
Thursday, 11 February 2021

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

Te Rārangi Take

Report to Council

Nā:
From: John Payne, Regulatory Solutions Manager

Te Take:
Subject: Five Year Bylaw Review

1.0 Executive Summary – Te Kaupapa Me Te Whakarāpopototanga

- 1.1 This matter was left to lie on the table at the Council Meeting held on 28 January 2021.
- 1.2 The purpose of this report is to obtain a decision from Council on the draft Hastings District Council Consolidated bylaws, dog control policy and statement of proposal for public consultation.
- 1.3 This issue arises from the five year review of the consolidated bylaw.
- 1.4 This report contributes to the purpose of local government by primarily promoting performance of regulatory functions for the purpose of reducing public nuisance and more specifically through Council’s strategic objective of community safety through appropriate bylaw controls.

2.0 Recommendations – Ngā Tūtohunga

- A) That the report “Five Year Bylaw Review” now be uplifted from the table.
- B) That Council receives the report titled Five Year Bylaw Review dated 11 February 2021.
- C) That for the purposes of Section 155 of the Local Government Act 2002 Council resolves that;
 - i. A bylaw is the most appropriate way of addressing the perceived problems covered by the proposed consolidated bylaw;
 - ii. The proposed consolidated bylaw is the most appropriate form of bylaw; and
 - iii. The proposed bylaw does not give rise to any implication under the New Zealand Bill of Rights Act 1990.
- D) That the following be approved:
 - Statement of Proposal for the Consolidated Bylaw and Dog Control Policy; and

- Draft Consolidated Bylaw; and
 - Draft Dog Control Policy
- E) That officers be directed to commence the special consultative procedure in accordance with the timetable contained in this report.

3.0 Background – *Te Horopaki*

3.1 The Hastings District Council Bylaws were last reviewed in 2016.

3.2 Section 158 of the Local Government Act (LGA) 2002 requires a local authority must review a bylaw made under this Act no later than 5 years after the bylaw was made. The Hastings District Council Consolidated Bylaw is therefore due for review and should be renewed by August 2021.

Dog Control policy

3.3 The Dog Control Act 1996 requires that if a decision is made to review the Dog Control Bylaw the Dog Control policy must also be reviewed. Accordingly, the Dog Control policy is included in the review.

Review process to date

3.4 Internal chapter owners and key external stakeholders were invited to comment on the current bylaw.

3.5 The submissions from the internal chapter owners and key external stakeholders were discussed at a Council workshop on 22 September 2020.

3.6 The proposed submissions/amendments/suggestions were then legally reviewed and the draft bylaw developed, together with the dog control policy and statement of proposal.

3.7 The new draft was then discuss at a further Council workshop on 26 January 2021 where several issues were raised for further clarification as follows:

Subject	Issue	Outcome
Te Mata Park Alcohol Ban	Is the proposed ban supported by the Te Mata Park Trust?	The Trust met on 1 February 2021 and discussed the matter. It was agreed that a ban was appropriate and should cover the full park and associated parking, walkways and roadways.
Salons Hairdressing and nail care	Wellington had recently introduced a bylaw to regulate and monitor operators. Does HDC need to do the same?	Preliminary reports from Environmental Health officers is that they are unaware of any local problems and complaints are few and far between. Further investigations will be undertaken with the Medical Officer of Health and if considered necessary a bylaw can be introduced at any time.
Horse droppings	Is there a bylaw requiring these to be removed?	Yes this is covered by clause 2.17.1 (g)
Heavy vehicles	Can heavy vehicles (i.e. trucks) be prevented from parking on certain roads?	Yes, the new 5.3.1 (a)(v) allows Council to limit, restrict or prohibit, the parking of heavy vehicles in residential areas specified by way of publicly notified resolution. It would be an infringement offence to breach this with a maximum infringement fee of \$150, enforceable by parking warden, enforcement officer, or constable.

Dog exercise areas	Can the <u>hours</u> for off leash time in 'dog exercise areas' be amended without needing to amend the bylaw and go through a full consultation procedure?	No, not without a new empowering provision to be added to the bylaw The bylaw would need to have a further provision, 3.10 – Dog Exercise Areas, which would provide: Council, may, by way of publicly notified resolution, provide for, or amend, the hours during which a dog may be exercised, as listed in schedule A.
Vehicles on beaches	Can vehicles be prohibited or restricted from beaches?	– Yes Council can ban vehicles entirely from parts or the whole of a beach by resolution. Council has two relevant powers under the proposed bylaw (both which are already in existence). In addition to banning them entirely from certain beaches, if Council wishes to regulate the driving of vehicles on beaches, such as designating certain areas for motorbikes and banning them from other areas, or imposing a specific speed limit in popular areas, then Chapter 5, rule 5.5.1(b) allows this. It provides that “Council, may from time to time, by publicly notified resolution... prohibit or restrict the use of vehicles on beaches” 5.6.1(a) makes it an offence to drive a vehicle in contravention of any restriction or prohibition imposed under 5.5.1(b). Because the bylaw is made pursuant to s 22AB of the Land Transport Act 1998, the Land Transport (Offences and Penalties) Regulations 1999 provide for an infringement fee of \$150, and maximum penalty of \$1000 upon conviction. The bylaw can be enforced by a constable. Chapter 2, rule 2.4 also governs beaches and provides that a person “must not drive a vehicle on any part of a beach from which vehicles have been banned by publicly notified resolution of Council”.

4.0 Discussion – Te Matapakitanga

Review Requirements

- 4.1 When undertaking a review of a bylaw, Section 160(2) of the LGA 2002 requires Council must make the determinations required by section 155 LGA 2002.
- 4.2 The first requirement is to determine whether a bylaw is the most appropriate way of addressing the perceived problem. This is a two-step process:
 - Council needs to be satisfied the perceived problem is something about which it may make a bylaw under the LGA or some other bylaw making power in another statute. Council’s bylaw making powers are principally found in sections 145 – 147 of the LGA 2002 which set out a range of general and specific powers;

- If Council is satisfied the perceived problem can be regulated by a bylaw, Council must consider what other options might be available for dealing with the particular issue. Those options can include:
 - Doing nothing
 - Adopting policies
 - Undertaking public education programmes
 - Relying on existing statutory powers
 - Relying on contractual rights (if available)

4.3 The second requirement under section 155 is to determine the proposed bylaw:

- Is the most appropriate form of bylaw; and
- Does not give rise to any implications under the Bill of Rights Act 1990

4.4 Under Section 160(3) of the LGA 2002 proposals to continue, amend, revoke or replace an existing bylaw generally require Council to use the special consultative procedure.

Proposed changes included in the draft bylaw and Dog Control policy

4.5 After internal and key stakeholder submissions were legally reviewed, the following proposed changes have been made and are incorporated in the attached draft bylaw and Dog Control policy.

Bylaws

Public places (Chapter 2)

- 4.6 A sub-clause has been added 2.2.3 to regulate fires in a public place.
- 4.7 The definition of processions and public meetings has been amended to read “Events, demonstrations, parades, processions or other public meetings”.
- 4.8 “Without an approval” was added to sub-clause 2.18.4(a) trading in a public place.
- 4.9 The speed limit where mobile shops can trade was reduced from 80km to 70km in sub-clause 2.18.4(b).
- 4.10 The words “without an approval” were added to the end of the list of streets in Schedule D of Chapter 2 (Roads on which the conduct of business from a mobile shop is not permitted).

Dog Control Bylaw (Chapter 3)

- 4.11 The Ebbett Park off-leash time has been amended from:
- 7.30pm to 7.00am during daylight saving and - 6.00pm to 7.00am during the rest of the year.
- To:
- 5.00pm to 8.00am all year round.
- 4.12 The Keirunga Gardens off leash area has been amended to give a better description of the off leash area as follows. “Along the extent of the western boundary walkway accessed from Tanner Street, and including the open grass area at the southern and northern ends of the park”.

Alcohol Control (Chapter 4)

- 4.13 Te Mata Park, including the full park and associated roadways, walkways and parking has been added to the list of alcohol banned areas following concerns raised by Police about alcohol related disorder in the area.

- 4.14 Hastings Cemetery and Crematorium as bounded by Maraekakaho & Orchard Roads and the eastern boundary of Heretaunga Intermediate School following concerns raised by Police and the general community about alcohol related disorder in the area.

Parking & Traffic (Chapter 5)

- 4.15 Heavy vehicles parking in residential areas has been added to the list of limits, restrictions or prohibitions. This would give Council the option to add streets where a nuisance is being created by heavy vehicles parking in residential areas. The streets would need to be specified by publically notified resolution and the appropriate signage erected.
- 4.16 The reference to “parking ticket machines” has been deleted from sub-clauses 5.3.1 (b) & 5.4.1 m) as Council no longer has parking ticket machines.
- 4.17 Sub-clauses 5.4.1 d), and g) have been deleted as these offences are already covered under Road User Rules.
- 4.18 “Without an approval” was added to sub-clause 5.4.1 k) relating to the display of “for sale signs” on vehicles parked on a road or public place, to allow for certain places to be set aside for this activity e.g. the Northern car park on a Sunday.
- 4.19 Sub-clause 5.4.1 o) was amended to address the issue of damage to parking meters when items other than legal tender are inserted into these machines.
- 4.20 Sub-clauses 5.4.4 & 5.4.5 were deleted as these offences are already covered by sub-clause 5.4.3.
- 4.21 The reference to “unpaid fines” with respect to the release of an impounded vehicle was deleted as fines must continue to be processed through the legal system.

Food Safety (Chapter 6)

- 4.22 This chapter has been removed as it has been superseded by the Food Act 2014.

Miscellaneous (Chapter 10)

Control of Fires Clause (10.1)

- 4.23 This Clause has been removed as the control of fires is now under the authority of Fire and Emergency New Zealand.

Dog Control policy

- 4.24 The amendments to the bylaw in relation to Ebbett Park & Keirunga Gardens (see 4.11 and 4.12) have also been incorporated into the Dog Control policy.
- 4.25 The following three policy additions have been made:
- The word “potential” has been added to the adoption evaluation
 - A statement that “No dogs will be released for research, testing or teaching purposes” has been added
 - A statement that “Council does not encourage restraining dogs by means of a chain or tether as a permanent means of controlling a dog” has been added

Other matters evaluated not included in the draft bylaw

- 4.26 It was submitted that the Chapter 2 heading “Public Places” be replaced with “Public Spaces”. However, this change was not recommended as “Public Place” is a term contained (and defined) in the Local Government Act 2002. Renaming the Chapter may lead to confusion and ambiguity. It was considered to keep the term Public Place for consistency and legal certainty.
- 4.27 It was recommended that Council consider enacting a bylaw that prohibits the wearing of gang patches in specified public places, Council land and from Council buildings. A bylaw banning gang

insignia limits the rights of freedom of expression held by gang members. It also engages the right of gang members and associates not to be discriminated against, which is protected by the Bill of Rights Act, and the Human Rights Act. Any bylaw which attempts to ban or limit the right to freedom of expression is instantly at odds with the Bill of Rights Act and will be almost inevitably challenged as being ultra vires.

- 4.28 Pursuant to the Prohibition of Gang Insignia in Government Premises Act 2013, no person may display gang insignia at any time in Government premises. Government Premises includes the whole or part of any structure (including any associated grounds) that is owned by, or is under the control of a local authority. This Act would be enforceable by Police and therefore a bylaw is unnecessary.
- 4.29 Amend clause 2.4 to include a statement identifying the dangers that may arise from walking along a beach. While it is important to recognise the importance of public education around safe conduct at beaches it was not considered appropriate to be included in the bylaw as such a statement is not a bylaw in itself.
- 4.30 It was proposed to include powered and unpowered vehicles and a new clause relating to their use on footpaths. However, the use of e-scooters, e-bikes and other low-powered vehicles is regulated by central government. The NZTA has decided that any e-scooter can be ridden on the footpath and on the road (except in designated cycle lanes that are part of the road and which were designated for the sole use of cyclists). To that end it was not considered necessary to regulate the use of low powered vehicles in Council's bylaws (as it relates to footpaths).
- 4.31 It was proposed to expand clause 2.8 to specifically include damage caused to trees on reserves. A submission was received to add the following sub-clauses:
- (c) damage, interfere with, destroy or remove any natural feature, grass plot, flower bed, tree shrub or plant or any inscription or label relating to it in a public place.
 - (d) pollute, damage, deface or disfigure or interfere with any ornament, statue, building, footpath, kerb, road (including road berm), structure, or facility in a public place.
 - (e) erect any signs in a public place or affix any sign, poster, sticker or advertising devices to any structure in or about a public place.

It was considered that the proposed amendments are already actionable by way of existing statutes and/or regulations. For example, The Summary Offences Act 1991 offence of Wilful Damage (section 11) covers all proposed amendments that relate to damage. It was proposed that any amendment is unnecessary. Furthermore, it is unnecessary or desirable to itemise all types of possible damage. In doing so Council runs the risk of indicating that it is an exhaustive list rather than a general term which encompasses a wide range of possible actions.

- 4.32 It was proposed to define "barbed wire" as distinct from "razor wire". As the definition of both barbed and razor wire is clear there is no need to specifically define those terms in the bylaw.
- 4.33 It is proposed to expand the prohibition to flying over public places, park or reserve and to remove the definitions to the general interpretation section. With respect to the definitions it is just as valid here and arguably more useful given that it is more proximate to the relevant bylaw. It was not considered sufficiently problematic to warrant an amendment.
- 4.34 The proposed amendments to the prohibitions on flying over a public place, park or reserve are already covered by the Civil Aviation Rules. It was not considered that an amendment is required.
- 4.35 It was proposed to include a number of additional waste items within the bylaw (i.e. organic waste and offal) and to also clarify that it included disposing "in a public place". However, it was not considered necessary as the disposing of all those items in that manner is actionable under the Litter Act 1979.
- 4.36 It was proposed that an alcohol ban on all Council owned cemeteries be put in place. However, a blanket ban on alcohol at cemeteries would need to be supported by evidence that the area to

which the bylaw is intended to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area. There was evidence to support such issues at the Hastings Cemetery and Crematorium.

- 4.37 It was proposed to have a bylaw in relation to begging. However, previous legal advice on this issue did not support such an approach.

5.0 Current Situation

5.1 The following draft documents have been prepared:

- Statement of proposal for the consolidated bylaw (**Attachment one**). In its final form a copy of the consolidated bylaw will be attached to the statement of proposal
- Draft Consolidated bylaw, without chapter 6 Food Safety or clause 10.1 Control of Fires (**Attachment two**)
- Draft Dog Control Policy (**Attachment three**)

5.2 A summary of the proposed changes to the Bylaws & Dog Control policy are outlined in 4.5 to 4.25.

Proposed Bylaw Framework

5.3 It is proposed that the consolidated bylaw will have 9 chapters as follows:

Chapter 1	Interpretation and General Provisions
Chapter 2	Public Places
Chapter 3	Dog Control
Chapter 4	Alcohol Bans
Chapter 5	Parking & Traffic
Chapter 6	Water Services
Chapter 7	Deliberately left blank
Chapter 8	Deliberately left blank
Chapter 9	Miscellaneous Matters

5.4 If Council approves this proposal the following bylaws will need to be revoked when the new bylaw is adopted in August 2021:

- Food Safety
- Control of Fires

6.0 Determination under Section 155 OF THE LGA (2002)

6.1 The majority of the provisions contained in the proposed consolidated bylaw rely upon the bylaw making powers in Section 145 of the LGA 2002. Where that is not the case, the relevant power is referenced at the beginning of the particular chapter or clause. Officers are satisfied that all of the proposed provisions relate to matters in respect of which Council may lawfully make a bylaw.

