struggling with high cost of living.</li> </ul>		

<sup>1</sup> **He Waka Eke Noa** is made up of 13 partners: Beef and Lamb New Zealand, Federated Farmers of New Zealand, DairyNZ, Apiculture New Zealand, Deer Industry New Zealand, Horticulture New Zealand, Irrigation New Zealand, Meat Industry Association (MIA), Dairy Companies Association of New Zealand, Foundation for Arable Research (FAR), Federation of Māori Authorities (FoMA), Ministry for Primary Industries (MPI) and Ministry for the Environment (MfE).

## 12. Public Excluded Business

### RESOLUTION TO EXCLUDE THE PUBLIC

#### Section 48, LOCAL GOVERNMENT OFFICIAL INFORMATION and MEETINGS ACT 1987

That:

1. The public be excluded from the following part of the proceedings of this meeting, namely:

**PUBLIC EXCLUDED BUSINESS**

Item 12.1 22-239 Extension of Time – Gisborne Holdings Limited

2. This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information & Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole of the relevant part of the proceedings of the meeting in public are as follows:

Item 12.1	7(2)(a)	Protect the privacy of natural persons, including that of deceased natural persons.
	7(2)(i)	Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).