



**I, Kitea Tipuna, Tumu Whakarae Chief Executive, hereby give notice that
an Ordinary Meeting of Council will be held on:**

Date: Tuesday, 9 April 2024
Time: 1:30pm
Location: Council Chamber, Wairoa District Council,
Coronation Square, Wairoa

AGENDA

Ordinary Council Meeting

9 April 2024

MEMBERSHIP: His Worship the Mayor Craig Little, Cr Denise Eaglesome-Karekare, Cr Jeremy Harker, Cr Melissa Kaimoana, Cr Chaans Tumataroa-Clarke, Cr Benita Cairns, Cr Roslyn Thomas

The agenda and associated papers are also available on our website: www.wairoadc.govt.nz

For further information please contact us 06 838 7309 or by email info@wairoadc.govt.nz

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- 1 KARAKIA**
- 2 APOLOGIES FOR ABSENCE**
- 3 DECLARATIONS OF CONFLICT OF INTEREST**
- 4 CHAIRPERSON'S ANNOUNCEMENTS**
- 5 LATE ITEMS OF URGENT BUSINESS**
- 6 PUBLIC PARTICIPATION**

A maximum of 30 minutes has been set aside for members of the public to speak on any item on the agenda. Up to 5 minutes per person is allowed. As per Standing Order 15.1 requests to speak must be made to the Chief Executive Officer at least one clear day before the meeting; however this requirement may be waived by the Chairperson.

7 MINUTES OF THE PREVIOUS MEETING

Ordinary Meeting - 12 March 2024

**MINUTES OF WAIROA DISTRICT COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, WAIROA DISTRICT COUNCIL, CORONATION SQUARE, WAIROA
ON TUESDAY, 12 MARCH 2024 AT 2:00PM**

PRESENT: His Worship the Mayor Craig Little, Cr Denise Eaglesome-Karekare, Cr Jeremy Harker, Cr Melissa Kaimoana, Cr Benita Cairns, Cr Roslyn Thomas

IN ATTENDANCE: **Kitea Tipuna** (Tumu Whakarae | Chief Executive) **Gary Borg** (Pouwhakarae – Pūtea/Tautāwhi Rangapū | Group Manager Finance and Corporate Support), **Hinetaakoha Viriaere** (Pouwhakarae Whakamahere me te Waeture | Group Manager Planning & Regulatory), **Michael Hardie** (Pouwhakarae – Hua Pūmau | Group Manager Assets and Infrastructure), **Juanita Savage** (Pouwhakarae Rātonga Hapori me te Whakawhanake | Group Manager Community Services and Development), **Sarayde Tapine** (Kaiurungi Kaupapa Here me Mana Ārahi | Policy and Governance Advisor), **Michael West** (Business Analyst), **Fenton Wilson** (QRS Director), **Lauren Jones** (QRS Director), **Tony Gray** (QRS Director) **Siobhan Storey** (QRS Chief Financial Officer), **Henare Mita** (Māori Standing Committee Chairperson), **Austin King** (Community Engagement Manager)

1 KARAKIA

The Opening Karakia was given by His Worship the Mayor, Craig Little.

2 APOLOGIES FOR ABSENCE

APOLOGY

RESOLUTION 2024/11

Moved: Cr Denise Eaglesome-Karekare

Seconded: Cr Melissa Kaimoana

That the apology received from Cr Chaans Tumataroa-Clarke be accepted and leave of absence granted.

CARRIED

3 DECLARATIONS OF CONFLICT OF INTEREST

Item 8.1 QRS Statement of Intent for the period 1 July 2024 to 30 June 2027 and half-yearly report to 31 December 2023 - Cr Jeremy Harker.

4 CHAIRPERSON'S ANNOUNCEMENTS

His Worship the Mayor welcomed new staff members Austin King (Community Engagement Manager) and Michael West (Business Analyst). Both Austin and Michael introduced themselves. His Worship the Mayor then welcomed QRS attendees presenting the QRS Boards statement of intent and half yearly report to Council.

5 LATE ITEMS OF URGENT BUSINESS

Nil.

6 PUBLIC PARTICIPATION

Nil.

7 MINUTES OF THE PREVIOUS MEETING**RESOLUTION 2024/12**

Moved: His Worship the Mayor Craig Little

Seconded: Cr Benita Cairns

That the minutes of the Ordinary Meeting held on 13 February 2024 be confirmed.

CARRIED

8 GENERAL ITEMS**8.1 QRS STATEMENT OF INTENT FOR THE PERIOD 1 JULY 2024 TO 30 JUNE 2027 AND HALF-YEARLY REPORT TO 31 DECEMBER 2023.****RESOLUTION 2024/13**

Moved: Cr Denise Eaglesome-Karekare

Seconded: His Worship the Mayor Craig Little

That Council receives the QRS draft Statement of Intent 2024-27 and the 6-month performance report to 31 December 2023.

CARRIED

The Group Manager of Finance and Corporate Support spoke briefly to this report and acknowledged that the half-yearly report to 31 December 2023 is exceptional. QRS attendees then presented their half yearly report to Council.

QRS Director, Lauren Jones spoke first and highlighted:

- The opening of the operations hub at QRS, proving advantageous not only for the organisation but also for the broader community.
- The training of school leavers in civil engineering by QRS, preparing them for both the future of QRS and the future of Wairoa.
- The majority of QRS staff are located in Wairoa, contributing significantly to the local economy.

QRS Chief Financial Officer (CFO) Siobhan Storey presented QRS financial highlights, highlighting the following key points:

- The revenue for the 6 months ending December 2022 was \$10.3 million. In contrast, with consideration to Cyclone Gabrielle, the revenue for the 6 months ending December 2023 was \$24.9 million.
- The initial investment by Wairoa District Council in QRS, amounting to \$1.25 million, has grown to \$11.65 million.
- Despite the current surge in funds, the QRS CFO emphasised the importance of fortifying the business for the future, preserving funds for debt settlement, and addressing the increase in liabilities from \$2.8 million to \$5.2 million.

The final part of the presentation was moved to public excluded to discuss. This was moved by Cr Eaglesome-Karekare and seconded by His Worship the Mayor.

8.2 WDC APPOINTMENTS TO THE TE ROHE O TE WAIROA MATANGIRAU RESERVES BOARD

RESOLUTION 2024/14

Moved: Cr Benita Cairns

Seconded: Cr Jeremy Harker

That Council receive the report and appoint Cr Thomas and Cr Kaimoana as the new Wairoa District Council representatives to the Te Rohe o Te Wairoa Reserves Board Matangirau with Cr Eaglesome-Karekare to remain in her position.

CARRIED

The Policy and Governance Advisor spoke to this report and highlighted the current Wairoa District Council representatives to the Te Rohe o Te Wairoa Matangirau Reserves Board.

Cr Eaglesome-Karekare noted she wanted to remain in her position on the Board. Cr Thomas and Cr Kaimoana expressed interest for a position on the Board. However, clarity is required around whether Cr Tumataroa-Clarke wants to remain on the Board.

This item was adjourned at 2:42pm to wait for a response from Cr Tumataroa-Clarke.

When this item resumed – Cr Thomas and Cr Kaimoana replaced His worship and Cr Chaans Tumataroa-Clarke as Wairoa District Council representatives to the Te Rohe o Te Wairoa Matangirau Reserves Board.

8.3 MINOR UPDATES TO REVENUE AND FINANCING POLICY AND SIGNIFICANCE AND ENGAGEMENT POLICY**RESOLUTION 2024/15**

Moved: Cr Benita Cairns

Seconded: Cr Jeremy Harker

That Council adopts the updated Significance and Engagement Policy and the updated Revenue and Financing Policy and in doing so confirms that no consultation is required due to the editorial nature of these updates.

CARRIED

The Group Manager Finance and Corporate Support spoke to this report. He noted feedback received from Māori Standing Committee Chair and acknowledged Cr Cairns in her roles in other committees meant she has provided useful feedback at each meeting and the wording for the development contribution policy is vague within the revenue and financing policy, attributing this to the Council providing only informal direction of its creation through a workshop.

8.4 HAWKES BAY INDEPENDENT FLOOD REVIEW PANEL SUBMISSION**RESOLUTION 2024/16**

Moved: Cr Denise Eaglesome-Karekare

Seconded: Cr Jeremy Harker

That Council receive the report.

CARRIED

The Group Manager of Planning and Regulatory Manager spoke briefly to this report, noting that the final report from the review panel, encompassing all findings and recommendations was originally slated for completion and release in May. However, due to awaiting a NIWA report, which was completed in the first week of March, the release of the final report is now scheduled for June.

Elected members recognised the report as an excellent submission that accurately reflects the thoughts and sentiments of the Councillors.

9 RECEIPT OF MINUTES FROM COMMITTEES/ACTION SHEETS

Nil.

10 PUBLIC EXCLUDED ITEMS**RESOLUTION TO EXCLUDE THE PUBLIC****RESOLUTION 2024/17**

Moved: His Worship the Mayor Craig Little

Seconded: Cr Jeremy Harker

That the public be excluded from the following parts of the proceedings of this meeting at 2:56pm.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
10.1 - Statute Barred Rate Arrears Write-off 2016-17	s7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
10.2 - CONCEPT DESIGN APPROVAL – WAIROA RIVER RESERVE RESTORATION	s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

CARRIED

RESOLUTION 2024/18

Moved: Cr Denise Eaglesome-Karekare

Seconded: Cr Roslyn Thomas

That Council moves out of Closed Council into Open Council at 3:30pm.

CARRIED

The Meeting closed at 3:31pm with a Closing Karakia given by His Worship the Mayor, Craig Little.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on 9 April 2024.

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CHAIRPERSON

8 GENERAL ITEMS

8.1 FREEDOM CAMPING BYLAW DETERMINATIONS

Author: Chase Cook, Kaiwhakahaere Tūtohu me te Whakaaetanga | Compliance and Licensing Manager

Authoriser: Kitea Tipuna, Tumu Whakarae Chief Executive

Appendices: Nil

1. PURPOSE

- 1.1 To provide Council with an analysis of options and recommendations for the control of freedom camping in the Wairoa District.

RECOMMENDATION

The Kaiwhakahaere Tūtohu me te Whakaaetanga | Compliance and Licensing Manager RECOMMENDS that Council:

1. Receive the '*Freedom Camping Bylaw Determinations*' Report;
2. Determine that a bylaw continues to be the most appropriate way of addressing the perceived problems related to freedom camping, made under section 11(2) of the Freedom Camping Act 2011 for one or more of the following purposes:
 - (i) to protect an area;
 - (ii) to protect the health and safety of people who may visit an area;
 - (iii) to protect access to an area.;
3. Request the Chief Executive initiate a review of the Wairoa District Council Consolidated Bylaw Part 9 – Freedom Camping to develop a new draft bylaw and statement of proposal for public consultation.

Note the review will consider the option to create a standalone Freedom Camping Bylaw as an alternative to the continued incorporation within the existing Wairoa District Council Consolidated Bylaw.

EXECUTIVE SUMMARY

New legislation released in 2023 has amended the Freedom Camping Act 2011 and this has prompted staff to assess how freedom camping is managed in Wairoa under the existing Wairoa District Council Freedom Camping Bylaw.

Freedom camping is an important issue for many in the community. The change in national legislation provides an opportunity to review Council's approach to ensure the bylaw is consistent with the new legislation. This opportunity also enables Council to ensure that it is meeting the needs of the community as well as those visitors to the District who choose to freedom camp.

The proposed review will consider development of a new standalone bylaw as an alternative to incorporation within the consolidated bylaw. This approach would help to create a more efficient and streamlined Council policy and regulatory environment.

2. BACKGROUND

- 2.1 Section 11 of [the Freedom Camping Act 2011](#) (the Act) enables councils to make a freedom camping bylaw where necessary for one or more of the following purposes:
- 2.1.1. to protect the area;
 - 2.1.2. to protect the health and safety of people who may visit the area;
 - 2.1.3. to protect access to the area.
- 2.2 The Act was amended in 2023 by the [Self-contained Motor Vehicles Legislation Act](#). Under [Schedule 1AA Part 1 Subpart 3 Section 10](#) of the new legislation, local authorities are required to amend or revoke existing bylaws to remove any inconsistencies.
- 2.3 Freedom camping in Wairoa District is currently managed under the Wairoa District Council Consolidated Bylaw Part 9 – Freedom Camping (the Bylaw). Council adopted the Bylaw under Section 11 of the Act on 10 September 2019. The Bylaw identifies areas within the District which require protection from the effects of freedom camping, was consulted on using the special consultative procedure and considered the views of tangata whenua. Implementation of the Bylaw is supported by an ambassador programme: Manaaki Tangata.
- 2.4 The current Bylaw is due for review by 10 September 2029. If not reviewed, the Bylaw will be automatically revoked by 10 September 2031 under the Local Government Act 2002 (LGA).
- 2.5 The recent change in legislation presents an opportunity to review and update Council's approach to freedom camping to ensure it aligns with the new legislation and is continuing to meet the needs of the community by supporting social, cultural, environmental and economic wellbeing in the District.

3. DISCUSSION

What is freedom camping?

- 3.1 Freedom camping is defined in the Act to mean camping within 200 metres of a motor vehicle accessible area or the mean low-water springs line of any sea or harbour, or on or within 200 metres of a formed road or a Great Walks Track, using one of more of the following:
- a) a tent or other temporary structure;
 - b) a motor vehicle.
- 3.2 It does not include:
- a) temporary and short-term parking of a motor vehicle;
 - b) recreational activities commonly known as day-trip excursions;
 - c) resting or sleeping at the roadside in a motor vehicle to avoid driver fatigue.
- 3.3 The Act also explicitly excludes those experiencing homelessness who may be living in a vehicle, tent or other temporary structure.