6.2 Under Section 155 of the LGA 2002 Council must determine that a bylaw is the most appropriate way of dealing with the perceived problems identified in this proposal. The range of options identified included:

- (a) **Do nothing.** The advantage of a do nothing approach is that it is a low cost option. There is no cost to consult on a bylaw and to enforce it once passed. There is still an expectation by the community that Council will take an active role in the regulation of activities which are perceived as a problem and, if necessary, prosecuting offenders in an appropriate case. It is this element of providing a deterrent. Accordingly “do nothing” was not considered to be an option in all of the cases identified for continued or new bylaw regulation under the current proposal.
- (b) **Using policies** to encourage the public to adopt better or sustainable practices in relation to the perceived problem. In the past it was common to see matters of often quite minute detail in the body of the bylaw when the matters to be regulated could just as easily be covered by a policy or code of practice. The benefit of removing items from a bylaw into a policy or code of practice is that it encourages compliance without the threat of enforcement action. It is also an appropriate approach if council is not prepared to commit budget to policing and enforcing a bylaw dealing with the particular issue. The cost of policing and enforcement is reduced and can be diverted to other areas.
- (c) **Using public education** and consultation programmes as a means to encourage moderation or change of behaviour to address perceived problems. This option is relevant where the proposed regulation would be “nice to have” but the statutory bylaw making power in the LGA, or other statute, is not sufficiently robust to enable enactment of a bylaw on the issue. In such a case any problem that is best addressed through public education and consultation, where appropriate in conjunction with other agencies. Encouraging compliance on a community-wide basis with agreed norms of appropriate behaviour, using a bit of peer pressure, is a more sustainable way of achieving community aspirations in relation to activities where the “offence” does not warrant the formality, or the stigma, of a prosecution.
- (d) **Relying upon other statutory powers.** There is no point in making an activity an offence under a bylaw when it is already an offence under a superior legislative instrument. There was also consideration of the circumstances where there were other statutory remedies, principally under the Trespass Act 1980. Rather than having a bylaw that is never enforced it is considered preferable to define acceptable standards of behaviour in a policy, which is then used by staff as the measuring stick to determine whether or not to exercise the statutory powers available under the Trespass Act. The benefit of this approach is that the policy can be amended more rapidly and with less formality and expense (although an obligation to consult remains) to deal with changing circumstances than an equivalent provision in a bylaw. In addition, the Police will assist with enforcement under the Trespass Act in an appropriate case.
- (e) **Relying upon contractual rights.** A result can be achieved by imposing conditions of entry under the entry contract and using the breach of those terms as the legal basis for ejection, if necessary in conjunction with the law of trespass. The conditions of entry can be determined by policies. Again the benefit of this approach is that the policy can be amended more rapidly and with less formality and expense than an equivalent provision in a bylaw. In addition, the Police will assist with enforcement under the Trespass Act in an appropriate case.

6.3 A broad consideration of the options for any new matters being proposed indicates that no implications arise under the New Zealand Bill of Rights Act (NZBORA).

6.4 None of the provisions are considered as unreasonably impinging upon NZBORA rights and therefore do not give rise to implications under NZBORA. It is considered that Council may safely make those determinations in respect of the new provisions.

6.5 The last matter on which a determination is required from Council under Section 155 of the LGA is the question as to whether the proposed bylaw is in the most appropriate form. It is considered that the proposed bylaw is in the most appropriate form as confirmed in the legal review.

7.0 Options – Ngā Kōwhiringa

Option One - Recommended Option - Te Kōwhiringa Tuatahi – Te Kōwhiringa Tūtohunga

7.1 Adopt all draft documents in this report without amendment and direct officers to proceed with public consultation in accordance with the special consultative procedure under the LGA:

Advantages

Ensures the bylaws are exposed to the wider community input with a minimum of delay. If Council identifies matters as needing attention, that action can be deferred until after consultation is completed and can be considered at the same time as consideration of the submissions.

Option Two – Te Kōwhiringa Tuarua – Te Āhuetanga o nāiane

7.2 Council can amend any aspect of the proposal before directing officers to proceed to public consultation in accordance with the special consultative procedure under the LGA 2002.

7.3 Council can determine that the proposal requires further preliminary consultation, policy work or significant amendment and defer further action pending the completion of that work to its satisfaction. This would put the project behind schedule, however this is not insurmountable.

8.0 Next steps – Te Anga Whakamua

8.1 If Council approves the current proposal without amendment, or with only minor amendment, then it is proposed that the consultation timetable will be as follows:

- Public consultation from 15 February to 19 March 2021
- Submissions heard by Council 20 & 21 May 2021
- Final consolidated bylaw adopted August 2021

Attachments:

1	Statement of Proposal for Bylaw Review	LEG-02-3-20-455	Under Separate Cover
2	Draft Bylaw	LEG-02-3-20-456	Under Separate Cover
3	Draft Dog Control Policy	LEG-02-3-20-457	Under Separate Cover

Summary of Considerations - He Whakarāpopoto Whakaarohanga

Fit with purpose of Local Government - E noho hāngai pū ai ki te Rangatōpū-ā-Rohe

Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

Link to the Council's Community Outcomes – *Ngā Hononga ki Ngā Putanga ā-Hapori*

This proposal promotes the performance of regulatory functions for the purpose of reducing public nuisance and threats to public health & safety through appropriate bylaw controls and for the wellbeing of communities in the present and for the future.

Māori Impact Statement - *Te Tauākī Kaupapa Māori*

No known impacts for mana whenua / iwi / tangata whenua above and or beyond the general community population.

Sustainability - *Te Toitūtanga*

The bylaw is being reviewed after the initial five years. It is not required to be reviewed again until after 10 years (2031).

Financial considerations - *Ngā Whakaarohanga Ahumoni*

The bylaw process will incur legal fees for legal review. These will be partly sourced from existing Planning and Regulatory budgets in both the 2021 & 2022 years:

Significance and Engagement - *Te Hiranga me te Tūhonotanga*

The LGA requires consultation using the special consultative procedure for any proposal to review, amend or revoke a bylaw or to amend the Dog Control policy. Some preliminary consultation has been undertaken in the course of formulating the proposal, as mentioned in 3.4 above. In addition to giving public notice calling for submissions required by the LGA 2002 under the special consultative procedure it is proposed to engage directly with key stakeholder groups or organisations. These will include:

- Police
 - Public Health
 - Hawke's Bay Regional Council
 - Hastings and Havelock North Business Associations
 - Hastings District Rural Community Board
 - All registered dog owners (section 10(2) of the Dog Control Act 1996)
-

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

The bylaw process must follow the Special Consultative Procedure required under section 83 of the Local Government Act 2002.

Risks

The bylaw & dog control policy are required to undergo a five year review under Section 158 of the Local Government Act 2002. Council risks the existing bylaw being unenforceable if it fails to go through this process.

REWARD – <i>Te Utu</i>	RISK – <i>Te Tūraru</i>
Improved environment and public amenity founded upon transparent rules and regulations supported and upheld by the community	Unenforceable bylaws not supported by the wider community. Loss of confidence in local government

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

The Rural Community Board will be part of the targeted consultation process.

1. *Statement of Proposal*



Hastings District Council Consolidated Bylaw 2021

Opening Comments

Reasons for the proposal

1. The Local Government Act 2002 (**LGA 02**) section 158 requires Council to review its bylaws no later than five years after the bylaw was made. Council's Consolidated Bylaw 2016 is due for review and the review process for those bylaws commenced June 2020.
2. The content of each of the bylaws chapters have been examined. Provisions were added or amended if they were considered to be:
 - a) appropriate for inclusion in a bylaw;
 - b) the most appropriate way of addressing the perceived problem;
 - c) does not give rise to any implications under the New Zealand Bill of Rights Act 1990;
3. The Speed Limits Bylaw has been left out of the review process since it is regularly reviewed under the Land Transport Rule, Setting of Speed Limits 2003. In addition to this the following bylaws were omitted from the review process because:
4. The Food Safety Bylaw (Chapter 6) had a finite and limited life span as a result of the commencement of the Food Act 2014 and has therefore been overtaken by a completely new regulatory regime; and
5. The Control of Fires Bylaw (Chapter 10.1) has been removed as this is now under Fire & Emergency New Zealand. A general clause has been added to Chapter 2 Public Places to restrict fires in a public place or on Council administered land without an approval.

Statutory framework

6. Council's bylaw making powers are contained in Subpart 1 of Part 8 of LGA 2002. Some specific powers are also included in other legislation, for example the Land Transport Act 1998 and the Dog Control Act 1996. Whatever the source of power to make a bylaw Council is required to follow the decision-making and consultation requirements set out in LGA 2002.
7. LGA 2002 came into force on 1 July 2003. Since that date on each occasion that Council has had to review its existing bylaws, or has considered a new bylaw Council must first be satisfied that a bylaw is the most appropriate way of addressing the

perceived problem, the bylaw is in the most appropriate form and does not give rise to implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

8. A 2014 amendment to LGA 2002 requires that this statement of proposal contain a report on Council's consideration of those issues. Council has considered and determined those matters in relation to this proposal at its meeting on 11 February 2021. A full copy of the report is available on the Council's website <https://www.hastingsdc.govt.nz/meetings/??????>.
9. Having made those determinations Council must then consult on the proposed bylaw in accordance with the consultation requirements of LGA 2002 and Council's Significance and Engagement Policy. This requires consultation using the special consultative procedure. Council has already undertaken some preliminary consultation on specific aspects of the current proposals with staff from the Police, the Hawke's Bay Regional Council, the Rural Community Board and internal stakeholders. All of those parties will be able to participate in the current consultation process.
10. Under s 156(2) LGA 2002 Council may make changes of an administrative nature to a bylaw without using the special consultative procedure.
11. A brief comment on the bylaws chapters where there has been a recommended change are included below.

Commentary on the Consolidated Bylaw

Chapter 1 – Interpretation and General Provisions

12. All of the provisions in this chapter are of a machinery nature, designed to assist the interpretation, understanding and application of the Bylaw.
13. The definitions in clause 1.3 are used in various chapters but they are able to be found in one place. No new definitions have been added. Some terms are still defined within chapters if those terms only relate to the contents of that chapter.
14. All matters requiring an "approval", and all applications for a "dispensation", are processed under clause 1.5. The consequences of a breach of conditions of approval or dispensation are covered in clause 1.5.5 and appeals against decisions are dealt with in clause 1.5.6.

Chapter 2 – Public Places

(a) Activities

The Control of Fires Bylaw (Chapter 10.1) will be revoked as this is now under Fire & Emergency New Zealand. The following general clause has been added:

2.2.3 A person must not light a fire in a public place unless:

- (a) the fire is contained in a facility provided by Council; or
- (b) the fire is contained in a portable gas barbeque in a Council controlled public place; or
- (c) Council has given prior written approval.

Any Fire and Emergency New Zealand Act 2017 provision, regulation or notice that restricts fires in a public place applies instead of sub-clause (1), for example a restricted or prohibited fire season.

(b) Processions and Public Meetings

Change the definition to:

Events, demonstrations, competitions, parades, processions or other public meetings

(c) Trading, Busking and Collections

“without an approval” was added to sub-clause 2.18.4 (a) trading in a public place.

The speed limit where a mobile shop can operate was reduced from 80km to 70 km in sub-clause 2.18.4 (b).

(d) Schedule D to Chapter 2

The words “without an approval” were added to the end of the list of roads (Roads on which the conduct of business from a mobile shop is not permitted)

Chapter 3 – Dog Control

15. After a comprehensive review in 2016 we have continued with the philosophy that dogs which have easy access to open spaces and are exercised regularly are less likely to display anti-social behaviour such as aggression and excessive barking. To achieve this, we limited the number of dog prohibited areas and leash control areas to those that have high public usage or biodiversity significance. This position has remained unchanged.
16. Schedule A: lists the dog exercise areas. There is a proposal to amend the time restriction for leash control at Ebbett Park. It is currently 7.30pm to 7.00am (adjusted to 6.00pm to 7.00am at daylight saving). It is proposed to be from 5.00pm to 8.00am and to remove the daylight saving adjustment. This is a result of the adoption of the Raureka Parks Management Plan. Council agreed to support an amendment to the bylaw regarding the provision of dog exercise areas within Ebbett Park.
17. A better description of the exercise area of Keirunga Gardens has been added—Keirunga Gardens, along the extent of the western boundary walkway accessed from Tanner Street, and including the open grass areas at the southern and northern ends of the Park. This description is in line with the current signage in the Gardens.

There are no other additions or amendments to the Dog Control Chapter.

Chapter 4 – Alcohol Bans

18. An Alcohol Ban has been added at Te Mata Park Havelock North covering the full park and associated parking, walkways and roadways.
19. An Alcohol Ban has been added to the Hastings Cemetery and Crematorium as bounded by Maraekakaho & Orchard Roads and the eastern boundary of Heretaunga Intermediate School.

Chapter 5 – Parking and Traffic

20. There are a number of deletions as these enforcement activities are covered under Road User Rules.
21. Added to sub-clause 5.3.1 (a):
 - (v) heavy vehicles parking in residential areas, specified in the bylaw
22. The reference to “parking ticket machines” has been deleted from sub-clauses 5.3.1(b), 5.4.1 m) and 5.4.1 o) as Council no longer uses parking ticket machines.
23. Sub-clause 5.4.1 (d) and g) have been deleted as these are covered by Road User Rules
24. “Without an approval” was added to sub-clause 5.4.1 k) relating to the display of “for sale signs” on vehicles parked on a road or public place.
25. Sub-clause 5.4.1 o) was amended to address the issue of damage to parking meters when items other than legal tender are inserted into these machines.
26. Sub-clauses 5.4.4 and 5.4.5 were deleted as these are already covered by sub-clause 5.4.3
27. Clause 5.7 Enforcement. The reference to “unpaid fines” with respect to the release of impounded vehicles was deleted. Fines must go through the appropriate legal channels.

Chapter 6 – Food Safety

28. This chapter was deleted as it was overtaken by the new regime introduced under the Food Act 2014.

Chapter 7 – Water Services

29. There are no additions or amendments to the Water Services Chapter.

Chapter 8 - Deliberately left Blank

30. This chapter does not currently have a bylaw assigned to it. It will act as a “place holder” to allow for any new subject matter in the future.

Chapter 9 – Deliberately left Blank

31. This chapter does not currently have a bylaw assigned to it. It will also act as a “place holder” to allow for any new subject matter in the future.

Chapter 10 – Miscellaneous Matters

32. Clause 10.1 Fire Control has been deleted as this function is now covered by Fire & Emergency New Zealand (FENZ).
33. Clause 10.2 Nuisances remains unchanged.

34. Clause 10.3 Refuse - This clause is currently under review to ensure alignment with the Joint Waste Management and Minimisation Plan 2018 – 2024, with Napier City. This clause may then need to be revoked following that review process.
35. Clause 10.4 Stock, Poultry and Bees remains unchanged.

Dog Control Policy

36. The Dog Control policy changes mirror the Ebbett Park & Keirunga Gardens amendments in the bylaw. There are also three policy additions, none of which require a supporting bylaw:
- Add the word 'potential' to the adoption evaluation; and
 - No dogs will be released for research, testing or teaching purposes; and
 - Council does not encourage restraining dogs by means of a chain or tether as a permanent means of controlling a dog

Bylaws to be revoked

37. If the changes set out in this statement of proposal is ultimately approved by Council, the existing Hastings District Council Consolidated Bylaw will be revoked:

Draft consolidated bylaw

38. A copy of the new draft consolidated bylaw is attached. LEG-02-3-20-456

Submissions

Opening date for submissions: **15 February 2021**
Closing date for submissions **19 March 2021**
Hearing dates for submissions: **20 & 21 May 2021**

Submission forms (including address details) are available at:

- <http://www.myvoicemychoice.co.nz/>
- Hastings District Council Customer Service Centre, 207 Lyndon Road East, Hastings
- Flaxmere, Hastings and Havelock North libraries



Hastings District Council

Consolidated Bylaw

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CHAPTER 1 INTERPRETATION AND GENERAL PROVISIONS

1.1 Purpose and authority

1.1.1 The purpose of this part of the Bylaw is to provide consistency in the interpretation of terms used throughout the Bylaw and to provide for general matters common to many parts of the Bylaw.

1.1.2 Unless otherwise stated every part of the Bylaw is made under s 145 of LGA 2002.

1.2 Commencement and revocation

1.2.1 Unless otherwise stated every part of the Bylaw will commence on the day following the date upon which Council publicly notifies its decision to adopt the Bylaw.

1.2.2 The revocation of a former bylaw will take effect the day following the date upon which Council publicly notifies its decision to revoke the former bylaw.