Freedom camping bylaws

- 3.4 The Act is permissive by default, which means its starting point is to allow freedom camping on all local authority land, that is land that is owned and/or managed by Council, unless it is prohibited by another enactment. The Act does recognise that some areas may not be suitable for freedom camping, and it enables Council to make a bylaw to manage freedom camping within the District. According to the Act a freedom camping bylaw may prohibit or restrict freedom camping where necessary for one or more of the following purposes:
- a) To protect an area – for example where there may be sites that are environmentally, historically or culturally significant;
 - b) To protect health and safety – of freedom campers and other people who may visit an area;
 - c) To protect access to an area – where the presence of freedom campers could block access or could cause damage to infrastructure.
- 3.5 The Act also requires the Council:
- 3.5.1. to have considered other ways to manage the problem, other than through a bylaw (this report fulfils this requirement);
 - 3.5.2. to be satisfied that any prohibitions or restrictions are the most appropriate and proportionate response to freedom camping demand in the area, and the problems it would cause if allowed;
 - 3.5.3. not to ban (or effectively ban) freedom camping on all Council managed land through a bylaw (known as blanket bans);
 - 3.5.4. to make a bylaw that is consistent with the New Zealand Bill of Rights Act 1990; and
 - 3.5.5. to clearly describe and/or map each area covered by prohibitions or restrictions, so freedom campers have certainty about what rules apply.

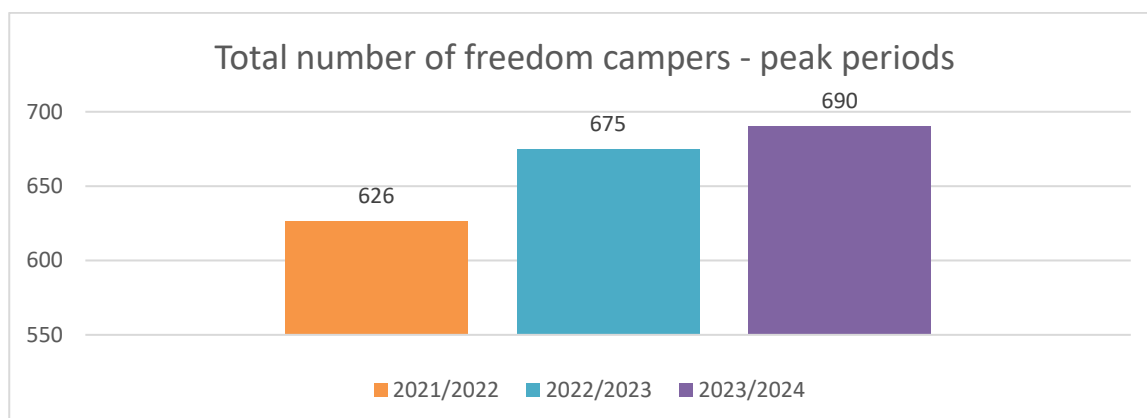
New legislation

- 3.6 [The Self-contained Motor Vehicles Legislation Act 2023](#) came into force in June 2023 making several amendments to the Act. The changes include:
- 3.6.1. the requirement for vehicle-based freedom campers to use a certified self-contained vehicle when they stay on council land, unless a council designates the site as suitable for non-self-contained vehicles;
 - 3.6.2. a new regulated national system for the certification and registration of self-contained vehicles;
 - 3.6.3. the requirement for vehicles to have a fixed toilet to be certified as self-contained; and
 - 3.6.4. strengthening of the infringement system with the introduction of a new tiered penalty system which entered into force in July 2023.
- 3.7 The new legislation states that if there is any inconsistency between a bylaw and the Act, local authorities must amend or revoke the bylaw to remove the inconsistency. It also states that where there is inconsistency the bylaw has no legal effect and the Act prevails.

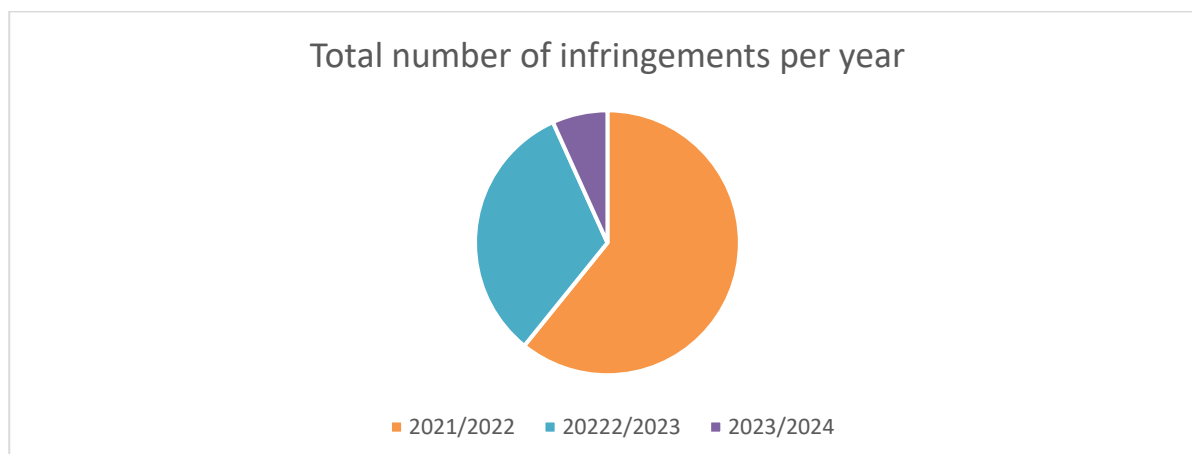
- 3.8 In response to the new legislation, [additional guidance](#) was released in January 2024. This guidance, including a new model bylaw, was developed by Local Government New Zealand (LGNZ), in consultation with the Ministry of Business Innovation and Employment (MBIE), the New Zealand Motor Caravan Association Incorporated (NZMCA) and Taituarā. The guidance provides a useful resource to Council for ensuring the approach to freedom camping is consistent with the Act.

Freedom camping in the District

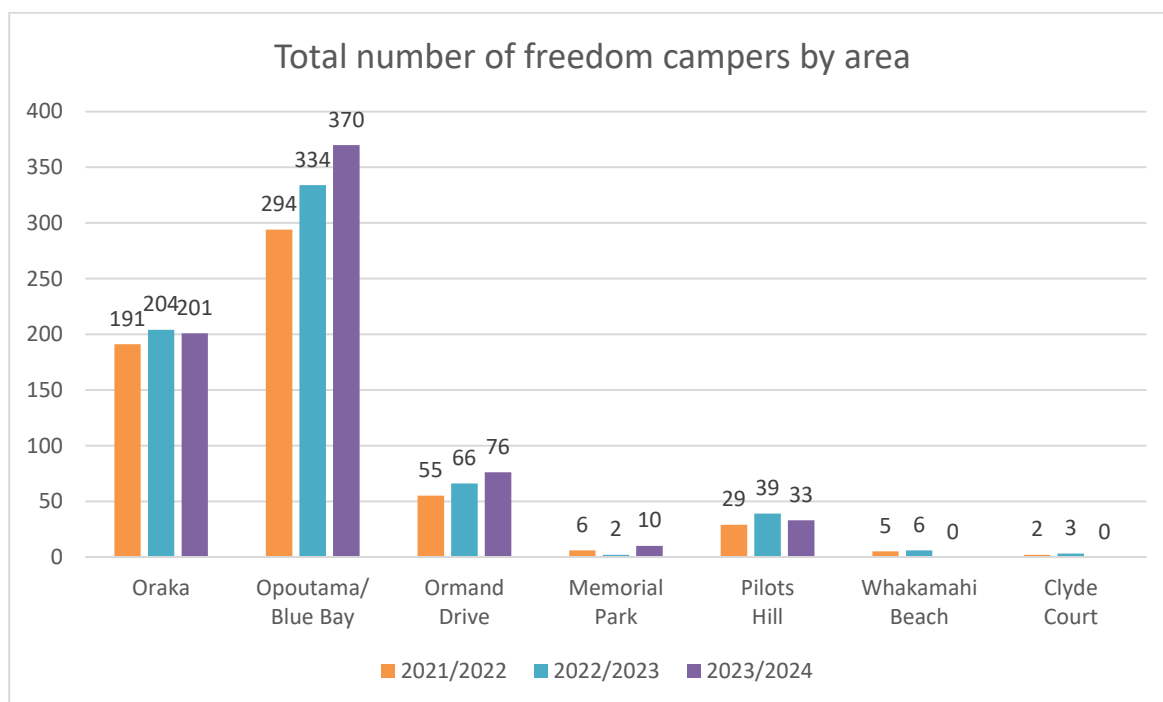
- 3.9 Wairoa District is a popular location for freedom campers, with the Mahia Peninsula in particular attracting high numbers of visitors at certain times of year. Freedom camping is an important part of tourism in the district and provides affordable holiday opportunities for those visiting both from outside the District and from within.
- 3.10 However, Freedom camping can also result in adverse effects on the community and the environment, especially at peak times. There are many attractive locations for freedom camping, especially in Mahia, however some are not appropriate for use, or their use should be carefully managed.
- 3.11 Freedom camping data for the Wairoa District shows increasing numbers of freedom campers during peak holiday periods from 2021 to 2024.



- 3.12 Despite an increase in numbers of campers, the total number of infringements has decreased. This is attributed to a change in the regulatory approach which includes the implementation of a freedom camping ambassador programme: Manaaki Tangata and which has demonstrated successful collaboration between Council and Ngāti Rongomaiwahine.



- 3.13 The most popular freedom camping areas in the District are Opoutama/Blue Bay and Oraka. These areas, as well as the Mahia East Coast Road where camping is currently prohibited in the existing Bylaw, are also the most problematic sites.



- 3.14 Freedom camping in the District presents several challenges. Problems related to freedom camping in the District include:

- 3.14.1. Health issues and environmental pollution from rubbish and human waste;
- 3.14.2. Damage or destruction of the natural environment, wāhi tapu, urupā and areas of cultural importance to tangata whenua, especially the Mahia Peninsula;
- 3.14.3. Obstruction of access to other users by large vehicles, large numbers of campers and lengthy stays;
- 3.14.4. Overflow of campers onto adjoining areas;
- 3.14.5. Reduction of visual amenity due to the location and number of campers in an area;

The current Bylaw

- 3.15 The Wairoa District Council Consolidated Bylaw Part 9 – Freedom Camping came into force in November 2019, pre-pandemic and prior to development of the Self-contained Motor Vehicles Legislation Act. It is due for review by 10 September 2029, however, the new legislation requires existing bylaws to be amended for consistency. Initial assessment against the new legislation and model bylaw indicates there are a number of inconsistencies between the current bylaw and the Act which can be addressed by a review. These include:

- 3.15.1. Updating definitions and references to sections of the Act;
The new legislation changed some clauses and definitions referred to in the Bylaw. References to these in the current bylaw, such as in Clause 1.

Introduction, Clause 6. Offences and Clause 7. Penalties, should be updated to align with the new legislation and most recent guidance.

- 3.15.2. Separating site assessment information from the content of the Bylaw;
To ensure a consistent and transparent approach to regulating freedom camping, it is considered best practice to comprehensively assess local authority areas against the three criteria in the Act. This is to ensure a transparent line of sight between a bylaw and the Act. Currently, the schedules of the Bylaw contain some information that would be better placed in a site assessment document. A separate document for site assessment information can inform decision making but does not form part of the bylaw. This would simplify the current Bylaw, improving clarity and readability. A separate site assessment document also enables Council to assess sites that may not form part of the eventual bylaw and to understand and articulate these areas may be omitted.
- 3.15.3. Removing references to issues that are out of scope of the Bylaw;
A freedom camping bylaw is unable to regulate issues that fall outside the scope, for example, dog control, littering and fire. These are dealt with under the Act and other primary legislation and to avoid duplication should be removed from the current Bylaw. In addition, a freedom camping bylaw can only apply to local authority land, that is land that is owned and/or managed by Council. It does not apply to private land, conservation (DOC) land or land under settlement (unless management arrangements with Council exist). For land described in Schedule 3, where there are public roads, these areas should be incorporated into the Bylaw. For non-local authority areas, communication about camping can be achieved using alternative means such as signage and these areas can be removed from the Bylaw.
- 3.15.4. Addressing the permission to camp within 100 metres of a public toilet facility;
Schedule two of the Bylaw identifies nine local authority areas where camping is permitted with restrictions. Each of these nine areas is identified by reference to a public toilet. While toilet facilities are a consideration for whether to allow for non-self-contained camping or not, the areas should be primarily assessed against the criteria in Act with any appropriate designated camping area informed by the assessment.
- 3.15.5. Reviewing consistency with the Reserves Act 1977.
Section 44 of the Reserves Act prohibits camping on gazetted reserves unless provided for in a reserve management plan. Many of the locations included in the current bylaw overlap with gazetted reserve. Ensuring consistency across Council documentation would improve clarity and understanding of where freedom camping is permitted, restricted and prohibited. A review of Council's reserve management plans is planned for the first three years of the 2024-2034 Long Term Plan. For consistency and efficiency, there is the possibility to conduct consultation for some of the reserves at the same time as the bylaw.
- 3.15.6. Potential to remove from the Consolidated Bylaw.
Many councils around the country are moving away from the consolidated approach to bylaws. Splitting the Consolidated Bylaw into separate bylaws, as each part comes due for review, will allow Council to establish more of a staggered approach to reviewing its bylaws and helps to smooth the workload of internal policy resources.

4. OPTIONS

4.1 The options identified are:

- a. Status quo – do not review the Bylaw.
- b. Review the current Bylaw under the Freedom Camping Act 2011 (recommended option).
- c. Revoke the Bylaw.

4.2 The options are described below. For each of the options the following applies:

- Information, education and advice will continue to be provided to the public through the ambassador programme: Manaaki Tangata, Council website and other Council communication methods as appropriate.
- Littering and traffic offences would be dealt with under the Litter Act 1979 and Land Transport Act 1998 respectively.
- Criminal behaviour, such as theft or assault, would be dealt with by the Police.
- Education about, and enforcement of, fire safety would be a matter for Fire and Emergency New Zealand to address.