1.3 Definitions

1.3.1 The definitions in this clause apply to all parts of the Bylaw. Any definition specific to only one part of the Bylaw may be set out at the beginning of that part of the Bylaw. In the event of any conflict between a definition in this clause and the definition in another part of the Bylaw, the latter will prevail.

1.3.2 In this Bylaw:

“advertising device” has the same meaning as in the district plan

“animal” has the same meaning as in the Animal Welfare Act 1999 and, for the avoidance of doubt, includes poultry and stock

“approval” means an approval in writing granted by Council under clause 1.5 and, where the context requires, includes a resource consent granted by Council under the RMA

“berm” means the grass verge of a road

“Bylaw” means the Hastings District Council Consolidated Bylaw, any part of that Bylaw and any other bylaw made by Council from time to time under LGA 02 or any other enactment

“carriageway” means the part of a road intended for movement of vehicles, does not include the berm or footpath but does include a vehicle crossing

“constable” means a sworn officer of the New Zealand Police

“Council” means Hastings District Council and when the context requires extends to include:

- a committee of Council with delegated responsibility for the administration of the Bylaw
- an enforcement officer
- a Council officer with delegated responsibility for the administration of the Bylaw
- a parking warden and

- any other person with responsibility for administration of the Bylaw engaged by Council under s 179 LGA 02

“Council facility” means any premises owned, occupied, managed or otherwise controlled by Council

“cycle” has the same meaning as in Rule 1.6 of the Land Transport (Road User) Rule 2004.

“cycle path” means the part of a road physically separated from the roadway that is intended for the use of cyclists, but may also be used by pedestrians, and includes a cycle track formed under s 332 of the Local Government Act 1974

“district” means the district of the Council as defined in Part 2 of Schedule 2 of LGA 02

“district plan” means the plan made under the RMA for the district and includes both the operative district plan and any proposed district plan

“enforcement officer” means any person appointed by Council under s 177 LGA 02

“footpath” means that part of a road laid out or set aside for exclusive use by pedestrians and includes any berm

“hazardous substance” has the same meaning as in the district plan

“LGA 02” means the Local Government Act 2002

“LGA 74” means the Local Government Act 1974

“licence” has the same meaning as “approval”

“mobile advertising device” means an advertising device attached to a vehicle or trailer and includes a motor vehicle if the signwriting on the vehicle advertises goods or services but does not include a motor vehicle if the signwriting on the vehicle is limited to a business name, address, phone number and logo

“nuisance” means anything which is offensive or likely to be injurious to health and includes any of the nuisances deemed to be created by the circumstances listed in s 29 of the Health Act 1956

“occupier” means the person in possession of premises;

“organised event” means an assembly of people at a specific time for a specific purpose;

“owner”, in relation to premises, means the person for the time being entitled to receive the rent of the premises, whether on an own account or as the agent or trustee for any other person, or who would be so entitled if the premises were let at a rent and includes any person for the time being registered under the Land Transfer Act 1952 as the proprietor of the premises

“parking warden” means a person appointed by the Council under s 128D of the Land Transport Act 1998

“person” includes a corporation sole, a body corporate and an unincorporated body

“poultry” means all types of domestic fowls and includes geese, ducks, pigeons, swans, turkeys and roosters

“premises” means any land and/or building comprised in a single certificate of title or any self-contained and separately occupied part of any premises

“public place” means a place that, at any material time, is open to or is lawfully being used by the public, whether free or on payment of a charge, notwithstanding that any owner or occupier of that place is entitled to exclude or eject any person from that place and, for the avoidance of doubt, includes:

- a beach
- a road
- an aircraft, hovercraft, ship, ferry or vehicle carrying passengers for reward
- a cemetery or crematorium
- the foreshore
- a park
- a reserve under the Reserves Act and
- premises used by Council for the purposes of service delivery, including (but not limited to) an administrative office, community centre, swimming pool, library or art gallery

“public notice” has the same meaning as in s 5 of LGA 02 and “publicly notified” has a corresponding meaning

“RMA” means the Resource Management Act 1991

“road” has the same meaning as in s 315 of the Local Government Act 1974 and includes all land, including any berm, footpath, cycle path or carriageway, within the legal boundaries of the road

“rural area” means those parts of the district defined as “Rural Areas/Zones” in the district plan

“shared zone” means part of a road intended to be used by pedestrians and vehicles

“sports field” means any part of a public place which is laid or set aside for playing organised games or sports and includes an area used for practising a sport or game but, for the avoidance of any doubt, does not include an area beside a sports field used by spectators

“stock” means animal which may be farmed for the production of meat, milk, fibre or hides, extends to include a horse, donkey or mule and, for the avoidance of doubt, includes any animal kept as a pet

“urban area” means those parts of the district defined as “Urban Areas/Zones” in the district plan

“vehicle” has the same meaning as in the Land Transport Act 1998 and, for the avoidance of doubt, includes a bicycle, hovercraft, skateboard, in-line skates and roller skates

“working day” means a day of the week other than:

- a Saturday, Sunday or public holiday as observed throughout New Zealand
- Hawke's Bay Anniversary Day and
- Any day in the period commencing with 20 December in a year and ending with 10 January in the following year

1.4 Interpretation

1.4.1 The Interpretation Act 1999 applies to this Bylaw.

1.4.2 The interpretation rules set out below apply to all parts of the Bylaw.

1.4.3 In this Bylaw:

- (a) Words referring to the masculine, feminine or neuter gender refer also to the other genders;
- (b) Singular words include the plural and vice versa;
- (c) The phrase "part of the Bylaw" refers to a Chapter of the Bylaw or to part of a Chapter, as the context requires;
- (d) In the event of inconsistency or interpretation conflict between this part of the Bylaw and any other part of the Bylaw, the latter prevails;
- (e) In the event of any inconsistency or conflict between the provisions of any part of the Bylaw and any rule in the district plan, the latter shall prevail;
- (f) In the event of any inconsistency or conflict between the conditions of an approval and the conditions of a resource consent granted under RMA relating to the same activity, the latter prevails.

1.5 Approvals and dispensations

1.5.1 A person proposing to do anything or to cause any condition to exist for which a licence, permit, approval or dispensation (however described) is required under the Bylaw must first obtain an approval.

1.5.2 A person seeking an approval must make application on the prescribed form (if any), supply any supporting information that may be required and pay the application fee.

1.5.3 An approval may be granted for a single event, on a temporary basis, for a fixed term or until further notice and upon such terms and conditions as Council thinks fit.

1.5.4 An application for an approval, or the payment of the application fee, does not confer any right, authority or immunity on the person making that application or payment. Council shall be under no obligation to grant an approval.

1.5.5 If Council believes that a condition of an approval has been breached or is being breached Council may, without the need to give any preliminary or warning notice:

- (a) prosecute the person responsible for the breach for an offence under the Bylaw; and

- (b) suspend the approval for a specified period; or
 - (c) cancel the approval.
- 1.5.6 A person whose application for an approval was declined, or who is unhappy with a decision made under clause 1.5.3 or clauses 1.5.5(b) or (c) may apply to Council for a review of that decision.
- 1.6 Service of notices**
 - 1.6.1 Any notice or document required to be given under the Bylaw may be delivered to that person either personally or by sending it to the person's last known address, place or abode or business, and in the case of a company to its registered office, by messenger or by ordinary post.
 - 1.6.2 If the person to whom the notice or document is to be given is:
 - (a) deceased; or
 - (b) absent from New Zealand,the notice or document may be sent to that person's personal representative, executor, attorney or other authorised agent.
 - 1.6.3 If the person to whom the notice or document is to be given is not known, or is absent from New Zealand and has no known agent in New Zealand, and the notice or document relates to any premises, the notice or document may be served occupier of those premises or, if there is no occupier, may be affixed to some conspicuous part of the premises.
 - 1.6.4 Where a notice or document is sent by post it shall be deemed to have been served at the time when the letter would be delivered in the ordinary course of post.
- 1.7 Offences**
 - 1.7.1 Every person who acts contrary to any prohibition contained in the Bylaw, or to any condition of an approval, or any requirement or condition made by publicly notified resolution in accordance with the Bylaw, commits an offence against the Bylaw.

1.8 Fees and Charges

- 1.8.1 Council may by publicly notified resolution set or vary any fee or charge in respect of any matter provided for in this Bylaw. Where a fee or charge relates to the use of or entry to a public place, payment of the fee or charge shall be a condition of use or entry.

The Common Seal of the Hastings District Council was affixed on
in the presence of:

Mayor

Chief Executive

CHAPTER 2 PUBLIC PLACES

2.1 ACCESS WAYS

- 2.1.1 A person must not attempt to use or enter an access way (as defined in s 315 of LGA 74) which has been shut by locked gates in accordance with a publicly notified Council resolution.

2.2 ACTIVITIES

- 2.2.1 A person must not undertake any activity in a public place in a manner which may result in damage to property, injury to another person in that public place or unreasonably interfere with that other person's use and enjoyment of that public place. For the avoidance of doubt, this obligation applies notwithstanding that the activity might otherwise be able to be lawfully undertaken in a public place under this bylaw.
- 2.2.2 Notwithstanding clause 2.2.1, the safe operation of a RPA (as defined in clause 2.11.1) over an organised event in a public place with an approval and the consent of the organiser of the event will be deemed not to be an unreasonable interference of the use and enjoyment of that public place by another person
- 2.2.3 A person must not light a fire in a public place unless:
- (a) the fire is contained in a facility provided by Council; or
 - (b) the fire is contained in a portable gas barbeque in a Council controlled public place; or
 - (c) Council has given prior written approval

Any Fire and Emergency New Zealand Act 2017 provision, regulation or notice that restricts fires in a public place applies instead of subclause (1), for example a restricted or prohibited fire season.

2.3 ADVERTISING DEVICES

- 2.3.1 The provisions in this part of the Bylaw are in addition to any rules in the district plan dealing with advertising devices. In the event of conflict or ambiguity between a provision in this Bylaw and a rule in the district plan, the district plan rule will prevail.
- 2.3.2 The Council may by publicly notified resolution on its own motion grant dispensation from the requirements of clause 2.9.1(b) for specified types of advertising device generally or in specified locations.
- 2.3.3 The owner of an advertising device erected or standing on a public place, whether under an approval or a dispensation granted under clause 2.3.2 must at all times ensure that:
- (a) the placement of the advertising device does not interfere with the free and safe passage of people and vehicles using the public place:

- (b) the advertising device is constructed of appropriate materials and is designed and maintained so that it is unlikely to cause injury to persons damage to vehicles using the public place;
- (c) the advertising content is suitable for display in a public place;
- (d) the advertising device is maintained in good order and condition and does not become a safety hazard to people or vehicles using the public place, an eyesore or otherwise detract from the amenity of the locality;
- (e) the advertising device is removed when the premises to which it relates are closed for business or is otherwise redundant.

2.4 BEACHES

2.4.1 A person must not:

- (a) drive a vehicle on any part of a beach from which vehicles have been banned by publicly notified resolution of Council;
- (b) except in the case of an emergency attempt to land an aircraft, microlight, motorised glider or glider on a beach;
- (c) swim from any part of a beach from which swimming has been banned by publicly notified resolution;
- (d) appear nude or insufficiently dressed on a beach, except for a beach which Council has designated as a “clothing optional” beach by publicly notified resolution;
- (e) obstruct, hinder or interfere with any person carrying out life-saving operations, or engaged in life-saving activities, practices or competitions.

2.4.2 Clause 2.4.1(a) is made under s 22AB(1)(f) of the Land Transport Act 1998.

2.5 CEMETERIES AND CREMATORIUM

2.5.1 This part of the Bylaw is made under s 16 of the Burial and Cremation Act 1964.

2.5.2 in this clause:

“cemetery” means any cemetery owned or operated by Council;

“crematorium” means any crematorium owned or operated by Council and extends to include the grounds surrounding the crematorium;

“plot” means a plot in a cemetery or crematorium and extends to include any niche provided in any structure for the interment of ashes.

2.5.3 A person must not:

- (a) undertake the burial or disinterment of any body, or the cremation of any body or the interment or disinterment of any ashes in a cemetery or crematorium;
- (b) install any fence, enclosure, tombstone, vault, headstone, other monument, inscription or memorial of any kind on a plot;
- (c) undertake any other work within a cemetery or the grounds of a crematorium;

without an approval.

2.5.4 An approval is not required under clauses 2.5.3(b) or (c) if the items to be installed or the work to be done will comply with specifications set by Council from time to time, by publicly notified resolution.

- 2.5.5 The owner, or the personal representative of the owner, of a burial plot must keep all fences, enclosures, tombstones, vaults, headstones and other monuments or memorials on any plot in good tidy order and repair.
- 2.5.6 Any items installed on a plot in breach of clause 2.5.3 and 2.5.4 may be removed by Council.
- 2.5.7 Subject to clause 2.5.8 a person must not bring any animal onto a cemetery or a crematorium without an approval.
- 2.5.8 An approval is not required under clause 2.5.7 to bring onto a cemetery or crematorium:
- (a) a special purpose dog (as defined in clause 3.2.1); or
 - (b) a dog under leash control

2.6 COUNCIL FACILITIES

- 2.6.1 Council may by publicly notified resolution set conditions of entry and/or use of any Council facility.
- 2.6.2 A person who is admitted to a Council facility which is a swimming pool as the person having responsibility for the supervision of a child aged 8 years or younger accompanying that person, must be over the age of 16 years and must actively supervise that child at all times while in that facility.
- 2.6.3 Council may, or a constable at the request of Council may, exclude or remove any person from a Council facility:
- (a) who has acted in a manner that is contrary to conditions of entry and/or use of that facility set under clause 2.6.1;
 - (b) who is not using the facility for its intended purpose;
 - (c) who has contravened any other provision of this Bylaw;
 - (d) for any reason relating to the efficient, reasonable and fair management of the facility.

2.7 CYCLES AND SKATEBOARDS

- 2.7.1 This part of the Bylaw is made under s 22AB(1)(h) of the Land Transport Act 1998.
- 2.7.2 Except as provided in clause 2.7.3, a person must not ride a cycle on a footpath or on a lawn, garden, or other cultivation in a public place.
- 2.7.3 For the avoidance of doubt, clause 2.7.2 does not apply to a person who rides a cycle on a footpath:
- (a) in the course of delivering newspapers, mail, or printed material to letterboxes;

- (b) which has been designated as a shared footpath by Council by publicly notified resolution.
- 2.7.4 A person must not stop stand or park a cycle on any footpath without due care and with regard to the convenience and safety of other persons using that footpath.
- 2.7.5 A person must not use a skateboard on a footpath without exercising due care and with regard to the convenience and safety of pedestrians.
- 2.7.6 Notwithstanding clause 2.7.5, a person must not use a skateboard in a public place within the skateboard ban areas specified in Schedules A, B and C to this part of the Bylaw, or in any other part of the district designated by the Council by publicly notified resolution as a skateboard free area.

2.8 DAMAGE

- 2.8.1 A person must not:
- (a) dig up, disturb, damage or remove the surface of any public place;
 - (b) affix any signs or posters to any structure in or about a public place;
- without an approval.

2.9 ENCROACHMENTS

- 2.9.1 A person must not:
- (a) erect any building, fence, tent, temporary shelter, kiosk or stall;
 - (b) place or leave any hoarding, advertising device, furniture, material or thing; or
 - (c) hang any gate or door so that it opens;
- on or over a public place except as expressly provided in this Bylaw or in an approval.
- 2.9.2 Without limiting the generality of clause 2.9.1, Council may give approval to the following activities:
- (a) the erection of retail displays, kiosks or stalls on a public place;
 - (b) the provision of seating, tables or other furniture for use in association with trading activities being conducted from contiguous premises;
 - (c) the erection or construction of an advertising device, awning, verandah, balcony, window box or other device attached to a building on contiguous premises which does not obstruct free passage along or over the public place.

2.10 FENCES

- 2.10.1 A person must not incorporate barbed wire in a fence on the boundary between any premises within the urban area and a public place unless the barbed wire is at least 2 metres above ground level (when measured on the outside of the fence at a distance of 1 metre from the base of the fence).

2.11 FLYING ACTIVITIES

- 2.11.1 In this clause:

“aircraft” has the same meaning as in the Civil Aviation Rule and includes an aeroplane, balloon, glider, hang glider, helicopter or microlight

“RPA” means any remotely piloted aircraft and includes: an unmanned or free flight aircraft and a model aircraft under line control

- 2.11.2 A person must not take off or land, or attempt to take off or land, an aircraft in a public place except in the case of an emergency or with an approval.
- 2.11.3 A person must not operate an RPA over a public place in breach of clause 2.2
- 2.11.4 A person must not operate a RPA from or over a road, cemetery or crematorium without an approval.
- 2.11.5 Nothing in clause 2.11.4 applies to a person operating a RPA for the purposes of a civil defence, accident or other emergency service response, at the direction of the person in charge of that response.

2.12 HAZARDS

- 2.12.1 A person must not place or leave any hazardous substance, or any other material or substance which may cause injury to any person, in or about a public place.
- 2.12.2 The owner or occupier of premises contiguous to a public place must:
- (a) ensure that any advertising device, wall, fence, balcony, window box, awning or verandah on those premises does not fall into such a condition or state of disrepair that it constitutes a health and safety risk to persons using the public place;
 - (b) ensure that no tree or shrub is allowed to grow from the premises into the public place, or overhang the public place, so as to obstruct passage over or along the public place or any lighting in the public place;
 - (c) ensure that any railing, gate, fence or cover protecting the entrance to a cellar under the premises is maintained in safe condition and that appropriate steps are taken when the entrance is open for use to prevent any accident or injury to vehicles or persons using the public place;
 - (d) not fail to remedy any non-compliance with clauses 2.12.2 (a), (b) or (c) within a reasonable time of service of a notice by Council specifying the

matters of non-compliance and requiring that remedial work be undertaken.

2.13 EVENTS DEMONSTRATIONS COMPETITIONS PARADES PROCESSIONS OR OTHER PUBLIC MEETINGS

- 2.13.1 A person must not hold a public meeting or conduct a procession in a public place without an approval.
- 2.13.2 An approval under clause 2.13.1 will not be required for a public meeting held in any place within the district which is identified in a publicly notified resolution as suitable for the conduct of public meetings and forums, subject to compliance with any terms and conditions set out in the resolution.
- 2.13.3 A person must not expose to view in or from a public place any object or material which is lewd, indecent, or intended to give or likely to give offence.
- 2.13.4 A person must not display any placard, handbill or poster which is visible from or within a public place the contents of which are lewd, indecent or intended to give, or likely to give offence.

2.14 REFUSE DISPOSAL

- 2.14.1 A person must not dispose of any household refuse, hazardous substance, commercial waste or offensive matter in a Council refuse receptacle provided in a public place.

2.15 SPORTS AND GAMES IN A PUBLIC PLACE

- 2.15.1 A person must not use a sports field which has been closed for use by Council.
- 2.15.2 A person must not enter onto or remain on a sports field while any game, sport or practice is in progress.
- 2.15.3 A person must not use any part of a public place for planned team games and sporting activities, marching drill, musical or other group activity without an approval.

2.16 STREET NUMBERING AND PRIVATE ROAD SIGNS

- 2.16.1 In this clause:
- “private road” means a private road as defined in s 315 LGA 74 and extends to include an access way, access lot or right of way serving more than 5 premises.
- 2.16.2 An owner or occupier of premises must ensure that:
- (a) the premises are marked with the street number allocated by Council;
 - (b) the marking complies with the minimum dimensions and specifications set by Council by publicly notified resolution;
 - (c) the marking is suitably located upon or about the premises so that it is clearly visible from the road at all times.

- 2.16.3 Clause 2.16.2 is made under s 22AB(1)(x) of the Land Transport Act 1998.
- 2.16.4 An owner of premises served by a private road must ensure that all times the private road is adequately identified by signage which meets the requirements laid down by Council or such signage and that the sign is maintained in a good and legible condition at all times.

2.17 STOCK

- 2.17.1 A person in charge of stock must:
- (a) take all reasonable steps to ensure that they do not wander onto a public place;
 - (b) ensure that they are under proper control and supervision at all times when driven or passing across or along a road;
 - (c) not drive stock along or across a carriageway when a reasonable alternative is available;
 - (d) not lead, ride or swim any stock on a beach in circumstances where a nuisance, danger or inconvenience is or may be created for other users of the beach;
 - (e) not lead, drive or permit stock to go along or over any footpath, cycle path, or grass plot or flower bed within a public place;
 - (f) not allow stock to graze on a public place without an approval from Council, or as permitted under clause 2.17.2;
 - (g) immediately dispose of any droppings left in a public place;
 - (h) in any case where stock are driven or pass across or along a road on a recurring basis, ensure that there is no buildup of mud or faecal matter on the carriageway over time;
 - (i) immediately report any damage caused to road markers, road signs, culverts, water tables or other roading infrastructure and reimburse the reasonable cost of repair or replacement to Council.
- 2.17.2 An approval to graze stock on a road in the rural area is not required under clause 2.17.1(f) if:
- (a) grazing is undertaken on the berm contiguous to premises:
 - (i) owned or occupied by the person in charge of the stock; or
 - (ii) owned by some other person who has given consent to that grazing;
 - (b) measures are taken (by means of tethering or the erection of temporary fences) to ensure that stock cannot graze within one metre of the carriageway;

- (c) all other reasonable precautions are taken to ensure the safety and convenience of neighbours, people driving stock on the road and any other persons or traffic using the road;
 - (d) any other conditions, including the payment of grazing fees, laid down by Council by publicly notified resolution are observed.
- 2.17.3 For the purposes of clause 2.17.1(b) stock is deemed to be under proper control and supervision if the guidelines in the New Zealand Transport Agency publication “Stock under control (crossing and droving)”, or some other guideline approved by Council by publicly notified resolution, have been observed.

2.18 TRADING, BUSKING AND COLLECTIONS

- 2.18.1 The provisions in this part of the Bylaw are in addition to any rules in the district plan dealing with trading in public places. In the event of conflict or ambiguity between a provision in this Bylaw and a rule in the district plan, the district plan rule will prevail.
- 2.18.2 In this clause
- “mobile shop” means any vehicle from which goods or services can be purchased, hired or ordered.
- 2.18.3 A person must not:
- (a) carry on any business trade or profession;
 - (b) sell, or offer for sale or hire, any goods or services;
 - (c) sing or play any musical instrument;
 - (d) use or operate any broadcasting system or loud speaker;
 - (e) accept or solicit donations or gifts;
 - (f) undertake a street appeal or charity fundraiser;
- in a public place without an approval from Council.
- 2.18.4 A person holding an approval under clause 2.18.3(b) to operate a mobile shop must not conduct business from that vehicle:
- (a) within those parts of Hastings, Havelock North and Flaxmere which are zoned “Central Commercial” (including the Central Character Precinct) or Large Format Retail, Havelock North Village Centre Retail or Havelock North Village Centre Business, Flaxmere Commercial or Flaxmere Commercial Service in the district plan without an approval;
 - (b) from the berm, or premises adjoining the berm, of a road which has a speed limit of 70 km/h or more; and
 - (c) on any of the roads listed in Schedule D to this Chapter

2.19 VEHICLE CROSSINGS AND BERMS

2.19.1 The owner or occupier of premises must:

- (a) obtain an approval from Council before commencing construction, widening, alteration or removal of a permanent or temporary vehicle crossing serving those premises;
- (b) not use a vehicle crossing, or operate a vehicle on a footpath, cycle path or berm for construction purposes without an approval;
- (c) maintain the vehicle crossing in good repair at all times, in the manner and to the standard prescribed by Council from time to time by publicly notified resolution;
- (d) maintain the berm in front of the premises in a neat and tidy condition reasonably free from windblown litter and other rubbish and, but only if the berm is sown in grass, regularly mow the berm and remove the clippings;
- (e) repair any damage to the berm caused by the owner, the occupier or their invitees.

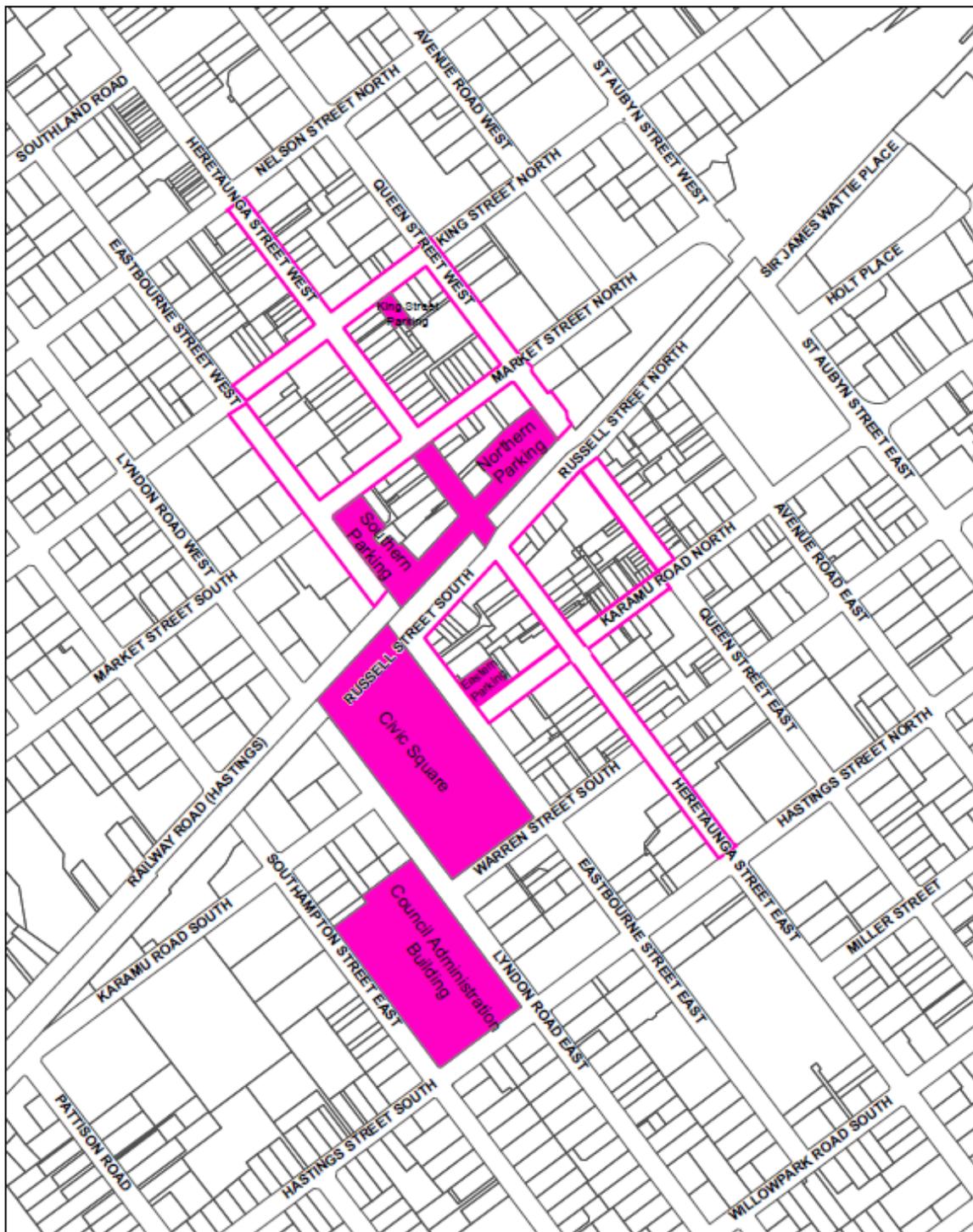
SCHEDULE A TO CHAPTER 2

(Clause 2.7.6)

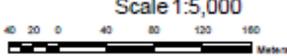
Hastings skateboard ban area

Any part of the roads (including footpaths) and other public places listed below, as shown on the attached plan (number 1)

- Heretaunga Street (both sides) between Hastings Street and Nelson Street
- The pedestrian mall in the Commercial area between Russell Street and Market Street
- Queen Street between Karamu Road and King Street
- Eastbourne Street between Karamu Road and King Street
- King Street between Eastbourne Street and Queen Street
- Market Street between Eastbourne Street and Queen Street
- Railway Road between Eastbourne Street and Queen Street
- Russell Street between Eastbourne Street and Queen Street
- Karamu Road between Eastbourne Street and Queen Street
- Northern, Southern, Eastern and King Street parking areas
- Council Administration Building Lyndon Road East and associated grounds
- Civic Square
- “Hastings City Square” which includes the water feature and stage area.



Plan Number 1 - Hastings

 <p>HASTINGS DISTRICT COUNCIL</p> <p>Map Produced using ArcMap</p>	<p>Scale 1:5,000</p>  <p>Projection: NZTM Datum: D_NZGD_2000</p>	<p>DATA SOURCE: Cadastral information derived from the Land Information New Zealand's Core Record System (CRS). CROWN COPYRIGHT RESERVED</p> <p>COPYRIGHT: Copyright in this drawing is owned by the Hastings District Council. Any unauthorised copying or adaptation of the whole or a substantial part of the work in two or three dimensions is an infringement of copyright.</p> <p>DISCLAIMER: The Hastings District Council cannot guarantee that the data shown on this map is 100% accurate.</p>
	<p>Original Size: A4 Date: Thursday, 28 January 2016</p>	<p>Radloff/Be/16</p>

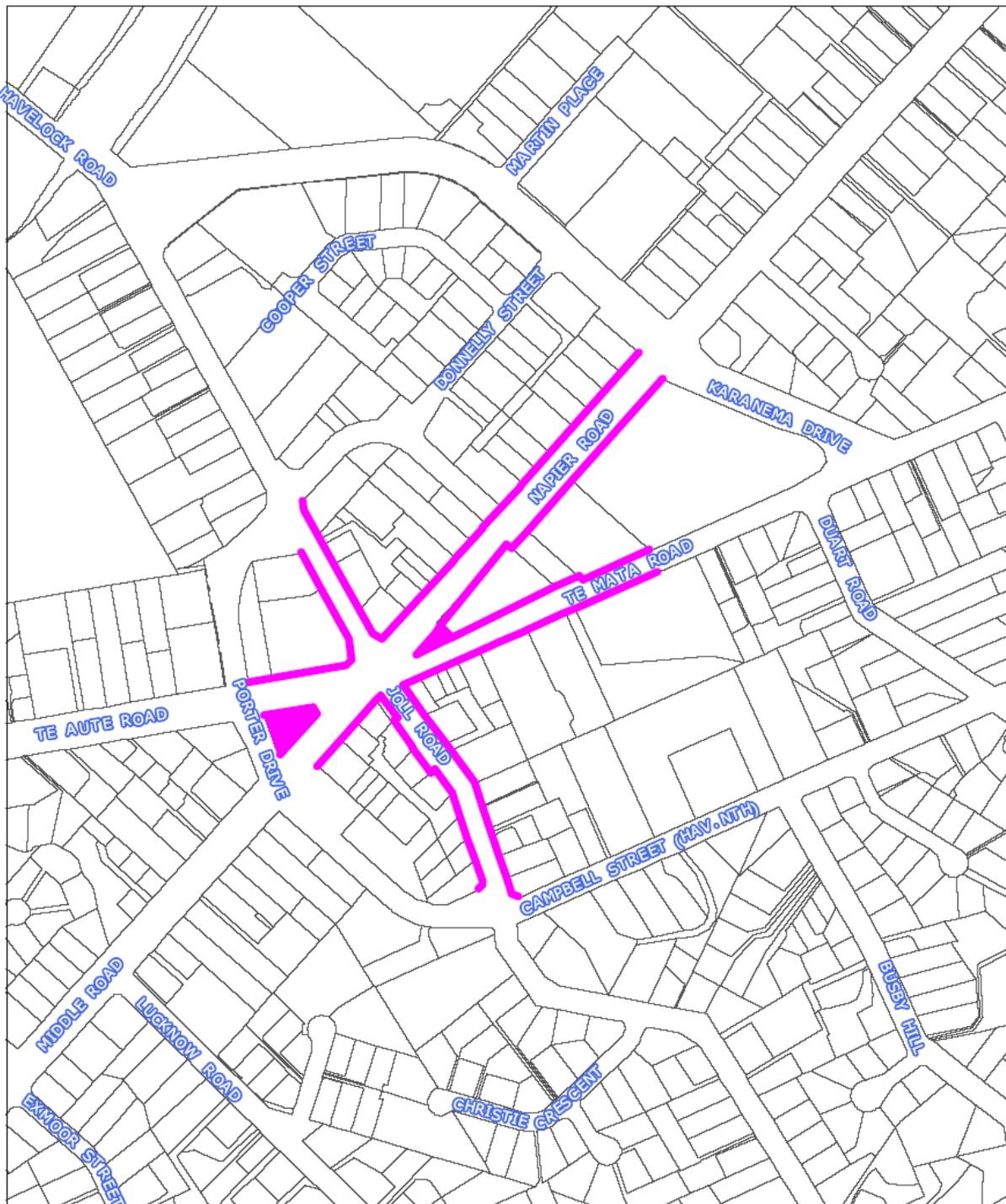
SCHEDULE B TO CHAPTER 2

(Clause 2.7.6)

Havelock North skateboard ban area

Any part of the roads (including footpaths) and other public places listed below as shown on the attached plan (number 2):

- Joll Road from the Central Roundabout to the intersection with Campbell Street
- Middle Road from the Central Roundabout to the intersection with Porter Drive
- Te Aute Road from the Central Roundabout to the intersection with Porter Drive
- Havelock Road from the Central Roundabout to the intersection with Porter Drive
- Napier Road from the Central Roundabout to the intersection with Karanema Drive
- Te Mata Road from the Central Roundabout to the boundary between the Havelock North Function Centre and 38 Te Mata Road
- Cenotaph and surrounding paved area
- The Village Green, including the paved areas surrounding the information site/ toilet block, water feature and surrounding paved area.