4.3 Option a: Status quo

- 4.3.1. Under this option, the Council does not initiate a review of the existing Bylaw and, where there are inconsistencies, the Freedom Camping Act 2011 will apply. Under section 10 of that Act, freedom camping is generally permitted on all land owned or controlled by the Council, subject to restrictions and prohibitions provided for in other legislation. Council may be unable to enforce certain provisions in the existing Bylaw.
- 4.3.2. Advantages of this option include no direct cost to Council to review or make a new bylaw. If there are any further changes to the national legislation, these can be addressed as needed and the current Bylaw will remain in force within the Consolidated Bylaw until the required review period under the LGA in September 2029.
- 4.3.3. Disadvantages of this option include where the current Bylaw is inconsistent with the Act it will be unenforceable. This creates the risk that enforcement becomes piecemeal or inconsistent. There is a potential higher cost to Council to manage enforcement in this way and the risk of being unable to effectively regulate and address the negative impacts of freedom camping.

4.4 Option b: Review the current Bylaw under the Freedom Camping Act 2011 (recommended option).

- 4.4.1. Under this option Council confirms a bylaw is the most appropriate and proportionate response to problems caused by Freedom Camping. It would initiate a review of the current Bylaw to remove inconsistencies with the legislation with a view to make a new bylaw under the Freedom Camping Act 2011 to prohibit or restrict freedom camping on land owned or controlled by Council for one or more of the following purposes:
 - a) To protect an area;
 - b) To protect the health and safety of people who may visit an area;

c) To protect access to an area.

4.4.2. Advantages of this option include that it is consistent with prior Council decisions that a bylaw under the Act is necessary and appropriate to regulate freedom camping. It enables Council to engage with the community and address any new problems which have emerged related to freedom camping. It gives Council access to the infringement offences and enforcement powers under the Act. It provides the opportunity to separate the Freedom Camping Bylaw from the Consolidated Bylaw and make a new bylaw. Council has received funding from MBIE for the purposes of updating the bylaw. The funding covers part of the cost of creating an updated bylaw and so offsets some of the cost of this option.

4.4.3. Disadvantages of this option include the cost to Council and the community to review the Bylaw, including consultation.

4.5 Option c: Revoke the Bylaw.

4.5.1. Under this option, the Council determines that a bylaw is no longer needed to address the problems related to freedom camping and revokes the existing Bylaw. The Freedom Camping Act 2011 would apply which permits freedom camping on all local authority land except gazetted reserve. The Reserves Act 1977 would apply to Council reserves prohibiting freedom camping on all reserves unless provided for in a reserve management plan.

4.5.2. Advantages of this option include that Council can still regulate camping on reserves through reserve management plans and all regulation is under one piece of legislation, the Reserves Act.

4.5.3. Disadvantages of this option include the cost to Council and the community to revoke the Bylaw, including consultation, as this is still required in order to revoke a bylaw. It is also unlikely to be supported by the community who have engaged with and supported the previous bylaw. Areas will not be assessed against the criteria in the Act and Council will be unable to protect areas that are not reserves.

4.6 The preferred option is **Option b**: Make a bylaw under the Freedom Camping Act 2011, this contributes to the following community outcomes:

Cultural wellbeing	Economic wellbeing	Social Wellbeing	Environmental Wellbeing
Valued and cherished community.	Strong and prosperous economy.	Safe, supported and well-led community.	Protected and healthy environment

5. CORPORATE CONSIDERATIONS

What is the change?

5.1 Review and development will begin on a new stand-alone freedom camping bylaw which is consistent with the new legislation and responds to current needs.

Compliance with legislation and Council Policy

- 5.2 Complies with the Freedom Camping Act 2011 and the Act which amends it, the Self-Contained Motor Vehicles Legislation Act 2023.
- 5.3 Complies with the Local Government Act 2002.
- 5.4 Complies with the Reserves Act 1977 and Council Reserve Management Plans.

What are the key benefits?

- 5.5 A new, updated and appropriate bylaw will be developed which aligns the new national legislation, is enforceable and responsive to the needs of the community while ensuring protection of the criteria under the Act.

What is the cost?

- 5.6 Funding has been received from MBIE for the purposes of updating the approach to freedom camping in response to the new legislation. The funding covers part of the cost of creating an updated bylaw. Council will meet any additional resource requirements within existing budgets.

What is the saving?

- 5.7 N/A

Service delivery review

- 5.8 N/A

Maori Standing Committee

- 5.9 This matter has not yet been referred to the Committee. If Council determines to make a new bylaw, pre-engagement will be initiated with the Committee as well as through other key lines of communication with tangata whenua.

6. SIGNIFICANCE

- 6.1 There is a history of public interest in the issues related to freedom camping.
- 6.2 Section 11B of the Act requires Council to use the special consultative procedure under section 83 of the LGA when developing, reviewing, or revoking a bylaw.
- 6.3 Council may, in future, determine a Bylaw is no longer required to manage the problems associated with freedom camping and revoke the bylaw.
- 6.4 When applying restrictions and or prohibitions on freedom camping through a bylaw, the Act requires consideration of the cultural importance of areas which includes the protection of sites such as wāhi tapu and urupā as well as native flora, fauna and other taonga.

7. RISK MANAGEMENT

- 7.1 In accordance with the Council's Risk Management Policy the inherent risks associated with this matter are: Low and considerable.

Human	Financial	Regulatory
Low	Low	Low
Operations	Employees	Image & Reputation
Low	Low	Considerable

Who has been consulted?

- 7.1 Public consultation occurred in 2015 and 2019 on matters related to freedom camping.
- 7.2 Council has engaged resource to support the freedom camping ambassador programme: Manaaki Tangata.
- 7.3 The Act requires consideration of the cultural importance of areas and tangata whenua will be consulted.

Further Information

- [The Freedom Camping Act 2011](#)
- [The Self-contained Motor Vehicles Legislation Act 2023](#)
- [MBIE freedom camping changes](#)
- [LGNZ Freedom camping model bylaw and guidance](#)

References (to or from other Committees)

- Council 10 September 2019 – Freedom Camping Bylaw adoption
- Council 23 July 2019 – Freedom Camping Bylaw Review
- Council 10 November 2015 – Freedom Camping Bylaw

Confirmation of statutory compliance

The options and recommendations presented in this report comply with the requirements of section 155 (1) of the Local Government Act 2002. This section states that:

- 1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.

8.2 DISTRICT LICENSING COMMITTEE APPOINTMENTS

Author: Sarayde Tapine, Kaiurungi Kaupapa Here me Mana Ārahi | Policy and Governance Officer

Authoriser: Kitea Tipuna, Tumu Whakarae Chief Executive

Appendices: Nil

1. PURPOSE

- 1.1 Re-appointment of the members of the Wairoa District Licensing Committee.

RECOMMENDATION

The Kaiurungi Kaupapa Here me Mana Ārahi | Policy and Governance Officer RECOMMENDS that Council re-appoint Mr. David Fellows (Commissioner) and Mr Ross Pinkham (Member) for a fixed period of 1 year, starting 11 December 2023, and advertise for a Commissioner and Members of the District Licensing Committee to be in place by the 11th of December 2024.

BACKGROUND

- 1.2 The Wairoa District Licensing Committee was established as required under section 186 of the Sale and Supply of Alcohol Act 2012. The purpose of the committee is to consider all applications for liquor licences and other matters relating to the sale and supply of alcohol within the Wairoa District, including conducting licencing hearings, as provided under section 187 of the Act. The Commissioner has all the functions and powers of the chairperson of the District Licensing Committee, as provided under section 193(1) of the Act.
- 1.3 The tenure of Mr. David Fellows (Commissioner) and Mr Ross Pinkham (Member) of the Wairoa District Committee expired on 11th December 2023. The reappointment of the members of the District Licensing Committee will enable the committee to continue to serve the Alcohol Licencing requirements of the Wairoa community.
- 1.4 At a meeting held on Tuesday 5th February 2019, the Wairoa District Council resolved to re-appoint Mr. David Fellows as Commissioner, and Mr Ross Pinkham to serve as a members of the committee for a further term of 5 years starting 11 December 2018 to the Wairoa District Licensing Committee
- 1.5 The re-appointment of the members of the Wairoa District Licensing Committee, and the Commissioner to that committee, will serve the purpose of the Sale and Supply of Alcohol Act 2012, namely to facilitate the safe, responsible sale, supply and consumption of alcohol and to minimise the harm caused by the excessive or inappropriate consumption of alcohol.

2. DISTRICT LICENSING COMMITTEE (DLC)

- 2.1 The DLC is deemed to be a Commission of Inquiry. It also provides information to ARLA the Alcohol Regulatory & Licensing Authority. Each territorial authority must appoint one or more DLCs to manage licensing matters within its district.

Functions of the DLC include:

- determining applications for licences, managers' certificates and renewals (s.187(a)(b))
- determining temporary authority applications (on/off-licences)(s.187(c))
- varying, suspending or cancelling special licences (s.187(d))
- referring applications to ARLA (s.187(f))
- conducting inquiries and making reports as required by ARLA (s.187(g))
- other functions conferred on it by any Act. (s.187(h)).

2.2 Term of office:

- All members and the chair/commissioner are appointed for a period of up to five years and can be reappointed for one or more further periods of up to five years.
- A DLC member can resign at any time and can be removed for inability to perform functions, neglect, bankruptcy or misconduct.
- An elected member appointed as the chair of a DLC cannot continue if they cease to be an elected member, unless they have the required competencies and are appointed as a commissioner.

2.3 <https://resources.alcohol.org.nz/alcohol-management-laws/administering-alcohol-law/district-licensing-committees-dlcs>

3. OPTIONS

3.1 The options identified are:

- a. Re-appoint Mr. David Fellows (Commissioner) and Mr Ross Pinkham (Member) for a fixed period of 1 year, starting 11 December 2023, and advertise for a Commissioner and Members of the District Licencing Committee to be in place by the 11th of December 2024.
- b. Re-appoint Mr. David Fellows (Commissioner) and Mr Ross Pinkham (Member) to serve as members of the committee for a further term of 5 years starting 11 December 2023.
- c. Do nothing.

3.2 (a) – The current Commissioner and member have served on the Committee for over 10 years, it is important to go out and advertise to consider other potential options and to add additional members to the Committee to ensure it can continue to function at all times.

3.3 (b) – Continuing with the status quo and renewing the current Commissioner and Member for a further 5 years as permitted by the Act. However, this does have some risk as to hold a hearing there needs to be three members. Currently this would be Mr. David Fellows (Commissioner), Mr Ross Pinkham (Member) and Councillor Jeremy Harker (Deputy Chair - does not need reappointment) if one member was to be unavailable a hearing could not proceed.

3.4 (c) - The non-renewal of the tenure of the members of the Wairoa District Licencing Committee will result in the District Council being unable to process Alcohol licencing applications or deal with other matters relating to alcohol licencing, as provided under the Act, until a District Licencing Committee is re-established.

- 3.5 The preferred option is (a), Re-appoint Mr. David Fellows (Commissioner) and Mr Ross Pinkham (Member) for a fixed period of 1 year, starting 11 December 2023, and advertise for a Commissioner and Members of the District Licencing Committee to be in place by the 11th of December 2024. This contributes to the following community outcomes.

Cultural wellbeing	Economic wellbeing	Social Wellbeing	Environmental Wellbeing
Valued and cherished community.	Strong and prosperous economy.	Safe, supported and well-led community.	Protected and healthy environment

4. CORPORATE CONSIDERATIONS

What is the change?

- 4.1 No major changes.

Compliance with legislation and Council Policy

- 4.2 Complies with relevant legislation.

What are the key benefits?

- 4.3 To enable the efficient regulation of matters relating to the sale and supply of alcohol to continue.

What is the cost?

- 4.4 Costs covered by Alcohol Application Fees.

Maori Standing Committee

- 4.5 This report has not been referred to the Māori Standing Committee.

5. SIGNIFICANCE

- 5.1 N/A

6. RISK MANAGEMENT

- 6.1 In accordance with the Council's Risk Management Policy the inherent risks associated with this matter are: Low

Human	Financial	Regulatory
Low	Low	Moderate
Operations	Employees	Image & Reputation
Low	Low	Moderate

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

8.3 SUBMISSION TO DRAFT GOVERNMENT POLICY STATEMENT ON LAND TRANSPORT 2024

Author: Mike Hardie, Pouwhakarae - Hua Pumau | Group Manager Assets & Infrastructure

Authoriser: Kitea Tipuna, Tumu Whakarae Chief Executive

Appendices: 1. WDC Submission [↓](#)

PURPOSE

- 1.1 Provides information on the submission to the Draft Government Policy Statement (GPS) on Land Transport 2024.

RECOMMENDATION

The Pouwhakarae - Hua Pumau | Group Manager Assets & Infrastructure RECOMMENDS that Council receive the report.

BACKGROUND

- 1.2 The draft GPS submissions closed on April 2nd 2024.
- 1.3 The GPS outlines the Governments priorities for the next three years and is vitally important to Council.
- 1.4 Council Officers have highlighted key elements of the draft GPS that they wish to support and also have indicated if they seek support from government further, in form of the attached submission

2. KEY THEMES OF SUBMISSION

Economic Growth and Productivity

- 2.1 Request Nuhaka Opuatama Road and Mahia East Coast Road be included in the Roads of National Significance (or Roads of Regional Significance) programme(s)
- 2.2 Support Government implementing tolling on roads with high volumes and congestion.
- 2.3 Seek Government's support to progress walking and cycling improvements in our urban communities
- 2.4 Seek Government's support of broader outcomes and local suppliers/resource.

3. Increased maintenance and resilience

- 3.1 Support Government's increased priority on road maintenance and resilience
- 3.2 Support Government's intention to improve resilience of state highways and local roads.
- 3.3 Seek clarity and confidence that the investment required to ensure long term resilience and reliability of state highway 2 between Gisborne and Napier is forthcoming.
- 3.4 Suggest Government reviews the drivers of funding increases. Recommend reviewing regulatory requirements/standards related to workplace health and safety (e.g. Health & Safety at Work Act 2015 and associated precedents), temporary traffic management,

aggregate sourcing (e.g. Resource Management Act) with a view to ensuring value-for-money and fit-for-purpose outcomes

3.5 Support Government's focus on proactive rather than reactive maintenance approach, however notes that due to historic investment levels, network vulnerability and numerous recent severe weather events that this will take time to fully implement.

3.6 Support Government refocusing the Road Efficiency Group (Te Ringa Maimoa), with a view to delivering improved value for money. Suggests that the development of consistent (or maximum subsidised) road maintenance levels of service (by road classification) be considered as part of their scope.

3.7 Supports a review of temporary traffic management requirements across New Zealand

3.8 Support an improved response time to state highway hazards such as potholes, but recommend Government reconsiders implementation of a 24 hour response time to potholes. This would be a significant increase to current service levels and costs

4. Value for Money

4.1 recommends that local government are included in driving effectiveness and efficiency gains across the land transport sector, working alongside the NZ Transport Agency

4.2 supports a reduction in expenditure on temporary traffic management, while maintaining the safety of workers and road users

5. Safety

5.1 supports Government targeting road safety investment in the areas it is most needed

5.2 acknowledges that Wairoa's land transport network has one of the poorest safety records across the country. Improved road maintenance and targeted road safety improvements (enabled through Central Government funding), as well as effective road safety education and enforcement, is required to improve this

6. OPTIONS

6.1 The options identified are:

- a. Council receives the report
- b. Council do not receive the report

6.2 The preferred option is A, this contributes to the following community outcomes

Cultural wellbeing	Economic wellbeing	Social Wellbeing	Environmental Wellbeing
Valued and cherished community.	Strong and prosperous economy.	Safe, supported and well-led community.	Protected and healthy environment

7. RISK MANAGEMENT

7.1 In accordance with the Council's Risk Management Policy the inherent risks associated with this matter (submission) are:

Human	Financial	Regulatory
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Low	Low	Low
Operations	Employees	Image & Reputation
Low	Low	Low

Who has been consulted?

n/a

Further Information

<https://www.transport.govt.nz/area-of-interest/strategy-and-direction/government-policy-statement-on-land-transport-2024/>

References (to or from other Committees)

n/a

Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.



WAIROA DISTRICT COUNCIL

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01/04/2024

Submitted via GPS@transport.govt.nz

Wairoa District Council Submission to the Draft Government Policy Statement on Land Transport 2024-34

1. Introduction

Wairoa District Council (Council) would like to thank the Ministry of Transport for the opportunity to make a submission on the Draft Government Policy Statement on Land Transport 2024-34 (GPS).

Council is responsible for the management, operation, maintenance, renewal and improvements of 869 kilometres of local roads and associated infrastructure. The roads are the arteries for our district, providing residents and other road users the access needed to support economic, social, cultural and environmental wellbeing. State highways, especially state highway 2 to Napier and to Gisborne, are also critical to the wellbeing of Wairoa. Closures as a result of Cyclone Gabrielle isolated our district completely in terms of land transport access, again highlighting the vulnerability of our district and the need for reliable and resilient roads.

With an estimated replacement cost of over \$600M and only 9,000 people (approximately), ensuring sustainable and affordable levels of service to roads users is a key priority and challenge for Council. Council is heavily reliant on funding from the National Land Transport Fund via the NZ Transport Agency.

Severe weather events over recent years, including Cyclone Gabrielle, have placed extraordinary pressures on the district's road network – both local roads and state highways – and significant financial pressures on Council to address the direct damage and the increased deterioration of these critical assets.

Our recovery from Cyclone Gabrielle has highlighted that the sustainability and wellbeing of our district is underpinned by our road network. We know that significant additional investment to improve its resilience is required to support not only access around our district for residents and stakeholders, but also for those responding to emergency events and reinstatement of other lifelines infrastructure (e.g. water and wastewater systems, power, etc.).

Council's feedback regarding Government's Draft Government Policy Statement on Land Transport is provided below.

2. GPS Section 2: System Reform

- i. Council supports the Government's top priority for transport investment being supporting economic growth and productivity. Wairoa's economic potential has long been undermined by our vulnerable road network – both our local roads and state highways. Acknowledging Wairoa's social deprivation and affordability challenges, this cannot be resolved without significant central government investment to improve Wairoa's road network.
- ii. Council supports the Government's overarching goal for transport being an effective, efficient, safe, secure, accessible, and resilient transport system that supports the growth of our country's economy in order to deliver greater prosperity, security and opportunities for all New Zealanders. We seek additional investment that will enable WDC to give effect to this goal.
- iii. Council supports Government making it easier to sell land that is no longer required for transport purposes. This is especially relevant for the multitude of paper roads scattered across the Wairoa District and wider rural NZ.
- iv. Council supports Government Amending the Land Transport Management Act to require future Government Policy Statements on land transport to adopt a 10-year investment plan. The current lack of alignment between Central Government (i.e. the GPS), NZTA (i.e. the NLTP) and local government (i.e. LTPs) planning cycles has undermined the robustness of New Zealand's land transport investment planning.

3. Section 3: Strategic Priorities

Strategic Priority: Economic Growth and Productivity

- i. Council requests Nuhaka Opuatama Road and Mahia East Coast Road be included in the Roads of National Significance (or Roads of Regional Significance) programme(s). These roads serve as the only route for those living, working and playing on the Mahia Peninsular, including New Zealand's only rocket launch complex site (i.e. Rocket Lab Launch Complex 1).
- ii. Council supports Government implementing tolling on roads with high volumes and congestion. This provides NZ with the means to generate the increased revenue required in lieu of growing investment requirements.
- iii. Council seeks Government's support to progress walking and cycling improvements in our urban communities, especially Wairoa. Walking and cycling infrastructure supports those in our community without motor vehicle to travel for work, school, recreation, etc. Like many other small, rural Council's, Wairoa does not have the ratepayer base to funded these projects without Government funding.
- iv. Council seeks Government's support to maintain and encourage broader outcomes with a focus on local suppliers upskilling and delivering the land transport objectives for the community

Strategic Priority: Increased maintenance and resilience

- v. Council supports Government's increased priority on road maintenance and resilience, and ring-fenced funding for pothole prevention through adequate pavement resurfacing, rehabilitation and, especially, drainage.

- vi. Council supports Government's intention to improve resilience of state highways and local roads. Council notes that whilst Hawke's Bay isn't specifically mentioned, the comment that additional funding for North Island Weather Events (NIWE) is intended to be funded through a separate process to this GPS. Council seeks clarity and confidence that the investment required to ensure long term resilience and reliability of state highway 2 between Gisborne and Napier is forthcoming.
- We understand the NZ Transport Agency are currently seeking investment to improve the resilience of State Highway 2 north and south of Wairoa as part of the rebuild following Cyclone Gabrielle, and seek that the investment required to address the long standing state highway reliability issues negatively impacting Wairoa and the wider Hawke's Bay and Gisborne regions is approved. This is especially critical to address the vulnerable sites at the Devil's Elbow and Waikare Gorge, where numerous closures over recent years have negatively impacted our community.
- vii. Council notes Figure 6 regarding Maintenance funding trends – local roads, and suggests Government reviews the drivers of these funding increases. Councils are typically cost-takers, not cost-makers and we suggest that much of the increased funding needs (i.e. cost) is driven by factors out of the control of most road controlling authorities. We recommend reviewing regulatory requirements/standards related to workplace health and safety (e.g. Health & Safety at Work Act 2015 and associated precedents), temporary traffic management, aggregate sourcing (e.g. Resource Management Act) with a view to ensuring value-for-money and fit-for-purpose outcomes.
- viii. Council supports Government's focus on proactive rather than reactive maintenance approach, however notes that due to historic investment levels, network vulnerability and numerous recent severe weather events that this will take time to fully implement. Our roads are volatile to rapid deterioration – necessitating some reactive investment. Increased investment in preventive maintenance and resilience improvements will support this over time.
- ix. Council supports Government refocusing the Road Efficiency Group (Te Ringa Maimoa), with a view to delivering improved value for money.
- Council suggests that the development of consistent (or maximum subsidised) road maintenance levels of service (by road classification) be considered as part of their scope. This will enable improved consistency of service levels across New Zealand, while refocusing limited investment to where it is most needed (vs those who currently have higher than average service levels).
- x. Council supports a review of temporary traffic management requirements across New Zealand. Costs associated with temporary traffic management already represent a large portion of road activity costs, and we understand that the added cost implications of the new New Zealand Guide to Temporary Traffic Management (NZGTTM) are expected to be significant as large contractors seek to minimise their risk and liability. Increased requirements (even if through national guidelines) is not sustainable nor represents good value for money.
- xi. Council supports an improved response time to state highway hazards such as potholes, but recommend Government reconsiders implementation of a 24 hour response time to potholes. This would be a significant increase to current service levels and costs, and likely to result in a further reactive approach to state highway maintenance. It is also likely to

result in a precedent being set for road users, one that would be impossible for small Council's with large, remote network to achieve without huge cost increases.

Strategic Priority: Value for Money

- xii. Council recommends that local government are included in driving effectiveness and efficiency gains across the land transport sector, working alongside the NZ Transport Agency.
- xiii. Council supports a reduction in expenditure on temporary traffic management, while maintaining the safety of workers and road users. We note that temporary traffic management requirements/guide are seldom set by local authorities, but are set by the NZ Transport Agency and fully implemented by private sectors organisations to mitigate corporate risk and liability. Immediate Government intervention to review the unintended consequences of the new New Zealand Guide to Temporary Traffic Management (NZGTTM) is recommended.
- xiv. Council seeks Government support to ensure specifications/designs for works can be fit for purpose to incorporate local resources and supplies more effectively and efficiently.

Strategic Priority: Safety

- xv. Council supports Government targeting road safety investment in the areas it is most needed, rather than a blanket approach to many safety inventions undertaken during the 2021-24 National Land Transport Programme via the Road to Zero programme.
- xvi. Council acknowledges that Wairoa's land transport network has one of the poorest safety records across the country. Historic under-investment in maintaining and enhancing the network condition combined with the drivers' poor behaviour is resulting in higher rate of crashes, loss of lives, loss of capital, and broader economic and mental impacts on people and businesses. Improved road maintenance and targeted road safety improvements (enabled through Central Government funding), as well as effective road safety education and enforcement, is required to improve this.

Outcomes the Government expects will be achieved by this GPS

- xvii. Council supports all of the outcomes Government expects to achieve by the GPS.

4. Section 4: Investment in Land Transport

- i. Council recommends that a review of the NZ Transport Agency's Financial Assistance Rate (FAR) calculations is undertaken, with a view to increasing funding for small, rural Council's like Wairoa.
- ii. Council and its peers often face increased challenges as a result of our low ratepayer bases, low number of ratepayers per kilometre of road, geographic isolation and remoteness, topography, geology and climate. This typically manifests itself through higher costs, reduced investment and lower levels of service, increased risk of asset failure, reduced resources, increased damage from storm events, and a reduced ability to investment in the infrastructural and system investment and improvements required to reduce future cost burdens.
- iii. Research carried out by Council in 2015 highlighted that, on average based on 2010-2013 land transport investment, small rural councils were able to invest \$1 in improvements for every \$18 in operations, maintenance and renewal, compared with metropolitan councils

who had a \$1 to every \$2 ratio. We suggest this is due to affordability and NZ Transport Agency funding approvals, and is unlikely to have changed much in recent years. A step change is needed with regards to the FAR model and investment in rural New Zealand's local road networks.

5. Conclusion

Reliable and safe roads are critical to the sustainability of the Wairoa District and our people. With limited options for mode neutrality, public transport and decarbonisation of our local transport sector, Council supports the GPS' shift to back-to-basics and increased value-for-money investment in road maintenance, renewal and resilience improvements.

We believe the economic potential of Wairoa has long been undermined by the vulnerable state highways in and out of our district, our (relatively speaking) road network's low levels of service and the inability of our ratepayers to fund the investment required to address this. We look forward to Central Government support and Wairoa (plus the wider Hawke's Bay and Gisborne regions) securing the much needed additional investment sought via the 2024-27 National Land Transport Programme.

8.4 REVIEW OF DANGEROUS, INSANITARY AND AFFECTED BUILDINGS POLICY

Author: Hinetaakoha Viriaere, Pouwhakarae - Whakamahere me te Waeture | Group Manager Planning and Regulatory

Authoriser: Kitea Tipuna, Tumu Whakarae Chief Executive

Appendices: 1. Draft WDC Dangerous, Insanitary and Affected Buildings Policy Review (Tracked Changes Version). [↓](#)

1. PURPOSE

- 1.1 Provide an update on the 2024 review of the WDC Dangerous, Insanitary and Affected Building Policy and consultation proposed.

RECOMMENDATION

The Pouwhakarae - Whakamahere me te Waeture | Group Manager Planning and Regulatory RECOMMENDS that Council receives the report and approves that the Dangerous, Insanitary and Affected Building policy under review goes out for consultation in April 2024.

Addendum to this report is titled 'Draft WDC Dangerous, Insanitary and Affected Buildings Policy (Tracked Changes Version)'.

2. BACKGROUND

All territorial authorities are required to have a policy to deal with dangerous and insanitary buildings within its district in accordance with sections 131 and 132A of the Building Act. Policies must be reviewed at no more than 5 yearly intervals. The last review was undertaken in 2019.

The WDC Dangerous and Insanitary Buildings Policy is focused on making sure people can live and work in buildings without compromising their health and safety.

Minimal changes to the policy are recommended i.e., some minor editorial improvements as there have been no changes to legislation since the policy was first adopted, in 2019, that influence what requirements the policy needs to address.

However, as changes are proposed to the existing policy Council will provide an opportunity for public feedback in accordance with the Building Act 2004 section 132 and the Special Consultative Procedure in section 83 of the Local Government Act 2002. Therefore,

Public consultation is proposed to run from April 2024 for a 1 month period.

Addendum to this report is titled 'Draft WDC Dangerous, Insanitary and Affected Buildings Policy (Tracked Changes Version)'.