 <p>HASTINGS DISTRICT COUNCIL</p>	<h2>PLAN NUMBER 2 HAVELOCK NORTH</h2>	<p>DATA SOURCE: Cartographic information derived from the Land Information New Zealand's Core Parcel System (CPS). CROWN COPYRIGHT RESERVED</p> <p>COPYRIGHT: Copyright in this drawing is owned by the Hastings District Council. Any unauthorised copying or adaptation of the whole or a substantial part of the work in two or three dimensions is an infringement of copyright.</p> <p>DISCLAIMER: The Hastings District Council cannot guarantee that the data shown on this map is 100% accurate.</p>
<p>GIS Powered by </p>	<p>Grid: New Zealand Map Grid Height Datum: Mean Sea Level Coordinates in Metres Geodetic Datum 1949</p>	<p>Scale 1 : 4500 (on A4)</p>  <p>Metres</p>
<p>Date : Wed Nov 21 2007</p>		

SCHEDULE C TO CHAPTER 2

(Clause 2.7.6)

Flaxmere skateboard ban area

All of the land described as Lot 2 DP 14853 and known as the Flaxmere Shopping Centre.

SCHEDULE D TO CHAPTER 2

(Clause 2.18.4)

Roads on which the conduct of business from a mobile shop is not permitted

Entire length

Pakowhai Road

Maraekakaho Road

Heretaunga Street

Omahu Road

Railway Road

Karamu Road North

Southampton Street

St Aubyn Street

Hastings – Havelock Road

Karanema Drive

Porter Drive

Columba Way

Te Mata Road

Without an approval.

Part only

Napier Road, Middle Road and Te Aute Road, from the end of the 80km/h or 100 km/h speed restriction to the Havelock North Village Centre zone boundary.

The Common Seal of the Hastings District Council was affixed on

in the presence of:

Mayor

Chief Executive

CHAPTER 3 DOG CONTROL

3.1 Authority

3.1.1 This part of the Bylaw is made under s 20 of the Dog Control Act 1996

3.2 Definitions

3.2.1 In this part of the Bylaw

“at large” means that the dog is not under leash control when required under this bylaw”

“DCA” means the Dog Control Act 1996

“dog exercise area” means an area within the district where dogs may be exercised off leash and includes the areas listed in Schedule A to this chapter and any other area of the district designated by Council, by publicly notified resolution as a dog exercise area.

“dog prohibited area” means an area within the district listed in Schedule B to this chapter, and any other area of the district designated by Council by publicly notified resolution as an area prohibited to dogs

“leash controlled area” means:

- any public place or private way within the urban area of the district; or
- any park, reserve, beach, walkway or cycleway within the rural area of the district; or
- the beach front of the Ocean Beach settlement north to the surf club during daylight saving hours between 7.30am and 7.30pm and during the remainder of the year between 7am and 6pm; or
- the beach front at Waipatiki Beach Settlement, on the seaward side of the reserve, during daylight saving hours between 7.30am and 7.30pm and during the remainder of the year between 10.00am and 4.00pm; and

not otherwise being an area or place referred to in Schedules A or B to this Chapter)

“neutered” means spayed or castrated

“owner” has the same meaning as in s 2 of DCA

“private way” has the same meaning as in s 315(1) of the Local Government Act 1974

“road” has the meaning given to it in Chapter 1 but extends to include a state highway or a motorway

“special purpose dog” means all working dogs other than dogs kept principally for the purposes of herding or driving stock

“working dog” has the same meaning as in s 2 of DCA

3.3 Dog prohibited areas

3.3.1 An owner must not allow a dog to enter, or take a dog into, a dog prohibited area.

3.3.2 Nothing in clause 3.3.1 applies to the owner of a special purpose dog.

3.4 Leash control

3.4.1 An owner must keep a dog under leash control at all times when:

- (a) within a leash controlled area
- (b) the dog is in some other place and is causing or is likely to cause danger, distress or nuisance to a person or another animal

3.4.2 Nothing in clause 3.4.1 (a) applies to the owner of a special purpose dog or to the owner of a dog which is kept solely or principally for the purposes of herding or driving stock when the dog is engaged in that activity.

3.4.3 An owner must not leave a dog unattended within, or on the open tray of, a vehicle without ensuring that the dog is restrained by a leash, or some other effective means, from leaving the vehicle and lunging or snapping at people passing by the vehicle.

3.5 Limiting the number of dogs kept

3.5.1 A person must not keep, or allow to be kept, more than two dogs on any premises within the urban area, without an approval.

3.5.2 Nothing in clause 3.5.1 applies to a dog under the age of 3 months.

3.6 Dog fouling

3.6.1 An owner of a dog which fouls in a public place, private way or on premises which are not occupied by the owner must immediately remove the faecal matter and carry it away for sanitary disposal.

3.6.2 An owner who takes a dog outside the owner's premises must at all times carry a suitable receptacle to enable compliance with clause 3.6.1.

3.6.3 For the avoidance of doubt, placing a dog's faeces in a securely tied plastic or leak proof bag in a disposal bin or a litter bin provided in a public place by the Council will satisfy the owner's obligation under clause 3.6.1.

3.7 Bitch in season

3.7.1 An owner of every bitch in season must keep it confined, but adequately exercised, while in season.

3.8 Impounding and neutering

3.8.1 A dog found at large in breach of this bylaw may be impounded by Council.

3.8.2 Council may give written notice to an owner of a dog which has been impounded by Council under clause 3.8.1 on more than 3 occasions within a continuous period of 24 months, requiring that dog to be neutered at the owner's expense (whether or not the owner of the dog has been convicted of an offence against sections 52A or 53 of the Dog Control Act 1996).

3.8.3 An owner given notice under clause 3.8.2 must produce to Council, within one month after service of the notice a certificate issued by a registered veterinarian that the dog has been neutered.

3.8.4 An owner who fails to comply with clauses 3.8.2 and 3.8.3 commits an offence under this bylaw.

3.9 Care and accommodation of dogs

3.9.1 An owner of a dog which is suffering from a communicable disease or infection must ensure that the dog is properly treated for the disease or complaint and, except for taking the dog for treatment, must ensure that the dog is confined to the owner's premises while it is so affected.

3.9.2 An owner of a dog must ensure that it is accommodated in a manner, and in a location, on the premises whereby the presence of the dog does not give rise to noises (other than barking) or smells which are a nuisance or annoyance to the occupier of adjoining premises.

Schedule A to Chapter 3

Dog Exercise areas

Havelock North

- Tainui, Tanner and Hikanui Reserves
- Tauroa Road Reserve
- Te Mata and Arataki Road Reserve
- Kingsgate Reserve from Te Mata Road to Reeve Drive, Ritchie Place, Fulford Place and Durham Drive
- The banks of the Karamu Stream, from a point adjacent to the southernmost edge of Anderson Park, Havelock North to the vehicle over bridge on Havelock Road
- The southern boundary walkway of Keirunga Gardens Havelock North, along the extent of the western boundary walkway accessed from Tanner Street, and including the open grass areas at the southern and northern ends of the Park.
- Te Mata Peak Park
- James Cook Street Reserve
- Palmbrook Reserve

Hastings

- Karamu Road South, from Pattison Road south to Murdoch Road
- Ebbett Park from 5.00pm to 8.00am
- Duke Street Reserve.
- Pakowhai Country Park.

Flaxmere

- Portsmouth Road, from Wilson Road, west to the end of Portsmouth Road
- The Flaxmere Green Belt to the west of Tarbet Street, Arklow Place and Frobisher Street between Kirkwood Road and Flaxmere Avenue.

Haumoana and Te Awanga

The Haumoana-Te Awanga coastal beach front area from the mouth of the Tukituki River south to the boundary of the Clifton No. 2 camp, Te Awanga, excluding the beach front between numbers 3 and 41 Clifton Road Haumoana.

Waimarama and Ocean Beach

- The beach front of the Ocean Beach settlement north to the surf club during daylight saving hours between 7.30pm and 7.30am the following day, and 6pm and 7am the following day during the remainder of the year
- Ocean Beach north of the surf lifesaving club to 100m south of the predator proof fence
- Waimarama Beach north to the Puhokio Stream river mouth during daylight saving hours between 7.30pm and 7.30am the following day, and during the remainder of the year 6pm and 7am the following day
- Waimarama Beach north of the Puhokio Stream river mouth to Pututaranui Point at any time

Whirinaki and Eskdale

- The North Shore and Whirinaki to Tangoio Beach road reserve
- Eskdale Park along the southern or right-hand side of, and to the end of the park driveway.

Waipatiki Beach

The beach front of Waipatiki Beach Settlement, coast-wards of the reserve, during daylight savings hours between 7:30pm and 7:30am the following day, and during the remainder of the year.4:00pm to 10:00am the following day

Wapatiki beach north and south of the area referred to above

Schedule B to Chapter 3

Prohibited Areas

1. The Hastings District Council Civic Building.
2. Public libraries.
3. Swimming pools and paddling pools.
4. Children's playing areas.
5. Sports fields.
6. Rangaiika Beach at Ocean Beach/Cape Kidnappers.

The Common Seal of the Hastings District Council was affixed on
in the presence of:

Mayor

Chief Executive

CHAPTER 4 ALCOHOL BANS

4.1 AUTHORITY

4.1.1 This part of the Bylaw is made under s 147 of LGA 02.

4.2 DEFINITIONS

4.2.1 In this part of the Bylaw: -

“alcohol” has the same meaning as in s 5(1) of the Sale and Supply of Alcohol Act 2012

“alcohol ban” means a ban:

- under clause 4.3.1; or
- made by resolution under s 151(2) of LGA 02, in accordance with clause 4.3.2.

“alcohol ban area” means an area from which alcohol is banned in accordance with 4.3

“licensed premises” has the same meaning as in s 5(1) of the Sale and Supply of Alcohol Act 2012

“public place” has the same meaning as in s 147(1) of LGA 02

“restricted place” means a public place where an alcohol ban is in force

4.3 ALCOHOL BANS

4.3.1 A person must not consume, bring into, or possess alcohol in a public place within the areas specified in Schedules A, B, C, D and E to this part of the Bylaw at the times and during the periods specified in the Schedules.

4.3.2 Council may at any time and from time to time by publicly notified resolution declare that alcohol may not be consumed, brought into or possessed in any other public place or area within the district, at the times and during the periods specified in the resolution.

4.3.3 A person who consumes, brings into, or possesses alcohol in an area for which alcohol is banned at any time when an alcohol ban is in force commits an offence against this Bylaw.

4.4 LICENCES AND DISPENSATIONS

4.4.1 For the avoidance of doubt, nothing in this part of the Bylaw restricts the ability of Council to grant:

- (a) a licence under the Sale and Supply of Alcohol Act 2012 to premises within an alcohol ban area; or
- (b) a dispensation under clause 1.5 of the Bylaw from the operation of an alcohol ban to a specified place for a special event.

SCHEDULE A TO CHAPTER 4

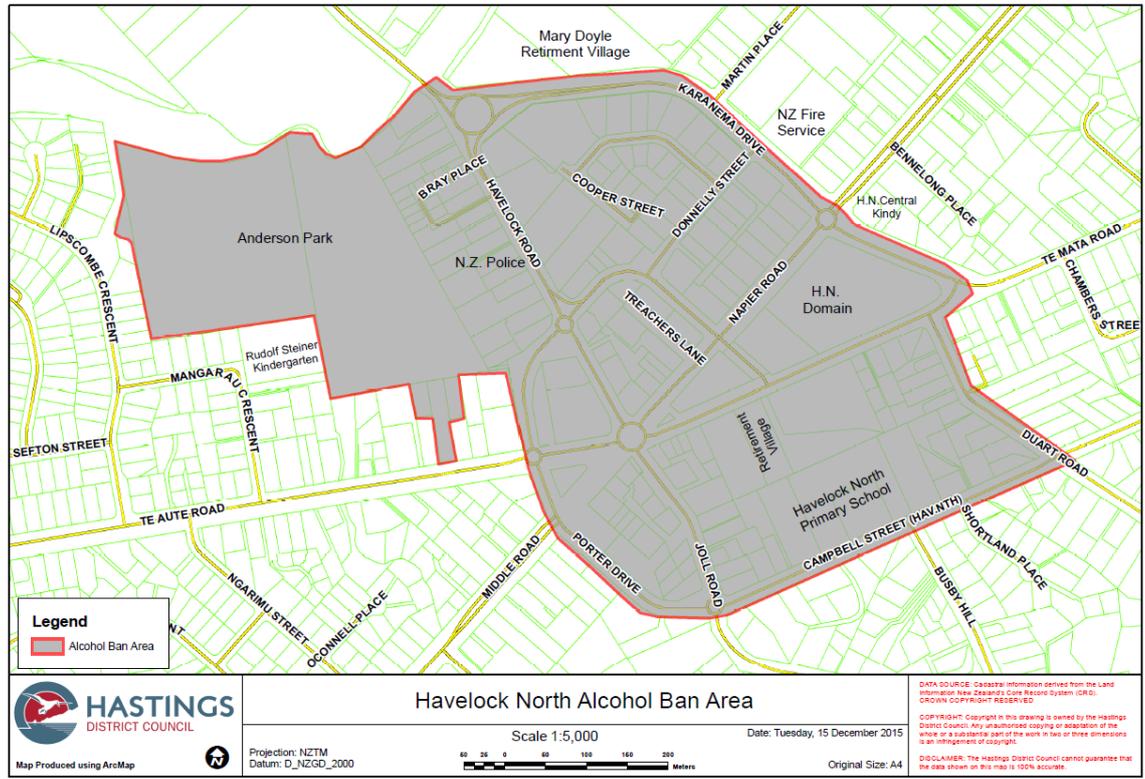
Havelock North alcohol ban area

All public places in Havelock North, as shown on the attached plan, within the area bounded by:

- The northern side of Karanema Drive from the Havelock North Bridge over the Karamu Stream to and including the intersections of Martin Place, Havelock Road, Napier Road and Te Mata Road,
- The southern side of Te Mata Road to and including the intersections with Karanema Drive and Duart Road,
- The eastern side of Duart Road to and including the intersections of Te Mata Road and Campbell Street,
- The southern side of Campbell Street to and including the intersections with Duart Road, Shortland Place, Busby Hill, Joll Road and Porter Drive,
- The south western and western side of Porter Drive to and including the intersections with Campbell Street, Middle Road, and Te Aute Road to the pedestrian access way into Anderson Park off Porter Drive,
- The southern side of the pedestrian access way between Porter Drive and Anderson Park,
- The southern and western boundaries of Anderson Park, including the car park and environs of the Havelock North Rugby Club accessed from Te Aute Road,
- The Karamu Stream boundary of Anderson Park, and
- The intersection of Havelock Road and the Karamu Stream Bridge
- Te Mata Park, including all parking and associated roadways and walkways as indicated in below map

This ban prohibits the consumption, bringing into, or possession of alcohol within the ban area on every day and at any time.