3. Confirmation of statutory compliance

In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,

- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

TE KAUPAPA HERE MŌ NGĀ WHARE MŌREAREA,
NGĀ POKE ME NGĀ WHAKAAWENGA

DANGEROUS, INSANITARY, AND AFFECTED
BUILDINGS POLICY

CATEGORY:	Office of the Chief Executive Planning & Regulatory Group	STATUS:	FINAL
DATE POLICY ADOPTED	30 April 2019	APPROVAL BY:	Council
REVIEW PERIOD:	5 years	NEXT REVIEW DUE BY:	2024
DATE PREVIOUSLY ADOPTED:	8 November 2011	REVISION NUMBER:	2

Commented [HV1]: Dates to be updated when poli
review finalised following consultation in April and Co
adoption of finalised policy.

PURPOSE

One of the key purposes of the [Building Act 2004](#), as set out in Part 1, subpart 1 (3)(a)(i), is to ensure “people who use buildings can do so safely and without endangering their health”- (Refer Appendix B).

Council believes the safety of people is of paramount importance and this policy reflects this. The objectives of this policy are:

- To reduce the risks of ill health and danger caused to the community by dangerous, insanitary and affected buildings, by identifying and taking appropriate action to remediate those risks.
- To ensure that Council appropriately discharges its statutory obligations under the Building Act 2004 in relation to buildings in the Wairoa District that are suspected or confirmed as dangerous, insanitary or affected.

ADOPTION AND REVIEW OF POLICY

In developing and adopting this dangerous, insanitary and affected buildings policy, Council has followed consultative procedure set out in Section 83 of the Local Government Act 2002.

As per section 132 of the Building Act, this policy may be amended or replaced only in accordance with the special consultative procedure.

As soon as practicable after this policy is adopted Council must provide a copy to the Chief Executive of the Ministry of Business, Innovation and Employment (MBIE). When reviewed or amended Council may be required to provide a copy to MBIE and this is to be ascertained at the time.

Section 132 of the Act requires the policy to be reviewed within five years of being adopted and then at five yearly intervals with any replacement or amendment being subject to the consultative procedures in the Local Government Act 2002.

This policy does not cease to have effect because it is due for review or being reviewed.

BACKGROUND

Section 131 of the Building Act 2004 requires that Wairoa District Council adopt a policy on dangerous, insanitary and affected buildings.

Section 132 of the Act requires the policy to be reviewed within five years of being adopted and then at five yearly intervals with any replacement or amendment being subject to the consultative procedures in the Local Government Act 2002.

This document sets out the policy adopted by Wairoa District Council (herein after referred to as the “Council”) in accordance with the requirements of the Building Act 2004 (herein after referred to as the “Act”). The policy is required to state:

- Council’s approach to performing its functions under the ~~Act~~Act.
- Council’s priorities in performing those ~~functions~~functions.
- How the policy will apply to heritage buildings.

Earthquake-prone buildings are addressed under the ~~Act~~ itself, and are therefore excluded from this policy.

DANGEROUS BUILDINGS

Buildings may become dangerous for a number of reasons ~~e.g.e.g.~~ due to a change of use (for example commercial building used for residential purposes), or unauthorised alterations being made, or as a result of its use by an occupant. Or this could be the result of using a property for the manufacturing process of illicit substances such as methamphetamine. Clandestine Laboratories (Clan Lab) operators often have limited knowledge of the chemical hazards and little concern for public safety or the environment. In these ~~instances~~instances, Council will follow processes as advised by our Environmental Health Department.

INSANITARY BUILDINGS

Buildings may become insanitary due to a number of reasons, such as following a natural disaster ~~e.g.e.g.~~ flooding or as a result of poor maintenance, or misuse by the occupant.

AFFECTED BUILDINGS

Affected buildings are those buildings close to a dangerous building.

DEFINITIONS

The meanings of dangerous, insanitary and affected buildings are set out in Section 121, ~~121(A)(1)~~ and Section 123 respectively of the Act. These are:

TERM	DEFINITION
Dangerous Building	<div>Section 121</div> <div>1. “A building is dangerous for the purpose of the Act if -</div> <div><div>a. in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-</div><div><div>i. injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or</div><div>ii. damage to other property; or</div></div><div>b. in the event of fire, injury or death to any persons in the building or to persons another property is likely.”</div></div>
Affected building	<div>Section 121A</div> <div>A building is an affected building for the purposes of the Act if it is adjacent to, adjoining, or nearby-</div> <div><div>a. dangerous building as defined in section 121</div><div>b. a dangerous dam within the meaning of section 153.</div></div>
Insanitary Building	<div>Section 123</div> <div>1. A building is insanitary for the purpose of the Act if the building-</div> <div><div>a. is offensive or likely to be injurious to health because -</div><div><div>i. of how itis situated or constructed; or</div><div>ii. it is in a state of disrepair; or</div></div><div>b. has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</div><div>c. does not have a supply of potable water that is adequate for its intended use; or</div><div>d. does not have sanitary facilities that are adequate for its intended use.</div></div>

PRINCIPLES

All decisions and activity relating to dangerous, insanitary and affected buildings should be guided by the provisions and principles contained in the Building Act, The Building Code, the Health Act and any relevant standards.

This Policy shall be consistent with the Community Outcomes set out in the ~~2018-2028-2021-2031~~ Long Term Plan and contribute to ~~establishing A Community that Values and Promotes its Culture and Heritage; A Safe and Secure community; A Lifetime of Good Health and Wellbeing; and An Environment that is Appreciated, Protected and Sustained for Future Generations. Cultural Wellbeing - Valued and cherished community Economic Wellbeing Strong and prosperous economy; Social Wellbeing -Safe, supported and well-led community; Environmental Wellbeing - Protected and healthy environment.~~

This policy contributes by ensuring homes and other structures are safe to live in or visit and are not injurious to occupant's health and has a positive influence on reducing the incidence of neglected, inadequately maintained, fire damaged or non-compliant buildings impacting on the community.

Council will consult with its communities in developing and reviewing this policy and endeavour to strike a balance between the threats that dangerous, insanitary and affected buildings may present, and the broader social and economic issues associated with implementing the policy.

Owners of properties deemed to be unsafe or insanitary, shall bear all costs related to restoring the building to a condition that complies with the requirements of the Building Act and the current Building Code. Costs shall include costs incurred by Council to assess and enforce compliance. As per Section 126, the Council may carry out work if work required under a notice issued, is not completed within the prescribed ~~time, and time and~~ recover the costs from the owner.

POLICY APPROACH

It is very likely that in many, but not all, cases a building's dangerous, insanitary or affected status will not be readily apparent. For this reason, any attempt to identify these buildings proactively is unlikely to be successful as this would require considerable resources to undertake inspections and evaluations of buildings.

As it is impractical to inspect every building in the District on a regular basis Wairoa District Council's Dangerous, Insanitary and Affected Buildings Policy embodies a passive approach to the identification of dangerous, insanitary or affected buildings in the District relying on complainants to provide information and activation by building consent applications.

Council is reactive in responding to situations when notified of a potentially dangerous, insanitary or affected building when:

- the state of a building has been brought to its attention via complaints; and where
- the building has been subject to a change of use, an alteration or an addition.

PROCESS

IDENTIFYING DANGEROUS, INSANITARY AND AFFECTED BUILDINGS

Most potentially dangerous, insanitary and affected buildings will be notified to Council through reports or complaints from building occupants, or neighbours, members of the public, or inspections by the Police, Fire and Emergency New Zealand or other government agencies authorised to inspect buildings. Others may become evident to Council Officers in the course of their duties and through building consent application for works on buildings.

The Council may exercise any of its powers under ~~the Subpart 6A, Section 123~~ of the Act if it believes a part of a building is dangerous or insanitary ~~within as defined in~~ Section ~~121 and 123A~~ of the Act.

ASSESSMENT CRITERIA

For practical purposes, dangerous and/or insanitary buildings are defined as those that fall within the provisions of Sections 121 and 123 of the Act.

Council will use the Building Code and the Ministry of Business, Innovation and Employment acceptable solutions or verification methods issued under Section 22 of the Act as its preferred basis for defining technical requirements and criteria.

TAKING ACTION

Once Council has received information regarding a potentially dangerous, insanitary or affected building Council will set the following procedures in motion:

- Respond and investigate all building complaints or notification from internal sources or third parties. ~~However~~ However, Council may not respond to anonymous complaints.
- In the office:
 - Check the details of the property against Council records.
 - Attempt to determine the potential risk or harm to people and property by identifying buildings that fall within the scope of a dangerous, insanitary and/or affected building under the Act.
- Undertake a full and extensive inspection by Council's Building Compliance staff ~~and/or Environmental Health Officer~~ to assess the performance of those buildings in relation to Section 121 and 123 of the Act and the Building Code. Available resources and potential for risk or harm will determine the time frame for this inspection. Where the potential for risk or harm is immediate and/or severe, priority will be given to these buildings and these will be investigated as soon as possible with the aim to be within 24 hours. A check sheet (Appendix A) will be used to assess whether a building is dangerous, insanitary or affected.
- On reporting back, the Team Leader with direction from the Chief Executive Officer or delegated officer will reach a decision as to whether the building is deemed to be dangerous, insanitary or affected. Where necessary, expert opinion (written report) will be sought on whether the situation is dangerous, insanitary or affected. This could include

Environmental Health Officer, ~~Environmental Risk Management Authority (ERMA)~~, Environmental Protection Authority (EPA), chartered professional engineer, Fire and Emergency New Zealand, Occupational Safety and Health, or other sources of expert advice.

- Each case is to be assessed at the time and Council will exercise their judgment as to the most appropriate action under the Act ~~e.g.e.g.~~ if a derelict building has a history of squatters who place themselves at risk, a notice will be served on the owner to remove or reduce the danger, possibly through demolition.
- Where Council has determined that a building is dangerous insanitary or affected, it will liaise and work with the owner to achieve an acceptable outcome. Where possible a course of action and timeframe that is mutually agreed will be sought.
- Council will advise owners of the results of the Council's assessment and invite them, within a limited timeframe, to meet with Council officers to discuss requirements to remedy a dangerous, insanitary and/or affected building situation. Where the necessary work required on a building is complex, it is appropriate for Council to determine the nature of any remedial work in consultation with building owners. Where it is obvious that the expense of remedial work will place an unreasonable cost burden on the owner, this will be discussed with the owner and other alternatives, such as demolition or temporary hoardings may be considered.
- Where an acceptable outcome cannot be reached or where an immediate hazard exists, Council may, at its sole discretion, invoke its powers under Sections 124-129 of the Act. The situation in each case will be different and Council will weigh up these elements when deciding what approach should be taken to remove or minimise the danger a building may present.

SERVING NOTICE

- Once the deadline for meeting Council has passed, it is fitting to serve notice, under Section 124 of the Act, on owners of all buildings requiring remedial work to be carried out.
- ~~The notice should clearly set out the time in which the required action is to be completed, being not less than 10 days, to reduce or remove the danger or conditions contributing to the insanitary state. Each case is to be assessed at the time and Council will exercise their judgement as to the most appropriate timeframe to suit the situation.~~
- Copies of the notice will be provided to the building owner, the occupier and every person who has an interest in the land, or is claiming interest in the land, as well as Heritage New Zealand Pouhere Taonga if the building is a heritage building, and the owner of any affected buildings.
- The process for serving notices on owners will be transparent. Notices must:
 - be in writing;
 - be fixed to the building concerned;
 - ~~Clearly set out the time in which the required action is to be completed, being not less than 10 days after the notice is given or a period reasonably sufficient to obtain a building consent if one is required, whichever period is longer, state the timeframe within which the building work must be carried out; and~~
 - state whether the owner of the building must obtain a building consent in order to carry out the work required by the notice.

The timeframe which the building work must be carried out must not be less than 10 days after the notice is given, or a period reasonably sufficient to obtain a building consent if required, whichever period is longer.

- Council will contact the owner at the expiry of the time period set down in the notice in order to gain access to the building to ascertain whether the notice has been complied with.
- When there is non-compliance with a ~~notice~~notice, or an immediate danger is apparent Council will consider enforcement action and use the powers available under sections 126 and 129 of the Act and apply to the district court for an order authorising Council to carry out the work. Council will advise the building owner of its intention to apply to the court at least ten (10) days prior to making the application.

WHERE THE DANGER IS ASSESSED AS IMMEDIATE

Due to the urgent nature of the risk that dangerous and insanitary buildings pose to users, Council will in the first instance act to ensure no person uses or occupies the building or permits another person to use or occupy the building until such work is undertaken to reduce or remove the danger or to fix the insanitary conditions. Council may undertake any of those measures outlined in Section 129 of the Act (Refer Appendix B) to mitigate or remove the danger or fix insanitary conditions.

Where it is deemed immediate action is necessary to mitigate a dangerous or insanitary situation, Council reserves the right to appoint any contractor it deems competent to undertake the work.

Where a dangerous or insanitary building poses an immediate risk, Council may take remedial action first and then consult with the owner as soon as practicable thereafter by warrant issued under the chief executive of the Council's signature.

COUNCIL MAY CARRY OUT WORK

Where owners may not be cooperative or cannot be located Council may apply to the District Court, under Section 126, (refer Appendix B) for an order authorising the Council to carry out building work if any work required under a notice is not completed within the time stated or any further time that the Council may allow.

Council must give the owner of the building not less than ten (10) days' written notice of its intention to apply to the District Court. If the Council carries out work under the authority of a Court order the owner of the building is liable for the costs of the work and the Council may recover those costs from the owner and the amount recoverable becomes a charge on the land on which the work was carried out (Refer s126 Appendix B.)

Any work required or authorised may include the demolition of all or part of a building.

In every case where Council conducts any of the remedial work required of a building owner, or where Council is forced to take action to mitigate a dangerous or insanitary situation, all costs incurred will be recoverable from the owner and the amount will become a charge against the land on which the building is situated.

POWERS OF COUNCIL

Powers of Council are outlined under Section 124 (Refer to Appendix B).

Council will attempt to consult with building owners prior to taking action on a dangerous or insanitary building but this will not delay taking necessary action within the provisions of the Act, especially when the danger posed by the building is significant.

OFFENCES

Section 116B of the Act states it is an offence to use a building for use for which it is not safe or not sanitary, or it has inadequate means of escape from fire. Council ~~is able to~~ can take action, when appropriate, against owners and occupiers of buildings when the Council has not taken or has not been able to take, any of the actions provided ~~for~~ under Section 124.

A person who failed to comply with a notice issued under Section 124(2)(c) that requires work to be carried out on the building to reduce or remove the danger or prevent the building from remaining insanitary under Section 125(2) commits an offence and is liable to a fine not exceeding \$~~32~~00,000.

A person who failed to comply with Section 128(2) by using or occupying a building, or permitting another person to use or occupy the building, commits an offence and is liable on conviction to a fine not exceeding \$200,000. In the case of a continuing offence, the person is liable on conviction to a further fine not exceeding \$20,000 for every day or part of a day during which the offence has continued.

INTERACTION BETWEEN THIS POLICY AND OTHER PROVISIONS OF THE BUILDING ACT 2004

The following sections of the Act could initiate action under Council policy relating to dangerous, insanitary and affected buildings:

- S96 Territorial authority may issue certificate of acceptance in certain circumstances
- S108 Annual building warrant of fitness
- S112 Alteration to existing buildings
- S115 Code compliance requirements: change of use
- S121 Meaning of dangerous building
- S121A Meaning of affected building
- S123 Meaning of insanitary building
- S123A Application of this subpart to parts of buildings
- S124-130 Powers of territorial authorities in respect to dangerous, affected, or insanitary buildings

- S131-132A Policy on dangerous and insanitary buildings
- S164 Issue of notice to fix
- S216 Territorial authority must keep information about buildings.

When the owner of a dangerous or insanitary building on whom notice has been served, but who has not yet undertaken the required remedial work, applies for building consent for action covered by Sections 112 to 116A₃ (Appendix B), Council is to require that the action necessary to reduce or remove danger be undertaken at the same time (or before if appropriate) of the building work as set out in the consent application.

SECTION 112: ALTERATIONS TO EXISTING BUILDINGS

Whenever a building consent application is received for significant upgrading or alteration of a building that is dangerous or insanitary then, irrespective of the general priorities set by Council for dealing with dangerous or insanitary buildings, Council will not issue a building consent unless it is satisfied that the building is not dangerous or insanitary and that the building work will not detrimentally affect the buildings' compliance with the Building Code.

If the building is shown to be dangerous or insanitary, then the Council will require that the situation be rectified as necessary to comply as nearly as is reasonably practicable with the provisions of the Building Code and that the building is made safe.

SECTION 115: CODE COMPLIANCE REQUIREMENTS: CHANGE OF USE

Whenever a building consent application is received for change of use of a building that is dangerous or insanitary then the Council will require as part of that building consent that the scope of the work so authorised, include further building work to such an extent that the building will not continue to be dangerous and/or insanitary after the change of use.

RECORDING THE STATUS OF A DANGEROUS, INSANITARY OR AFFECTED BUILDING AND ACCESS TO THIS INFORMATION

Any buildings identified as being dangerous, insanitary and/or affected will be recorded on Council's register of dangerous, insanitary and affected buildings until the danger is remedied. This is also noted electronically on the property file.

All information, including correspondence and notices relating to current dangerous, insanitary and affected buildings will be held on the dangerous, insanitary and affected buildings folder and when rectified will be filed on the relevant property file.

This information will be included on any Land Information Memorandum (LIM) issued in respect of that property. This information is to be also placed on a Project Information Memorandum (PIM) where it affects any proposed building work.

HERITAGE BUILDINGS

A heritage building is any building that is included on the New Zealand Heritage List/Rārangī Kōrero maintained under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage buildings play an important role in the social and cultural fabric of New Zealand society, but their nature and age mean that even simple rectification requirements may present design and cost challenges for owners.

While Council will follow the process described in relation to dangerous, insanitary and affected buildings that have or may have significant heritage value (defined here as buildings in the District Plan register, New Zealand Heritage List/Rārangī Kōrero (formerly the Historic Places Register) Council will support owners of such buildings to find solutions to health and safety issues in a manner that sustainably manages the important heritage values of such buildings.

In relation to buildings with significant heritage values, Council may provide relatively longer timeframes for the identified danger to be reduced or removed or insanitary conditions to be prevented. In particular, when deciding on an appropriate timeframe for building work to be complete and certified, principles in Section 4(2)(d) and 4(2)(l) of the Act will be emphasised.

Where a heritage building is dangerous, insanitary or affected Council will consult with the building owner and consider seeking advice from the Heritage New Zealand Pouhere Taonga. Council will exercise their judgement concerning the nature and importance of the building and the level of risk it poses to the community. However, the fact that a building has a heritage status does not mean it can be left in a dangerous, insanitary or affected condition. The provisions of the Act will continue to apply.

Following the above consultation process, notice will be served requiring improvement or demolition within a stated and preferably agreed timeframe. Should a notice be served on a heritage building, a copy of the notice is to be sent to Heritage New Zealand Pouhere Taonga as set out in Section 125(2)(f).

**APPENDIX A: DANGEROUS, INSANITARY AND/OR
AFFECTED BUILDING INSPECTION RECORD**



DANGEROUS, INSANITARY AND AFFECTED BUILDING INSPECTION RECORD **WAIROA DISTRICT COUNCIL**

Address of building		
Building name		
Name of person allowing access		
Relationship to building		
Time and date of inspection		
Contact details of at least two tenants		
Name		
Relationship		
Address (Other than the address of the building)		
Phone (Home)		
Phone (Work)		
Phone (Mobile)		

Building warrant of fitness – current: Yes / No	Displayed: Yes / No
Current use described as?	
Is current use and described use the same?: Yes / No	Number:
List fire protection/detection system(s) present	Operational?
	Yes / No
	Yes / No
	Yes / No
*Note on rear of page if system has obvious defects in relation to relevant New Zealand Standards.	

Building features	
Number of floors	
How many flats?	
How many beds (total)?	
How many means of escape?	
Can you identify safe paths?	Yes / No
Have you walked the escape routes?	Yes / No
Any uncontrolled sources of ignition?	Yes / No
Adequate potable water supply?	Yes / No
Adequate sanitary facilities for intended use?	Yes / No
Has the cladding failed?	Yes / No
Is the nature of the building likely to be offensive or injurious to health	Yes / No
Do safe paths lead to exterior ground?	Yes / No
Are any escape doors fitted with locks?	Yes / No
Is any other building affected/likely to be affected by these building defects?	Yes / No

Describe the building's construction	
Describe means of escape:	
Describe purpose groups within the building:	
Describe water supply and sanitary facilities	
Describe why building (or part) is "offensive" and/or "likely to be injurious to health"	
High hazard backflow prevention:	
Required?: Yes / No	Installed:

RISK ASSESSMENT OF DANGEROUS, INSANITARY AND AFFECTED BUILDINGS

Address

Lot No.

DPS No.

Building Consent No.

Risk Factor	Rating (H/L) Score	Score
Users		
1. What is the maximum number of users at any one time	100 + people (H) = 10 Less than 100 people (L) = 7	
2. What is the predominant age group of the building users?	Children or Infants (H) = 10 Adults (L) = 3	
3. What is the general capability of the building?	Normal (L) = 3 Mentally handicapped/immobile (H) =	

	10 Physically handicapped but mobile (H) = 6	
<i>Usage of the building</i>		
4. What is the sleeping activity rating for the building in terms of the building code?	SD, SA, SC, (H) = 10 SR (L) = 3	
5. Is the building used for any of the following activities?		
a. Education b. Old people's home c. Hospital (private or public) d. Residential institution e. Place of Assembly f. Hotels and motels g. Backpackers and Home stays h. Attached multi-unit buildings	Children (H) = 10 Adults (L) = 5 Geriatric (H) = 10 Mobile (L) = 5 Bedridden (H) = 10 Mobile (L) = 8 Bedridden (H) = 10 Mobile (L) = 5 >100 people (H) = 10 <100 (L) = 3 >20 people (H) = 7 <5 (L) = 3 >20 people (H) = 9 <5 (L) = 5 >5 apartments (H) = 7 3-5 (L) = 5	
6. What is the crowd, working, business or storage activity for the building in terms of the building code?	WD, WM, CL, CM (H) = 10 WL, CS (L) = 3	
<i>Building Characteristics</i>		
7. Does the building have common walls with others?	>1 (H) = 5 <1 (L) = 3	
8. How many storey's does the building have? 1 2 3 4 5 6 7 8 9 (includes basements)	2 = 5 add 5 for every subsequent storey	
9. Any historic clarification or significance?	Yes = 2	
10. Is the building in the inner city, in a known geothermal area or previous seismic activity?	Yes (H) = 10	
11. What is the age and condition of the building?	Assign score 1-10 accordingly e.g. Pre 1940 = 10 Pre 1965 = 8	
12. Are there any other factors to be considered? e.g. Parapets, verandahs, attachments or adornments	Assign score 1-10 accordingly	
TOTAL SCORE (out of approx 100) Note: < 40 Low Risk 40-60 = Moderate Risk >60 = High Risk		

APPENDIX B: RELEVANT SECTIONS OF THE BUILDING ACT 2004

Part 1, Subpart 1, 3 Purposes

This Act has the following purposes:

(a) to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—

(i) people who use buildings can do so safely and without endangering their health; and

(ii) buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and

(iii) people who use a building can escape from the building if it is on fire; and

(iv) buildings are designed, constructed, and able to be used in ways that promote sustainable development:

(b) to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.

Part 1, Subpart 1, 4 Principles to be applied in performing functions or duties, or exercising powers, under this Act

(2) In achieving the purpose of this Act, a person to whom this section applies must take into account the following principles that are relevant to the performance of functions or duties imposed, or the exercise of powers conferred, on that person by this Act:

(d) the importance of recognising any special traditional and cultural aspects of the intended use of a building:

(i) the need to facilitate the preservation of buildings of significant cultural, historical, or heritage value.

Section 12 Role of building consent authority and territorial authority

(2) Under this Act, a territorial authority—

(j) performs functions relating to dangerous, earthquake-prone, or insanitary buildings.

Section 116B Offence to use building for use for which it is not safe or not sanitary, or if it has inadequate means of escape from fire

(1) No person may—

(a) use a building, or knowingly permit another person to use a building, for a use for which the building is not safe or not sanitary; or

(b) use a building, or knowingly permit another person to use a building, that has inadequate means of escape from fire.

(2) A person who fails to comply with subsection (1) commits an offence.

(3) A person who commits an offence under this section is liable to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.

Section 121 Meaning of dangerous building

(1) A building is **dangerous** for the purposes of this Act if,—

(a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause—

(i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or

(ii) damage to other property; or

(b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority—

(a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and

(b) if the advice is sought, must have due regard to the advice.

Section 121A Meaning of affected building

A building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby—

(a) a dangerous building as defined in [section 121](#); or

(b) a dangerous dam within the meaning of [section 153](#).

Section 123 Meaning of Insanitary Building

A building is insanitary for the purposes of this Act if the building—

(a) is offensive or likely to be injurious to health because—

(i) of how it is situated or constructed; or

(ii) it is in a state of disrepair; or

(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or

(c) does not have a supply of potable water that is adequate for its intended use; or

(d) does not have sanitary facilities that are adequate for its intended use.

Section 123A Application of this subpart to parts of buildings

(1) If a territorial authority is satisfied that only part of a building is dangerous (within the meaning of section 121) or insanitary (within the meaning of section 123),—

(a) the territorial authority may exercise any of its powers or perform any of its functions under this subpart in respect of that part of the building rather than the whole building; and

(b) for the purpose of paragraph (a), this subpart applies with any necessary modifications.

(2) To the extent that a power or function of a territorial authority under this subpart relates to affected buildings,—

- (a) the territorial authority may exercise the power or perform the function in respect of all or part of an affected building; and*
- (b) for the purpose of paragraph (a), this subpart applies with any necessary modifications.*

Section 124 Dangerous, affected, or insanitary buildings: powers of territorial authority

- (1) This section applies if a territorial authority is satisfied that a building in its district is a dangerous, affected, or insanitary building.*
- (2) In a case to which this section applies, the territorial authority may do any or all of the following:*
 - (a) put up a hoarding or fence to prevent people from approaching the building nearer than is safe;*
 - (b) attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building;*
 - (c) except in the case of an affected building, issue a notice that complies with section 125(1) requiring work to be carried out on the building to—*
 - (i) reduce or remove the danger; or*
 - (ii) prevent the building from remaining insanitary;*
 - (d) issue a notice that complies with section 125(1A) restricting entry to the building for particular purposes or restricting entry to particular persons or groups of persons.*
- (3) [Repealed]*

Section 125 Requirements for notice requiring building work or restricting entry

- (1) A notice issued under section 124(2)(c) must—*
 - (a) be in writing; and*
 - (b) be fixed to the building in question; and*
 - (c) be given in the form of a copy to the persons listed in subsection (2); and*
 - (d) state the time within which the building work must be carried out, which must not be less than a period of 10 days after the notice is given or a period reasonably sufficient to obtain a building consent if one is required, whichever period is longer; and*
 - (e) state whether the owner of the building must obtain a building consent in order to carry out the work required by the notice.*
- (1A) A notice issued under section 124(2)(d)—*
 - (a) must be in writing; and*
 - (b) must be fixed to the building in question; and*
 - (c) must be given in the form of a copy to the persons listed in subsection (2); and*
 - (d) may be issued for a maximum period of 30 days; and*
 - (e) may be reissued once only for a further maximum period of 30 days.*
- (2) A copy of the notice must be given to—*
 - (a) the owner of the building; and*
 - (b) an occupier of the building; and*

- (c) every person who has an interest in the land on which the building is situated under a mortgage or other encumbrance registered under the Land Transfer Act 1952; and*
 - (d) every person claiming an interest in the land that is protected by a caveat lodged and in force under section 137 of the Land Transfer Act 1952; and*
 - (e) every statutory authority that has exercised a statutory power to classify or register, for any purpose, the building or the land on which the building is situated; and*
 - (f) Heritage New Zealand Pouhere Taonga, if the building is a heritage building.*
- (3) However, the notice, if fixed on the building, is not invalid because a copy of it has not been given to any or all of the persons referred to in subsection (2).*

Section 126 Territorial authority may carry out work

- (1) A territorial authority may apply to the District Court for an order authorising the territorial authority to carry out building work if any work required under a notice issued by the territorial authority under section 124(2)(c) is not completed, or not proceeding with reasonable speed, within—*
- (a) the time stated in the notice; or*
 - (b) any further time that the territorial authority may allow.*
- (2) Before the territorial authority applies to the District Court under subsection (1), the territorial authority must give the owner of the building not less than 10 days' written notice of its intention to do so.*
- (3) If a territorial authority carries out building work under the authority of an order made under subsection (1),—*
- (a) the owner of the building is liable for the costs of the work; and*
 - (b) the territorial authority may recover those costs from the owner; and*
 - (c) the amount recoverable by the territorial authority becomes a charge on the land on which the work was carried out.*

Section 127 Building work includes demolition of building

Any work required or authorised to be done under section 124(2)(c) or section 126 may include the demolition of all or part of a building.