Plan of the Havelock North Alcohol Ban Area





SCHEDULE B – CHAPTER 4

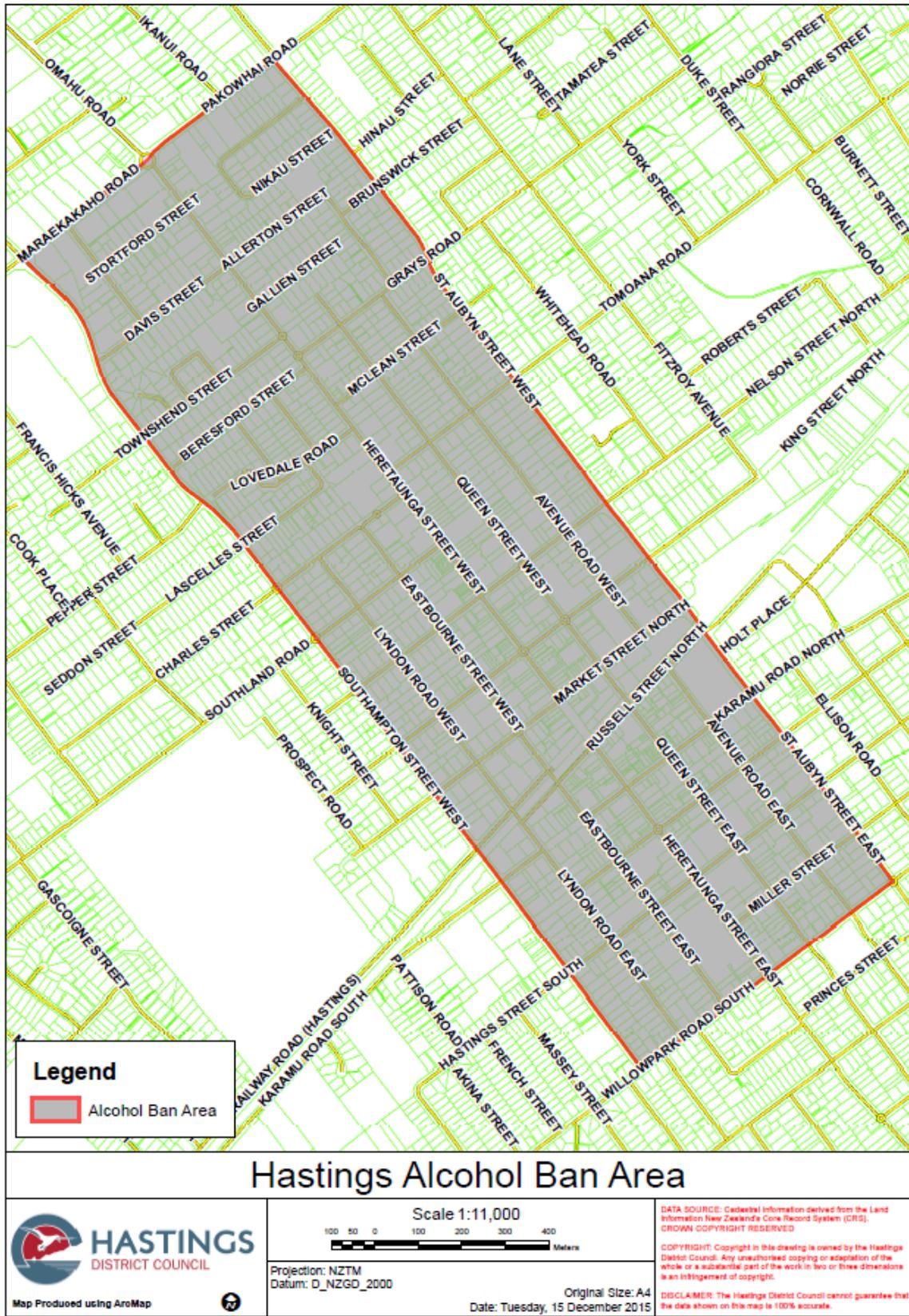
Hastings alcohol ban area

All public places in Hastings City, as shown on the attached plan, within the area bounded by:

- The eastern side of Willowpark Road (North and South) up to the boundary of private property, from St Aubyn Street East to and including the intersection with Southampton Street East, including the intersections with Avenue Road East, Queen Street East, Heretaunga Street East, Maddison Street, and Buller Street,
- The southern side of Southampton Street (East and West) up to the boundary of private property, from Willowpark Road South to and including the intersection with Maraekakaho Road, including the intersections with Hastings Street South, Karamu Road South, Railway Road, Market Street South, King Street South, Nelson Street South, Southland Road, Charles Street, Lascelles Street, Pepper Street, and Townshend Street,
- The western side of Maraekakaho Road up to the boundary of private property, from Orchard Road to and including the intersection with Omahu Road,
- The western side of Pakowhai Road up to the boundary of private property, from Heretaunga Street West to and including the intersection with St Aubyn Street West, including the intersection with Ikanui Road,
- The northern side of St Aubyn Street (West and East) up to the boundary of private property, from Pakowhai Road to and including the intersection with Willowpark Road North, including the intersections with Hinau Street, Brunswick Street, Grays Road, McLean Street, Tomoana Road, Nelson Street North, King Street North, Sir James Wattie Place, Holt Place, Karamu Road North, Warren Street North, Hastings Street North, and Miller Street North,
- Hastings Cemetery and Crematorium as bounded by Maraekakaho & Orchard Roads and the eastern boundary of Heretaunga Intermediate School,

This ban prohibits the consumption, bringing into, or possession of alcohol within the ban area on every day and at any time.

Plan of the Hastings Alcohol Ban Area



SCHEDULE C TO CHAPTER 4

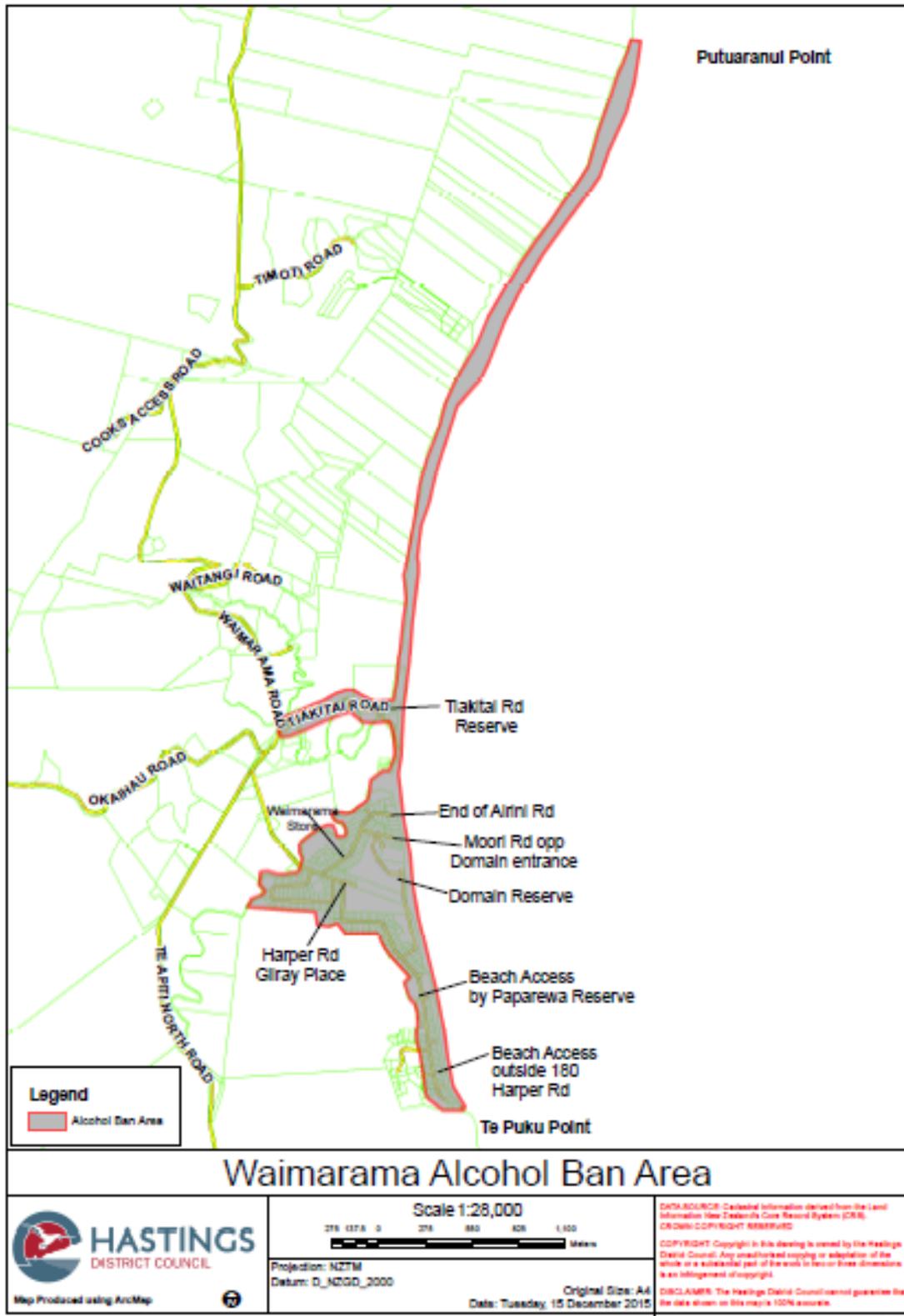
Waimarama alcohol ban area

All public places in Waimarama as shown on the attached plan, including

- All beaches and beach reserves from Pututaranui Point in the north to Te Puku Point in the south, and bounded to the west by land in private ownership and to the east by the water's edge;
- All roads, footpaths, carparks and parks within the residential area of Waimarama, from the Waimarama Bridge and the Puhokio Stream in the north to Te Puku Point in the south; and
- Tiakitai Road from its intersection with Waimarama Road.

This ban prohibits the consumption, bringing into, or possession of alcohol within the ban area at any time within the forty-two hour period commencing at 6.00 am on New Year's Eve 31 December and ending at 12 midnight on the following New Year's Day 1 January in each year.

Plan of the Waimarama Alcohol Ban Area



SCHEDULE D TO CHAPTER 4

Flaxmere alcohol ban area

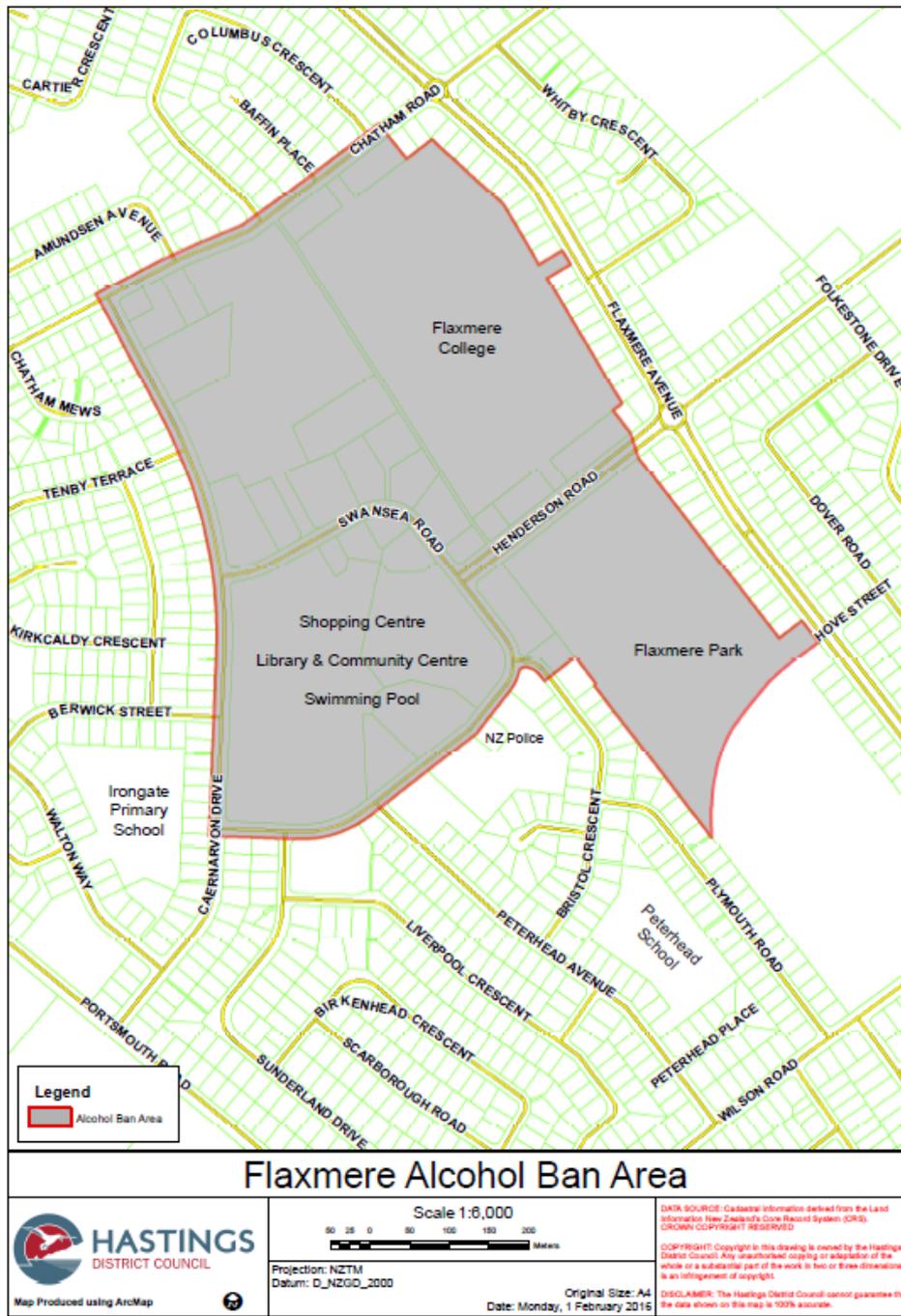
All public places in Flaxmere, as shown on the attached plan, within the area bounded by:

- The western side of Caernarvon Drive up to the boundary of private property, from and including the more southern intersection with Swansea Road, to and including the intersection with Chatham Road, and including the intersections with Berwick Street and Tenby Terrace,
- The northern side of Chatham Road up to the boundary of private property, from Caernarvon Drive to a line level with the northwestern boundary of Flaxmere College, and including the intersections with Amundsen Avenue, Baffin Place, and the two intersections with Columbus Crescent,
- The western boundary of 105 Chatham Road, then the south-eastern boundaries of 105 and 103 Chatham Road, the north-eastern boundary of Flaxmere College from Chatham Road to Henderson Road along the western boundary of 36 Henderson Road,
- Henderson Road from a line level with the western boundary of 35 Henderson Road to the north-western boundary of Flaxmere Park,
- The north-eastern boundary of Flaxmere Park from Henderson Road up to and including the footpath running between Flaxmere Road and Plymouth Road, and including that area of Flaxmere Park which is bounded by Flaxmere Avenue,
- The footpath running through Flaxmere Park from between 95 and 101 Flaxmere Avenue to between 30 and 32 Plymouth Road,
- The south-western boundary of Flaxmere Park from the footpath running between Flaxmere Road and Plymouth Road, to Bristol Crescent, and including the grounds of Council owned property at 38 Bristol Crescent,
- The boundary of Flaxmere Park with the boundary of 40 Bristol Crescent to the intersection of Bristol Crescent and Swansea Road,

- The southern side of Swansea Road up to the boundary of private property, between and including the intersections with Bristol Crescent and Caernarvon Drive, and including the intersections with Peterhead Avenue and Sunderland Drive.