Section 128 Prohibition on using dangerous, affected, or insanitary building

- (1) This section applies if a territorial authority has done any of the following:*
- (a) put up a hoarding or fence in relation to a building under section 124(2)(a);*
 - (b) attached a notice warning people not to approach a building under section 124(2)(b);*
 - (c) issued a notice restricting entry to a building under section 124(2)(d).*
- (2) In any case to which this section applies, and except as permitted by section 124(2)(d), no person may—*
- (a) use or occupy the building; or*
 - (b) permit another person to use or occupy the building.*

Section 128A Offences in relation to dangerous, affected, or insanitary buildings

(1) A person who fails to comply with a notice issued under section 124(2)(c) that is given to that person under section 125(2)—

- (a) commits an offence; and
- (b) is liable to a fine not exceeding \$200,000.

(2) A person who fails to comply with section 128(2)—

- (a) commits an offence; and
- (b) is liable on conviction to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$20,000 for every day or part of a day during which the offence has continued.

Section 129 Measures to avoid immediate danger or to fix insanitary conditions

(1) This section applies if, because of the state of a building,—

- (a) immediate danger to the safety of people is likely in terms of section 121 or 123; or
- (b) immediate action is necessary to fix insanitary conditions.

(2) The chief executive of a territorial authority may, by warrant issued under his or her signature, cause any action to be taken that is necessary in his or her judgment to—

- (a) remove that danger; or
- (b) fix those insanitary conditions.

(3) If the territorial authority takes action under subsection (2),—

- (a) the owner of the building is liable for the costs of the action; and
- (b) the territorial authority may recover those costs from the owner; and
- (c) the amount recoverable by the territorial authority becomes a charge on the land on which the building is situated.

(4) The chief executive of the territorial authority and the territorial authority are not under any liability arising from the issue, in good faith, of a warrant under subsection (2).

Section 130 Territorial authority must apply to District Court for confirmation of warrant

(1) If the chief executive of a territorial authority issues a warrant under section 129(2), the territorial authority, on completion of the action stated in the warrant, must apply to the District Court for confirmation of the warrant.

(2) On hearing the application, the District Court may—

- (a) confirm the warrant without modification; or
- (b) confirm the warrant subject to modification; or
- (c) set the warrant aside.

(3) Subsection (1) does not apply if—

- (a) the owner of the building concerned notifies the territorial authority that—
 - (i) the owner does not dispute the entry into the owner's land; and
 - (ii) confirmation of the warrant by the District Court is not required; and
- (b) the owner pays the costs referred to in section 129(3)(a).

Section 131 Territorial authority must adopt policy on dangerous and insanitary buildings

- (1) A territorial authority must, within 18 months after the commencement of this section, adopt a policy on dangerous and insanitary buildings within its district.
- (2) The policy must state—
- (a) the approach that the territorial authority will take in performing its functions under this Part; and
 - (b) the territorial authority's priorities in performing those functions; and
 - (c) how the policy will apply to heritage buildings.

Section 132 Adoption and review of policy

- (1) A policy under section 131 must be adopted in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.
- (2) A policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
- (3) A territorial authority must, as soon as practicable after adopting or amending a policy, provide a copy of the policy to the chief executive.
- (4) A territorial authority must complete a review of a policy within 5 years after the policy is adopted and then at intervals of not more than 5 years.
- (5) A policy does not cease to have effect because it is due for review or being reviewed.

Section 132A Policy must take into account affected buildings

- (1) A policy under section 131 must take into account affected buildings.
- (2) A territorial authority must amend an existing policy to take into account affected buildings at the latest within a reasonable period following the next review of its policy required under section 132(4).
- (3) In subsection (2), existing policy means a policy existing at the date of this section coming into force.

8.5 WAIROA RECOVERY UPDATE MARCH 2024

Author: Steve Baker, Tautoko Whakaora - Recovery Support

Authoriser: Gary Borg, Pouwhakarae - Putea Tautawhi Rangapu | Group Manager Finance and Corporate Support

Appendices: Nil

1. PURPOSE

- 1.1 To update Council on the progress of the Cyclone Gabrielle recovery program to 24th March 2024.

RECOMMENDATION

The Tautoko Whakaora - Recovery Support RECOMMENDS that Council receive the report.

2. BACKGROUND

- 2.1 At 0515 Hrs Tuesday 14 February 2023, Hawke's Bay region declared a State of Local Emergency due to the flooding effect of Cyclone Gabrielle. At 0843 Hrs, the Minister for Emergency Management declared a State of National Emergency to assist in the response. The declaration applied to Northland, Auckland, Tairāwhiti, Bay of Plenty, Tararua District, Waikato, and Hawke's Bay.
- 2.2 Cyclone Gabrielle resulted in extensive flooding across the north and east of the North Island. Major flooding occurred in the Wairoa District as the Wairoa River and numerous tributaries overtopped their banks, causing flooding into residential areas, and cut off rural communities. There was extensive surface water flooding across the district in all catchments.



- 2.3 The impact of Cyclone Gabrielle to whānau, where, whenua, and our pātaka has been destructive and devastating. The consequences are felt by everyone and every

community in our rohe. No one is unaffected. We expect, based on other New Zealand flood events, that the social and economic consequences will worsen in the upcoming months and years.

- 2.4 The key area of impact in the Wairoa District was in the north of Wairoa with the river breaching its banks on the north-western side of the town and flooding the rural areas of Waihirere and Ruataniwha, and urban area of North Clyde. There were however floods in Awamate - on the other side of the river, Frasertown, Whakakī, Nuhaka and Mahia, where damage to homes was more limited.
- 2.5 There was also significant damage to the landscape, rural properties, and the primary sector, including horticulture, cropping, dairy, sheep and beef, and forestry. Many farms have limited access to and within their properties due to farm tracks being cut off or washed out. Water damage, erosion and silt deposition have damaged fences, access tracks, water infrastructure, destroyed crops (particularly maize and squash) and silage/hay loss and caused damage to ancillary farm buildings and dairy sheds. There has been significant pasture loss.

KEY MESSAGES - 26 MARCH 2024

- 2.6 At a February 2024 meeting the Committee requested the Recovery Team provide the following information.

Action Point	Comment
Houses impacted. a) By Cyclone Gabrielle b) By other weather events	The Insurance Council of NZ has advised us that there have been 217 lodged for residential properties within the Wairoa region. It does not tell us whether the claim is for Cyclone Gabrielle or a later weather event
Houses insured. a) in Cyclone Gabrielle b) in other weather events	
Houses not insured. a) in Cyclone Gabrielle b) in other weather events	
Safety Declaration: Houses declared safe to live in for each category,	The Rapid Building Assessment (RBA) system does not have the configuration required to provide this information.

- 2.7 Information obtained from our Kaimanaaki by visiting impacted properties, and discussions with other agencies operating in this space is that there are.

Non-insured houses rebuild listed by lead Agency managing rebuild.	Number
Church of Latter-Day Saints	5
TTotW	18
Hookmade - on behalf of the church of St	5

Vincent de Paul	
Remaining - Recovery Team	41
Total	69

Status of Stickered homes

Category	Peak March 2023	Rain Event 23 Nov 2023	As at 18 Mar 2024
White	198		162
Yellow	146	16	100
Red	2	2	3
Placards Removed			93

Explanation of the different Placard types can be found at:

<https://www.building.govt.nz/assets/Uploads/managing-buildings/post-emergency-building-assessment/rapid-building-assessment-placards-and-forms-quick-guide.pdf>

- 2.8 Recovery Team - Our Recovery Team Leader Benita Tahuri finished on the 19th of March 2024. We thank Benita for her drive, commitment, and empathy to our whānau through this trying time. We wish her well in her future endeavours.
- 2.9 One year anniversary – the 14th of February 2024 marked the one-year anniversary of Cyclone Gabrielle. It also provided an essential step in the healing process. Whānau were given an opportunity to reflect, grieve, but also to support one another, reaffirm bonds with one another.
- 2.10 MPI – With an original delivery cut-off of 31 December 2023 the recovery team attained an extension of delivery to 31 March 2024 from NIWE and MPI. It has been a dynamic process with deliverables changing after considering community feedback. There has also been the need to try and fund greater levels of historical response expenditure that were unable to be funded through other avenues. This has led to recovery staff working with MPI to obtain the funding variation between the Isolated Communities and Community Hub grants. The pressure is most definitely on in the last few weeks of March to get these projects and funding over the line.

What we aim to deliver:











- Seven Community Hubs - EPOD's containing a range of essential equipment to assist communities in future weather events.
- Two Mobile EPOD's that can be deployed to an area in need during or prior to an event. These will be located at QRS Wairoa.
- First aid training for 100+ Whānau
- Water tank
















- Reimbursement of approximately \$102,000+ of welfare expenditure incurred not reimbursed by NEWA.
















2.11 Recovery Plan reset – A draft updated recovery plan is being reviewed by the recovery team. It represents a stocktake of where we are now and what needs to be done moving forward.













2.12 The Recovery Plan consists of several, independent or at times interlinked, work-packages many of which are underway concurrently. Section 3 of this report provides a high-level 'Dashboard' overview of each of these work-packages to the 24th March 2024 as well as a forecast out to June 2024. There is also a narrative for each highlighting milestones to date, as well as an explanation of where we are heading in the future. It is hoped that elected members will be able to use this report as a resource when talking to members of the community.
















3. DASHBOARD











Work-Package	Lead	Work-Package Status				
		Scope	Resources	Schedule	Cost	Confidence
The EOC (emergency Operations Centre).	Local Controller					
		To 24 Mar 2024	Forecast 30 June 2024			
	Expense	\$239,000	-			
	External Funding	Council Funded	-			
	Milestones to 24 March 2024					
	Some \$247,000 in costs remain with Council. Of this \$61,000 was to external suppliers with the remaining \$186,000 being staff wages and salaries.					
NEMA – Welfare	Local Controller					
		To 24 Mar 2024	Forecast 30 June 2024			
	Expense	\$480,000	-			
	External Funding	\$477,000	\$1,500			
	Milestones to 24 March 2024					
	<ul style="list-style-type: none"> • \$477,000 in funding has been received from NEMA and other agencies such as NZ Police FENS etc against expenditure of \$480,000. 					
	Milestones to 30 June 2024					
	<ul style="list-style-type: none"> • Three or four small invoices to be charged to NEWA. 					

Work-Package	Lead		Work-Package Status				
			Scope	Resources	Schedule	Cost	Confidence
Recovery office	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	\$18,000	-		
			External Funding	-	-		
			Milestones to 24 March 2024				
			<p>The Recovery Office is not externally funded. Where possible costs have been reassigned to externally funded work packages such as the Recovery Hub and the DIA funding for works identified by the recovery Manager to successfully engage with the impacted communities.</p> <p>Council has funded \$18,000 for the recovery office.</p>				
Recovery Hub	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	\$159,000	42,000		
			External Funding	\$250,000	-		
			Milestones to 24 March 2024				
			<p>Funding has been obtained from DIA for \$250,000. This is used to fund Recovery staff employed by Council. Prior to receiving this funding, The Recovery Manager salary sits under the DIA funding it covers any salary since the appointment and is also forecast in the Recovery Office budgets.</p> <p>One admin role has been confirmed and one supporting role has been provided by TToTW. Recovery has been invoiced 19,000 for this role.</p> <p>Milestones to 30 June 2024</p> <p>Forecast spend in this work package indicates no funding from Council required through to 30 June 2024. The forecast underspend in this budget of \$50,000 will offset the forecast overspend in the Community Communication, Engagement and Hui budget below.</p> <p>We have approached DIA to outline the need for further funding in 2024/25. It is envisaged that the resourcing of the recovery office will be scaled back by this time.</p>				
Community Communication, Engagement and Hui	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	342,000	151,000		
			External Funding	450,000	-		
			Milestones to 24 March 2024				
			<p>Funding received from DIA \$450,000 so programme can be resourced. Recovery Manager meets regularly with Mary Wilson from DIA to ensure that all funding used from this fund is allocated as per the requirements of DIA.</p> <p>Milestones to 30 June 2024</p> <p>Forecast spend in this work package indicates an overspend of \$45,000 in budget by June 2024 but this is offset in the savings in the recovery hub above.</p> <p>We have approached DIA to outline the need for further funding in 2024/25. It is envisaged that the resourcing of the recovery office will be scaled back by this time.</p>				

Work-Package	Lead		Work-Package Status				
			Scope	Resources	Schedule	Cost	Confidence
Mayors Fund	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	\$0.88m	Unknown		
			External Funding	\$1.93m	Unknown		
			Milestones to 24 March 2024				
			Some \$1.047m has been distributed to date with a further \$0.88m on hand to distribute. Small donations continue to come in spasmodically.				
Red Cross-Liveable Homes	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	\$0.4m	Unknown		
			External Funding	\$1.1m	-		
			Milestones to 24 March 2024				
			There are still unknowns, and now we have people in the team who are trying to fill in the gaps as quickly as we can. We are working across the community agencies to help us do this.				
MPI – Isolated Communities	Wairoa Manager	Recovery					
			To 24 Mar 2024	Forecast 30 June 2024			
			Expense	\$263,000	-		
			External Funding	\$224,068	\$25,932		
			Milestones to 24 March 2024				
			An extension to March 2024 has been obtained. To date some \$102,000 of unclaimable expenditure under the NEMA – Welfare fund has been applied for under this work package.				