This ban prohibits the consumption, bringing into, or possession of alcohol within the ban area on every day and at any time.

Plan of the Flaxmere Alcohol Ban Area



SCHEDULE E TO CHAPTER 4

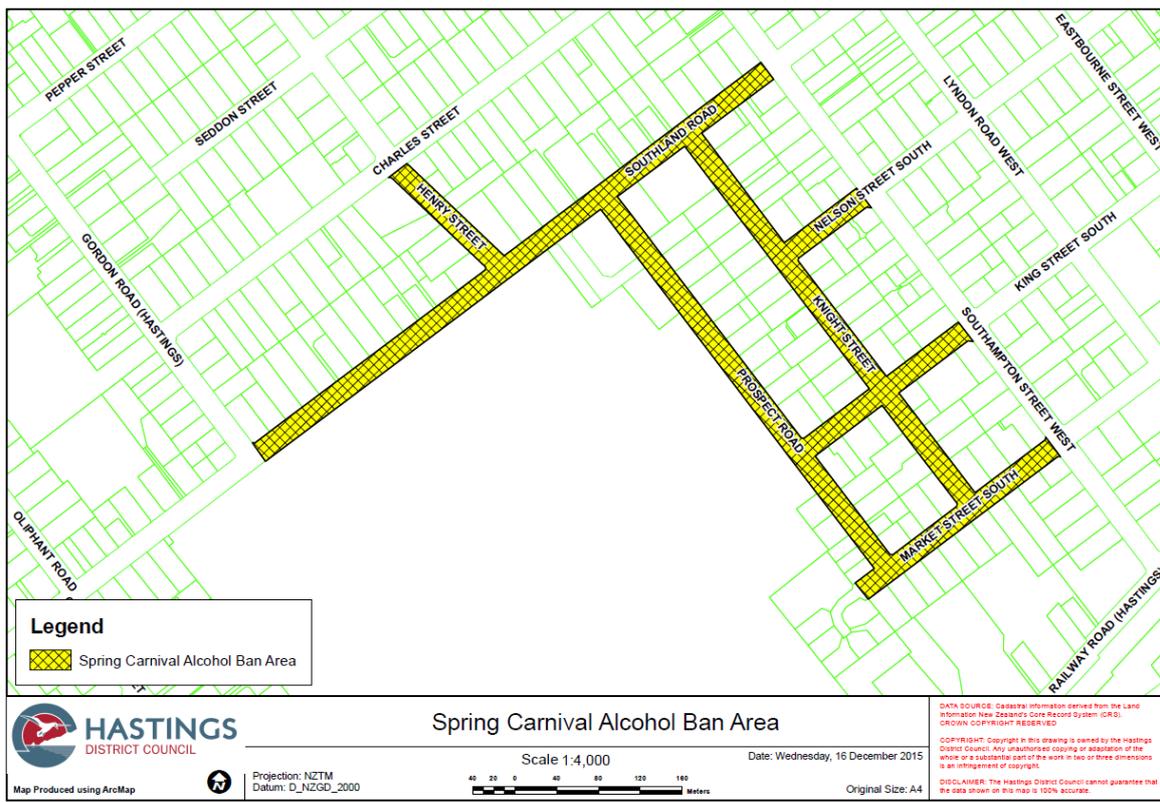
Spring Carnival alcohol ban area

The roads or parts of roads in Hastings City shown on the attached plan, being:

- All of Knight Street and Prospect Road
- Market Street South, from Southampton Street to the racecourse entrance
- King Street, from Southampton Street to Prospect Road
- Nelson Street, from Southampton Street to Knight Street
- Southland Road, between Southampton Street and Gordon Road
- Henry Street between Charles Street and Southland Road

This ban prohibits the consumption, bringing into, or possession of alcohol within the ban area on the first Saturday in October between 7.00am and 11.00pm.

Plan of Spring Carnival Alcohol Ban Area



The Common Seal of the Hastings District Council was affixed on

in the presence of:

Mayor

Chief Executive

CHAPTER 5 PARKING AND TRAFFIC

5.1 AUTHORITY

- 5.1.1 This part of the Bylaw is made under s 145 of LGA 02 and s 22AB of the Land Transport Act 1998.

5.2 DEFINITIONS

- 5.2.1 In this part of the bylaw

“container” means a shipping container or crate and extends to include any bin used for the temporary storage or disposal of demolition material, building material, soil or refuse

“emergency vehicle” has the same meaning as in rule 1.6 of the Land Transport (Road User) Rule 2004

“LGA 74” means the Local Government Act 1974

“mobility parking permit” means a current mobility parking permit issued by CCS Disability Action or any other permit approved or issued by Council

“parking” has the same meaning as in s 2 of the Land Transport Act 1998

“parking space” means an area marked out to indicate where a vehicle may be parked

“private road” has the same meaning as in s 315 of LGA 74

“private way” has the same meaning as in s 315 of LGA 74

“road” has the same meaning as in s 2 of the Land Transport Act 1998 and reference to “road” includes a reference to part of a road

“time expired” means that the permitted time limit has been exceeded or in the case of a parking space for which payment must be made means that the period for which payment has been made has been exceeded.

5.3 PARKING RESTRICTIONS AND CHARGES

- 5.3.1 Council may from time to time by publicly notified resolution:

(a) limit, restrict or prohibit the parking of:

- (i) all vehicles;
- (ii) vehicles of any specified class or description;
- (iii) vehicles belonging to or used by particular persons or class of persons;
- (iv) vehicles used for particular purposes;
- (v) heavy vehicles in residential areas

on any road, public place or other land under the control of Council;

(b) fix charges to be paid in connection with the use of any parking space, as measured by parking meters.

- 5.3.2 The limitations, restrictions or prohibitions imposed by Council under clause 5.3.1(a), and the charges fixed under clause 5.3.1(b), will apply on the days, for the periods or at the times specified in the resolution.

5.4 PARKING OFFENCES

- 5.4.1 A person must not:
- a) park a vehicle in contravention of any limitation, restriction, or prohibition imposed by the Council under clause 5.3.1(a);
 - b) fail to pay any charges fixed under clause 5.3.1(b) for a parking space, or spaces, occupied by the vehicle;
 - c) fail to remove a vehicle from a parking space before it becomes time expired;
 - d) park a vehicle in a parking space so that the vehicle is not entirely contained within the boundaries of the parking space, as near as reasonably possible to the middle of the space;
 - e) park a vehicle in a parking space or metered parking space which is already occupied by another vehicle;
 - f) park or place any container on a parking space which is the subject of a parking limitation, restriction or prohibition made under clause 5.3.1(a) or for which charges have been fixed under clause 5.3.1(b) without an approval
 - g) park or place any container on any other parking space, or on a road or public place in a manner which causes, or is likely to cause, a traffic safety hazard;
 - h) park a vehicle on a road or public place for a continuous period of more than 7 days;
 - i) display a “for sale” sign on a vehicle parked on a road or public place without an approval;
 - j) park a vehicle which is leaking oil, grease or fuel in a parking place or on a road, public place or other land under the control of Council;
 - k) park a cycle on the carriageway;
 - l) insert or attempt to insert in a parking meter or parking ticket machine where payment in a parking meter anything other than payment which is legal tender in New Zealand.
- 5.4.2 Nothing in clauses 5.4.1(a) or (b) or (c) applies to the driver of an emergency vehicle, the driver of a Council vehicle who is actively engaged in the enforcement of this Bylaw or the driver of any other vehicle for which a dispensation has been given by Council under clause 1.5 of the Bylaw.
- 5.4.3 Nothing in clause 5.4.1(e) applies to the parking of a vehicle which cannot be safely parked without encroaching over more than one parking space and, if charges are payable for the use of the parking spaces so occupied, a parking fee has been paid for every parking space occupied.

5.5 TRAFFIC MOVEMENT AND SAFETY

- 5.5.1 Council may from time to time by publicly notified resolution:
- (a) prohibit or restrict any specified class of traffic, or any specified vehicle or class of vehicle from using any road;
 - (b) prohibit or restrict the use of vehicles on beaches;
 - (c) regulate the type of vehicle that may use a cycle track or shared zone;
 - (d) restrict the direction of travel on any road to one direction;
 - (e) prohibit turning, or restrict the type of vehicle which may turn, from one road to another road or prohibit turning turnabout on a road (to face the other direction);
 - (f) prohibit or restrict the display on private property of any advertisement, sign, notice or light which is visible from a road in the immediate vicinity of a pedestrian crossing or an intersection and is causing or is likely to cause confusion to persons using the road;

5.6 TRAFFIC OFFENCES

- 5.6.1 A person must not:
- (a) drive a vehicle in contravention of any regulation, restriction or prohibition imposed under clause 5.5.1(a) – (e) inclusive;
 - (b) fail to comply with a prohibition or restriction under clause 5.5.1(f);
 - (c) drive a vehicle in a manner which interferes with or obstructs a funeral procession or a procession approved by Council;
 - (d) drive a vehicle over a fire hose which is in use unless a hose bridge has been provided or unless directed to do so by a constable, an enforcement officer or a fireman;
 - (e) drive a vehicle which is leaking oil, grease or fuel on a road, public place or other land under the control of Council.

5.7 ENFORCEMENT

- 5.7.1 Any vehicle container or other thing (in this clause all referred to as “vehicle”) parked in contravention of this Bylaw may be towed away or removed by Council and impounded. An impounded vehicle may be recovered upon payment of all reasonable towing, removal and storage charges relating to that vehicle. If the vehicle has not been recovered within 14 days of impounding Council may proceed to sell or otherwise dispose of the vehicle in the same manner as if it was a vehicle removed by Council under s 356 LGA 74.
- 5.7.2 The power in clause 5.7.1 may be exercised in addition to any other enforcement action that Council may lawfully take.

5.7.3 The provisions of this bylaw may be enforced by a parking warden, an enforcement officer or a constable.

The common seal of the Hastings District Council was affixed on
in the presence of:

Mayor

Chief Executive

CHAPTER 7 WATER SERVICES

7.1 DEFINITIONS

7.1.1 In this part of the Bylaw unless the context otherwise requires:

“Controlled Stormwater” means stormwater with the characteristics listed in Schedule A to this Chapter. (Controlled Stormwater may only be discharged into the Network with an approval).

“Controlled Wastewater” means wastewater with the characteristics listed in Schedule B to this Chapter. (Controlled Wastewater may only be discharged into the Network with an approval).

“Contaminant” has the same meaning as in the Resource Management Act 1991.

“Culturally Offensive Characteristics” means those human wastes which, if discharged into the sea or other waters, are culturally offensive to Māori.

“Maximum Concentration” means the instantaneous peak concentration that may be discharged at any instant in time.

“Network” means the system of pipes, pumps, drains, treatment works, channels and water courses owned or used by Council for:

- (a) extracting, treating, conveying and supplying water (“Water Supply Network”);
- (b) managing, collecting, treating, conveying and disposing of Stormwater (“Stormwater Network”);
- (c) collecting, treating, conveying and disposing of Wastewater (“Wastewater Network”); and
- (d) collecting, treating, conveying and disposing of Trade Waste separately from Wastewater (Separated Trade Waste Network”);

within Council’s district. The Network does not extend beyond:

- in the case of water supply, the Point of Supply; or
- in the case of Stormwater and Wastewater, the Point of Discharge;

“Network Corridor” has the meaning as in Council’s Engineering Code of Practice.

“Point of Discharge” has the meaning as in Council’s Engineering Code of Practice.

“Point of Supply” has the meaning as in Council’s Engineering Code of Practice.

“Sewage” means human waste and includes septage and swimming pool and spa pool water.

“Stormwater” means surface water resulting from precipitation and any other water which is Controlled Stormwater.

“Tankered Waste” means Sewage or Trade Waste collected by tanker prior to discharge into the Wastewater Network or the Separated Trade Waste Network.

“Trade Waste” means any wastewater generated from activities which are not primarily residential in nature (but may include Sewage).

“Warning Notice” means a written notice given by Council to an Owner or Occupier when Council has reasonable grounds to believe that a condition of an Approval is being breached which specifies:

- the nature of the alleged breach;
- the steps required to be taken to remedy the breach; and
- the period within which the breach must be remedied.

“Wastewater” means Sewage, Tankered Waste and/or Trade Waste.

7.2 CONNECTION AND DISCONNECTION

7.2.1 No person may:

- (a) connect a pipe to any part of the Network; or
- (b) access any part of the Network by any other means; without an approval.

7.2.2 No person may disconnect a pipe from the Network without an approval.

7.2.3 Every person who fails to comply with:

- (a) clause 7.2.1 or clause 7.2.2; or
- (b) any condition of an Approval when undertaking work described in clauses 7.2.1 and 7.2.2;

commits an offence under this Bylaw.

7.2.4 For the purposes of section 163 of the Local Government Act 2002, Council is authorised to remove or alter any work undertaken in breach of clauses 7.2.1, 7.2.2 or 7.2.3(b) and to recover the costs of that removal or alteration from the responsible party.

7.3 NETWORK CORRIDOR

7.3.1 No person may:

- (a) erect any building, fence, retaining wall or other structure;

- (b) place any material or fill;
- (c) undertake any works or excavation; or
- (d) allow any tree or shrub to grow

within the Network Corridor without an Approval.

7.3.2 When the relevant Network Corridor is an open watercourse, no person may plant any vegetation, or allow any vegetation to grow, within the Network Corridor which may interfere with the free flow of water within the watercourse.

7.3.3 A person who fails to comply with:

- (a) clause 7.3.1; or
- (b) any condition of an Approval when undertaking an activity described in clause 7.3.1; or
- (c) a notice given by Council to remove vegetation which contravenes clause 7.3.2;

commits an offence under this Bylaw.

7.3.4 For the purposes of section 163 of the Local Government Act 2002, Council is authorised:

- (a) to remove or alter any work undertaken in breach of clauses 7.3.1 (a) (b) and (c); or clause 7.3.3(b);
- (b) to trim or remove any tree or shrub that contravenes clause 7.3.1(d);and
- (c) to remove vegetation specified in a notice given under clause 7.3.3(c) which has not been removed within the time specified in the notice;

and to recover the costs of that removal, alteration or trimming work from the responsible party.

7.4 DAMAGE TO THE NETWORK

7.4.1 Every person who causes damage to any part of the Network and who fails to immediately report that damage to Council commits an offence under this Bylaw.

7.5 OFFENCES IN RELATION TO WATER SUPPLY

7.5.1 Every person must comply with each and every restriction on the use of water from the Water Supply Network which may be Publicly Notified by Council from time to time.

7.5.2 No person may:

- (a) take water from a fire hydrant except:

- (i) in the case of a fire emergency; and
 - (ii) for the purposes of that emergency; and
 - (iii) at the direction of Council or a member of the New Zealand Fire Service or Rural Fire Authority;
 - (b) use the pressure of water directly from the Water Supply Network for driving plant or equipment without an Approval;
- 7.5.3 No person may alter or remove a flow restrictor which has been fitted to the Water Supply Network by Council without an Approval.
- 7.5.4 Any person who fails to comply with
- (a) clauses 7.5.1 – 7.5.3;
 - (b) any condition of an Approval given for work described in clauses 7.5.2 and 7.5.3;
- commits an offence under this Bylaw.

7.6 OFFENCES IN RELATION TO WASTEWATER

- 7.6.1 No person may:
- (a) discharge Controlled Wastewater into the Wastewater Network or the Separated Trade Waste Network without an Approval;
 - (b) discharge Wastewater containing Culturally Offensive Characteristics into the Separated Trade Waste Network;
 - (c) discharge Tankered Waste to the Wastewater Network or the Separated Trade Waste Network without an Approval;
- 7.6.2 Any person who fails to comply with
- (b) clause 7.6.1; or
 - (c) any condition of an Approval for a discharge described in clause 7.6.1(a) or (c);
- commits an offence under this Bylaw.

7.7 OFFENCES IN RELATION TO STORMWATER

- 7.7.1 No person may discharge Controlled Stormwater into the Stormwater Network without an Approval.