Work-Package	Lead	Work-Package Status				
		Scope	Resources	Schedule	Cost	Confidence
MPI - Community Hub Resilience	Wairoa Manager	Recovery				
			To 24 Mar 2024	Forecast 30 June 2024		
		Expense	-	\$780,000+/-		
		External Funding	\$760,000	\$40,000		
		Milestones to 24 March 2024				
		One community has secured its own funding this impacts funding from DIA as the grant is limited to 100,000 per hub.				
		As there are now only 7 Community Hubs to be funded Recovery has worked with MPI representatives to attain a funding variation between the two MPI grants.				
		March Milestone report submitted along with invoices to uplift the final \$40,000 in funding before the 31 March 2024 cut-off.				
		Milestones to 30 June 2024				
		Delivery of EPOD's and first aid training.				
		Based on actual expenditure the variation provides for expenditure to be transferred between the two NIWE funds based on objectives.				
Temporary Accommodation Solutions (TAS) MBIE	WDC Building Control, Enabled Wairoa, TToTW					
			To 24 Mar 2024	Forecast 30 June 2024		
		Expense	\$175,000	-		
		External Funding	\$156,000	\$19,000		
		Milestones to 24 March 2024				
		TAS placement of units has slowed down considerably as demand has decreased. TToTW POD placements have remained steady and is progressing well.				
		Milestones to 30 June 2024				
		Based on reduced requests our part in this service is reducing also				
Land Categorisation	Mayor & CE					
		Milestones to 30 June 2024 and beyond				
		Land Classification project is linked to the outcome of the flood protection project.				

Work-Package	Lead	Work-Package Status				
		Scope	Resources	Schedule	Cost	Confidence
Flood Mitigation	Mayor & CE					
	Milestones to 24 March 2024					
	Treasury has confirmed that \$70m has been ring-fenced for Wairoa flood mitigation.					
	Options have been presented in Wairoa. Draft report from Andrew Newman presented to Council in workshop.					
	Regional Recovery Agency (RRA) has proposed an Order in Council to streamline consenting processes to accelerate the programme. RRA is funding shared legal representation.					
	Milestones to 30 June 2024 and beyond					
Significant inherent programme management risks and exposure to cost overruns. Income and Expenditure is not being processed through Council but HBRC.						
NEMA - Solid Waste Management Fund	WDC GM Assets & Infrastructure					
	To 24 Mar 2024		Forecast 30 June 2024			
	Expense	\$1.37m	-			
	External Funding	\$1.48m	-			
	Milestones to 24 March 2024					
	Councils Claims have been accepted. This work package is now closed. The difference between Income and expenditure of \$109,000 represents ratepayer funding percentage of the Landfill Activity not covered by fees and charges (Refer Councils RFP) and applied to this work-package. NEMA has agreed to reimburse that amount.					
HBRC - Extreme Weather Event Recovery Activity (Silt)	WDC GM Assets & Infrastructure					
	To 24 Mar 2024		Forecast 30 June 2024			
	Expense	\$6m	Unknown			
	External Funding	\$7m	Unknown			
	Milestones to 24 March 2024					
	A total of \$9.4M has been secured and is ringfenced for this work. \$7m has been paid and we have good reporting lines and tracking data for silt. High confidence that \$9.4M will be fully utilised. No overruns envisaged at this stage however potential asbestos issues and associated costs remain a risk to budget.					
Silt cleared from storage areas such as the Railway yard.						
Milestones to 30 June 2024						
Debris from stripping houses expected to increase over coming months. Potential asbestos issues and associated costs remain a risk to budget.						
Recovery is working with HBRC to see if the deadline for this fund could be extended beyond June 2024.						
On Sunday 11th of February, the Government announced a further package of \$63million for removal of silt and debris from areas affected by Cyclone Gabrielle with \$3m ringfenced for Wairoa. These funds have been gone to HBRC for work to be undertaken in the Wairoa area.						

Work-Package	Lead	Work-Package Status				
		Scope	Resources	Schedule	Cost	Confidence
Infrastructure – Roothing	WDC GM Assets & Infrastructure					
		To 24 Mar 2024	Forecast 30 June 2024			
	Expense	\$39.8m	Unknown			
	External Funding	\$36.1m	Unknown			
	Milestones to 24 March 2024					
	The initial \$16m response funding has been used well to get access back in most locations, and also to help with cashflow, a cost-scope adjustment request has been made and Council were successful in securing \$31m extra at 100% FAR. Funding for final reinstatement is being discussed with Waka Kotahi, likely to require Council share. Crown funding allocated for Te Reinga Bridge repair \$14m. if the cost of repair exceeds \$14m then the difference will be at Councils expense. Continual rain events are hampering progress. Expenditure of the \$31m extra funding currently sits at \$17m.					
	Milestones to 30 June 2024					
	There is a drive to get this work complete before the end of June 2024, as the way forward beyond this date is uncertain.					
Infrastructure – 3 waters	WDC GM Assets & Infrastructure					
		To 24 Mar 2024	Forecast 30 June 2024			
	Expense	\$1.1m	Depends on Pond Survey			
	External Funding	\$0.5m	Subject to insurance approval			
	Milestones to 24 March 2024					
	NEMA have finalised the threshold for Wairoa District Council \$324,995 for 60/40 government funding threshold, based on WDC confirmation of the capital value of the rating units at \$4,333,259,830.					
	Damage has been incurred on both above ground assets, which are insured through AON, and below ground assets which are insured through LAPP.					
	AON has made an initial payment of \$500,000. Final claims for LAPP and AON are being worked through with loss adjustors.					
	The main action point from the December quarterly Report to NEMA was in relation to the progress on the Wairoa wastewater pond desludging as that is likely to determine the size of WDC’s 60/40 claim.					
	Milestones to 30 June 2024					
Parklink have been engaged to carry out sludge surveys on the Wairoa and Māhia ponds to determine quantum of silt ingress.						

Key

	Green	Amber	Red
Scope	Current approved in-scope items can be delivered in full	Minor changes to core specification of quality of capability that will be delivered	Major changes to core specification of quality or capability that will be delivered
Costs	Variance between Total Approved Spend and Total Forecast Spend for the approved phase/s within +/- 5% of approved spend up to a value of \$50k	Variance between Total Approved Spend and Total Forecast Spend for the approved phase/s within +/- 10% of approved spend up to a value of \$100k	Variance between Total Approved Spend and Total Forecast Spend for the approved phase/s is greater than +/- 10% of approved spend or greater in value of \$100k
Schedule	Major milestones remain on track to meet the approved timelines	Major milestones are at risk however mitigating activities are in place in an effort to meet the approved dates	There is certainty that Major milestones have missed or will miss the approved dates
Resourcing	Workpackage resourced adequately and project team is performing to a high standard	Workpackage resourcing will cause a slip to schedule or cost or variance in scope if not	Workpackage resourcing is causing variance to schedule, cost or scope
Confidence	The overall confidence that the workpackage will deliver on its aims and objectives within scope, on cost, and on schedule	There are concerns that the workpackage may not deliver on its aims and objectives within scope, on cost, and on schedule. There are mitigation strategies in place to bring the workpackage back to "green"	There are significant issues in one or more of areas of scope, cost, or scheduling. The Workpackage is unlikely to achieve its objectives. There are mitigation strategies in place will not bring the workpackage back to "green"

9 RECEIPT OF MINUTES FROM COMMITTEES/ACTION SHEETS**9.1 RECEIPT OF COUNCIL MEETING - 15 MARCH 2023**

Author: Hinemoa Hubbard, Governance Cadet

Authoriser: Kitea Tipuna, Tumu Whakarae Chief Executive

Appendices: 1. Minutes of Council Meeting - 15 March 2023

RECOMMENDATION

That the Minutes of the Council Meeting held on Wednesday 15 March 2023 be received and the recommendations therein be adopted.

**MINUTES OF WAIROA DISTRICT COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, WAIROA DISTRICT COUNCIL, CORONATION SQUARE, WAIROA
ON WEDNESDAY, 15 MARCH 2023 AT 10.05AM**

PRESENT: His Worship the Mayor Craig Little, Cr Denise Eaglesome-Karekare, Cr Jeremy Harker, Cr Melissa Kaimoana, Cr Chaans Tumataroa-Clarke, Cr Benita Cairns, Cr Roslyn Thomas

IN ATTENDANCE: **Kitea Tipuna** (Tumu Whakarae | Chief Executive), **Gay Waikawa** (Kaiurungi Mana Ārahi | Governance Officer), **Sarayde Tapine** (Kaiurungi Kaupapa Here | Policy Officer), **Michael Hardie** (Acting Group Manager Community Assets)

1 KARAKIA

Karakia was given by Cr Chaans Tumataroa-Clarke.

His Worship the Mayor welcomed everyone to the Extraordinary meeting on 15 March 2023.

2 APOLOGIES FOR ABSENCE

Nil

3 DECLARATIONS OF CONFLICT OF INTEREST

His Worship the Mayor declared that Council does have a Conflict register but in this recent event (Cyclone Gabrielle) the elected members are all conflicted in one way or another affecting all elected members directly or indirectly and all know someone. The event while all effected Wairoa severely affected many farmers as well, many of Wairoa trade staff and businesses and know somebody and that is a great thing of a little town we all know someone.

His Worship the Mayor welcomed Ryan, Wairoa Star and acknowledged the passing of Craig Gemmell.

4 PUBLIC PARTICIPATION

His Worship the Mayor welcomed and asked Ngaire Pasma and Arahia Campbell if they had anything to talk about in public participation. They both replied no they just want to listen.

5 GENERAL ITEMS**5.1 REPORTS FROM HAWKE'S BAY CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP JOINT COMMITTEE****RESOLUTION 2023/25**

Moved: Cr Denise Eaglesome-Karekare

Seconded: Cr Benita Cairns

That Council receive this report and the appropriate feedback is provided to the Hawke's Bay Civil Defence Emergency Management Group Joint Committee.

CARRIED

The Chief Executive explained that the Joint Committee for Hawke's Bay relates to civil defence and emergency and His Worship the Mayor is Wairoa's formal representative and other Chief Executives in Hawke's Bay and is Chaired by Hinewai Ormsby of Hawke's Bay Regional Council.

On 9 March 2023 an extraordinary meeting was held, and those notes and reports are attached for elected members for your interest and discussion.

His Worship the Mayor spoke on the appointment of the Hawke's Bay Recovery Manager, Keriana Brooking and she whakapapa back to Wairoa. His Worship the Mayor also noted the HBCD Emergency Management Group is great, but Wairoa has a tenancy to fall through the cracks here in Wairoa and that is Wairoa's recovery must be Wairoa lead.

Elected members discussed at length as below:

- Wairoa for Wairoa.
- flood protection.
- no mention of Wairoa.
- conflicting with local knowledge.
- offer solutions.
- have the expertise.
- positive working relationship.
- develop a Wairoa plan.
- Tripartite agreement.

The elected members acknowledged and thanked external organisations for their financial contribution to Wairoa.

5.2 RETROSPECTIVE APPROVAL OF FINANCIAL DELEGATIONS - CYCLONE GABRIELLE**RESOLUTION 2023/26**

Moved: Cr Benita Cairns

Seconded: Cr Melissa Kaimoana

That Council retrospectively approve financial delegations to the Chief Executive for response activities related to Cyclone Gabrielle the collection of cyclone related waste, refuse, damaged furniture and household items and the removal of silt from properties, lead efforts to gather and collate information and data for the purposes of recovery and effect decision making.

CARRIED

The Chief Executive advised elected members are aware of the clean up Council has undertaken as part of their response to Cyclone Gabrielle and this report was written before the recent announcement by the Minister of Local Government regarding \$15million that will be made available across the country for solid waste management.

The Chief Executive also advised this report retrospectively seeks approval financial delegations to the Chief Executive for response activities related to Cyclone Gabrielle being the collection of cyclone related waste, refuse, damaged furniture and household items and the removal of silt from properties and how Council progresses and to get retrospective approval as it exceeds the Chief Executive's delegation.

His Worship the Mayor advised elected members made a decision to look after Wairoa firstly and made the decision was made fit for purpose at that time.

His Worship the Mayor also advised coming to an end for the collection of solid waste and for the community to come to Council's front desk and apply and close off the dump site on Ormond Road.

Elected members discussed at length people's welfare and data gathering.

His Worship the Mayor acknowledged Mike Hardie, Hira Campbell, Morgan Goldsmith, Brett Craft, Courtney Hayward and her team, Juanita Savage, Nathan Heath and James Baty and all other Council staff for all their work.

ADJOURN – 10.44am

RECONVENE – 10.51am

6 PUBLIC EXCLUDED ITEMS

RESOLUTION TO EXCLUDE THE PUBLIC

RESOLUTION 2023/27

Moved: His Worship the Mayor Craig Little

Seconded: Cr Denise Eaglesome-Karekare

That the public be excluded from the following parts of the proceedings of this meeting at 10.51am.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
6.1 - Cyclone Gabrielle: Risks Associated with Governance and Decision Making	s7(2)(f)(ii) - the withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of Council members, officers, employees, and persons from improper pressure or harassment	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
6.2 - Endorsement of the Appointment of Recovery Manager	s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

CARRIED

RESOLUTION 2023/28

Moved: Cr Chaans Tumataroa-Clarke

Seconded: Cr Denise Eaglesome-Karekare

That Council moves out of Closed Council into Open Council at 11.44am.

CARRIED

The Meeting closed at 11.45am.

The minutes of this meeting were confirmed at the Ordinary Council Meeting held on

.....
CHAIRPERSON

10 PUBLIC EXCLUDED ITEMS

Nil