7.7.2 Any person who fails to comply with

- (b) clause 7.7.1;
- (c) any condition of an Approval for making a discharge described in clause 7.7.1;

commits an offence under this Bylaw.

7.8 APPROVALS

7.8.1 Without limiting the generality of Clause 1.5.3 of this Bylaw Council may grant an Approval for a discharge of Stormwater or Wastewater to the Network:

- (a) limiting the rate and volume of the discharge (assessed on a daily, weekly or monthly basis);
- (b) limiting the hours in each day during which a discharge may occur;
- (c) subject to the payment of charges for conveyance, treatment and disposal of the discharge by Council (at the rates prescribed by Council from time to time in accordance with the Local Government Act 2002);
- (d) on the condition that the applicant at its own expense:
 - (i) undertake on-site detention, screening or pre-treatment prior to discharge;
 - (ii) maintain equipment installed in clause 7.8.1(d)(i) to ensure correct operation at all times
 - (iii) monitor the discharge and provide the results of that monitoring to Council; or
 - (iv) provide an inspection chamber to enable Council to undertake sampling and monitoring of the discharge at any time and from time to time.

7.8.2 Without limiting the generality of clause 1.5.5 of this Bylaw an Approval may be cancelled by Council by notice in writing if:

- (a) the owner or occupier of the premises to which the Approval relates is convicted of an offence under this Bylaw; or
- (b) Council gives a Warning Notice and the Owner or Occupier of the premises to which the Approval relates fails to take the steps required by Council within the time period specified in the Warning Notice; or

- (c) Council has issued a Warning Notice on three (3) occasions in the previous 12 months, notwithstanding that on each occasion the steps required by Council have been taken within the time period specified in the notices.
- 7.8.3 Written notice of cancellation of an Approval given under clause 7.8.2 shall have immediate effect and any discharge to which that Approval relates must be immediately discontinued.
- 7.8.4 Any person who fails to discontinue making a discharge immediately upon service of notice of cancellation commits an offence under this Bylaw.

SCHEDULE A TO CHAPTER 7

(Controlled Stormwater)

Stormwater, and any other water which:

- (a) discharges from impervious areas that exceed the square metre per site requirement or such larger area as may be specified in Council's Engineering Code of Practice from time to time;
- (b) discharges exceeding the flow rate as may be specified in Council's Engineering Code of Practice from time to time;
- (c) discharges from premises on which activities are carried out that may result in the production of Stormwater containing Hazardous Substances or Contaminants;
- (d) contains:
 - (i) Hazardous Substances or Contaminants;
 - (ii) grease, oil and scum;
 - (iii) water from ground water systems, bores, water which has been heated or water from geothermal activity;
 - (iv) swimming or spa pool water arising from emptying or backwashing;
 - (v) detritus solids or silt in concentrations that will cause any build-up of sediment within the Network;
 - (vi) any other substance or characteristic which Council is required to manage as a condition of a discharge consent for the Network held by Council under the Resource Management Act 1991 from time to time.

Advisory Note:

The HDC Engineering Code of Practice provides guidance on the assessment of applications to discharge 'Controlled Stormwater' to the Stormwater Network. An Approval may require the applicant to comply with any conditions imposed as part of a resource consent and/or any applicable industry guidelines.

SCHEDULE B TO CHAPTER 7

(Controlled Wastewater)

Wastewater which has any one or more of the following characteristics;

- Flow volume exceeding 10 m³ in any 24 hour period;
- Peak Flow (the highest average flow rate in any 2 hour period during any 24 hour period) exceeding 1 litre per second;
- Temperature exceeding 40 ° Celsius;
- Non-faecal gross solids with a maximum dimension exceeding 15 mm.
- Suspended solids exceeding 2000 grams per m³;
- Settleable solids exceeding 50 milliliters per litre;
- Non-faecal gross solids which cannot be passed through a 2mm maximum gap size screen;
- Non-faecal gross solids with a quiescent settling velocity exceeding 50mm per minute;
- Colour or colouring substances that cause the discharge to be coloured to the extent that it impairs wastewater treatment processes or compromises the treated wastewaters discharge Consent;
- Fibrous, woven, or sheet film or any other materials which may interfere with the free flow of Wastewater in the Network;
- Floatable oil and grease exceeding 30 milligrams per litre for a grab sample and/or exceeding 15 milligrams per litre for a 24 hour flow proportional sample;
- Total Oil and Grease exceeding 100 grams per m³;
- The presence of a free layer (whether floating or settled) of solvents or organic liquids;
- Emulsions of paint, latex, adhesive rubber or plastic exceeding 1000 grams per m³;
- pH outside the range 6.0 and 10.0 at any time;
- Biochemical oxygen demand exceeding 1000 grams per m³;
- Any solid, liquid or gaseous substances which alone or in combination with any other matter will immediately or in the course of time interfere with the free flow of Wastewater within the Network or damage any part of the Network;
- Any solid, liquid or gaseous substances which alone or in combination with any other matter cause a health and safety risk to sewage workers;

- Any solid, liquid or gaseous substances which alone or in combination with any other matter will cause malodourous gases or substances to form which are of a nature or sufficient quantity to create a public nuisance;
- Solids, including dry solid wastes and materials which combine with water to form a cemented mass;
- Asbestos;
- Tin (as tributyl and other organo-tin compounds);
- Organo-chlorine pesticides;
- Genetically modified organisms wastes (except when discharged into the Wastewater Network in accordance with an approval given under the Hazardous Substances and New Organisms Act 1996);
- Health care waste prohibited for discharge to a Wastewater Network by NZS 4304 2002, or any pathological or histological wastes, and Trade Waste containing cytotoxic substances;
- Trade Waste containing liquid pharmaceuticals in excess of the following limits:

Volume Limit	Active Concentration
10 Litres	125mg / 5 ml
5 Litres	250mg / 5 ml
3 Litres	Above 250mg / 5 ml

- Any substance in concentrations which may cause Council to be in breach of any discharge consent for the Wastewater Network held by Council under the Resource Management Act 1991 from time to time; and
- Any substance exceeding any one or more of the maximum concentrations listed in the following tables 1, 2 and/or 3 below.

Table 1: General Chemical Characteristics

Characteristic	Maximum concentration (g/m ³)
MBAS (Methylene blue active substances)	500
Ammonia (measured as N)	
– free ammonia	50
– ammonium salts	200
Kjeldahl nitrogen	150
Total phosphorus (as P)	50
Sulphate (measured as SO ₄)	500 1500 (with good mixing)
Sulphite (measured as SO ₂)	15
Sulphide – as H ₂ S on acidification	5
Chlorine (measured as Cl ₂)	
– free chlorine	3
– hypochlorite	30
Dissolved aluminium	100
Dissolved iron	100
Boron (as B)	25
Bromine (as Br ₂)	5
Fluoride (as F)	30
Cyanide – weak acid dissociable (as CN)	5

TABLE 2: HEAVY METALS

Metal	Maximum concentration (g/m ³)	Metal	Maximum concentration (g/m ³)
Antimony	10	Manganese	20
Arsenic	5	Mercury	0.005
Barium	10	Molybdenum	10
Beryllium	0.005	Nickel	10
Cadmium	0.5	Selenium	10
Chromium	4	Silver	2
Cobalt	10	Thallium	10
Copper	10	Tin	20
Lead	10	Zinc	10

TABLE 3: ORGANIC COMPOUNDS AND PESTICIDES

Compound	Maximum concentration (g/m ³)
Formaldehyde (as HCHO)	50
Phenolic compounds (as phenols) excluding chlorinated phenols	50
Chlorinated phenols	0.02
Petroleum hydrocarbons	30
Halogenated aliphatic compounds	1
Monocyclic aromatic hydrocarbons	5
Polycyclic (or polynuclear) aromatic hydrocarbons (PAHs)	0.05
Halogenated aromatic hydrocarbons (HAHs)	0.002
Polychlorinated biphenyls (PCBs)	0.002
Polybrominated biphenyls (PBBs)	0.002 each
Pesticides (general) (includes insecticides, herbicides, fungicides and excludes organophosphate, organochlorine and any pesticides not registered for use in New Zealand)	0.2 in total
Organophosphate pesticides	0.1

The Common Seal of the Hastings District Council was affixed on

in the presence of:

Mayor

Chief Executive

CHAPTER 8

(Deliberately left blank)

CHAPTER 9

(Deliberately left blank)

CHAPTER 10 MISCELLANEOUS MATTERS

10.2 NUISANCES

- 10.2.1 This part of the bylaw is made under s 64 of the Health Act 1956.
- 10.2.2 A person must not cause a nuisance, or allow a nuisance to be caused, on any premises.
- 10.2.3 Without limiting the generality of clause 10.2.2, a person must not cause a nuisance, or allow a nuisance to be caused, by any of the following:
- (a) the burning of any matter or thing on any premises;
 - (b) the emission of offensive odours, smoke, fumes, dust, sawdust or other matter from any premises;
 - (c) the deposit or accumulation of rubbish, recyclable material, inorganic material, dead animals, dung, manure or fertiliser on any premises;
 - (d) the failure to control or eradicate the conditions on any premises giving rise, or conducive to giving rise, to breeding by rats and other vermin, flies, mosquitoes, mites, ticks or any other insect capable of causing or transmitting disease;
 - (e) the failure to eradicate an infestation of rats and other vermin, or flies, mosquitoes, mites, ticks, cockroaches or other insects, on any premises;
 - (f) the failure to cleanse any drain, water closet, septic tank or outbuilding, including any outbuilding used to house animals, any premises;
 - (g) the keeping of an animal on any premises, notwithstanding that the keeping of that animal may be in accordance with clauses 10.4.3 to 10.4.6 (inclusive) of this Bylaw, or the undertaking of an activity related to the keeping of that animal.

10.3 REFUSE

- 10.3.1 In this clause:
- “approved receptacle” means a receptacle approved by Council for storage and disposal of waste and includes receptacles for household refuse, green waste, recycling material or kitchen waste;
- “collection” means collection by Council or its contractor from the kerbside in accordance with any requirements for collection set by Council by publicly notified resolution from time to time
- “collection day” is a day nominated by council for the collection of refuse or recycling material from premises within any part of the district
- “green waste” means any compostable garden waste that Council accepts for collection
- “household refuse” means waste generated from domestic residential activities but does not include green waste, demolition material, building material, inorganic waste or recycling material
- “inorganic waste” means any inorganic material that is too large to be placed in an approved receptacle and includes demolition material and building material

“kitchen waste” means food scraps and other compostable materials that Council accepts for collection

“medical waste” means waste generated from any facility where illness and injuries are treated or medical procedures are carried out and includes hypodermic needles used for any purpose

“recycling material” means any material that Council accepts for recycling

“refuse” means household refuse, green waste and kitchen waste

10.3.2 A person must not:

- (a) put out for collection any hazardous substance or medical waste;
- (b) if the approved receptacle is a plastic bag, put out for collection a bag which contains any sharp objects;
- (c) dispose, or attempt to dispose, of any hazardous substance or medical waste at a facility provided by Council for the disposal of refuse or recycling material;
- (d) put out household refuse or recycling material for collection which is not entirely contained within, without overflowing, an approved receptacle;
- (e) put out an approved receptacle earlier than the day before the collection day for the area where the premises are located;
- (f) fails to remove an approved receptacle by the end of the day following the collection day for the area where the premises are located;
- (g) put out for collection as recycling material, material which is not accepted by Council;
- (h) put out inorganic waste for collection except at the times directed by Council
- (i) remove any item from an approved receptacle for recycling materials or from a pile of inorganic waste put out for collection in accordance with clause 10.3.2(h), unless that person is a resident of the premises from which the material originated

10.4 STOCK, POULTRY AND BEES

10.4.1 The provisions in this part of the Bylaw are in addition to any rules in the district plan dealing with the keeping of pigs, poultry, stock or bees. In the event of conflict or ambiguity between a provision in this Bylaw and a rule in the district plan, the district plan rule will prevail.

10.4.2 A person must not keep stock on premises within the urban area without an approval.

10.4.3 A person must not keep on premises within the urban area:

- (a) a rooster; or

- (b) more than 12 head of poultry.
- 10.4.4 If poultry are kept on premises within the urban area:
- (a) the premises must be adequately fenced to prevent escape; or
 - (b) if confined to a poultry house or poultry run, the house or run must be located more than 2 metres from any boundary of the premises and adequately enclosed to prevent escape.
- 10.4.5 A person must not keep bees on premises if the keeping of those bees is, or is likely to become, a danger to the public or a nuisance.
- 10.4.6 A person must not keep, provide food to or provide shelter for, on any premises:
- (a) if the premises are a stand-alone self-contained residential unit, more than four cats over the age of six months;
 - (b) if the premises are one of two self-contained residential units, more than two cats over the age of six months in each residential unit;
 - (c) if the premises are one of three or more self-contained residential units, more than one cat over the age of six months in each residential unit;
 - (d) subject to clause 10.4.7, if the premises are not used for residential purposes, more than four cats over the age of six months on those premises.
- 10.4.7 The prohibition in clause 10.4.6(d) does not apply to a veterinary clinic, a commercial cat boarding facility or an approved animal shelter.
- 10.4.8 A person who keeps a goat in the urban area must ensure that the goat is securely tethered at all times.
- 10.4.9 A person who grazes stock on any premises, or permits stock to graze on any premises, must ensure that the premises are fully enclosed by adequate stock proof fences and gates at all times.

The Common Seal of the Hastings District Council was affixed on
in the presence of:

Mayor

Chief Executive

DOGS POLICY 2021

(Made under s 10 of the Dog Control Act 1996)



PURPOSE

The purpose of this policy is to provide a framework for the care and control of dogs throughout Hastings District. The policy is made under s10 of the Dog Control Act 1996. Under s10(4) Council is required when adopting a policy to have regard to:

- “(a) the need to minimise danger, distress, and nuisance to the community generally; and*
- (b) the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults; and*
- (c) the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs; and*
- (d) the exercise and recreational needs of dogs and their owners.”*

The anticipated outcomes of this policy are:

1. Minimising the potential for danger, distress, and nuisance to the community from dogs
2. Promoting responsible dog ownership
3. Promoting effective dog control, particularly in public places where children or families are present
4. Minimising the risk of intimidation and attacks by dogs
5. Promoting positive interaction between dog owners and members of the community
6. Providing for the exercise and recreational needs of dogs and their owners.

POLICIES

POLICY 1 – Nature and Application of Bylaws

1.1 Council will make and enforce bylaws for the following matters covered by this policy:

- Dog prohibited areas (Policy 2)
- Leash control (Policy 3)
- Dog exercise Areas (Policy 4)
- Limiting the number of dogs kept (Policy 6.1)
- Dog fouling (Policy 6.2)

- Confining bitches in season (Policy 6.3)

Explanation

Council may make Bylaws in accordance with the Local Government Act 2002 and Dog Control Act 1996. These bylaws give legal powers necessary to implement and enforce the Dogs Policy within Hastings District.

POLICY 2 – Dog Prohibited Areas

2.1 Council will make a bylaw prohibiting dogs from the following areas:

1. The Hastings District Council Civic Building.
2. Public libraries.
3. Swimming pools and paddling pools.
4. Children's playing areas.
5. Sports fields.
6. Rangaiika Beach at Ocean Beach/Cape Kidnappers.

Explanation

Dogs are prohibited from areas where the presence of dogs is likely to interfere with the use of public amenities or are frequented by children or are areas of high ecological sensitivity.

POLICY 3 – Leash Control

3.1 Council will make a bylaw which requires that dogs be under leash control:

- in all public places and private ways in the urban areas of the district and in parks, reserves, beaches walkways and cycle ways in the rural area which are not otherwise designated as a dog exercise area under the bylaw and
- in any other place if the dog is causing or is likely to cause danger, distress or nuisance to a person or another animal.

Explanation

Uncontrolled dogs can have a significant impact on the community. Leash control of dogs assists to minimise danger, distress and nuisance to the community generally and to achieve the other matters in s10(4)(b) and (c) of the Dog Control Act 1996 without affecting the exercise and recreational needs of dogs and their owners.

Allowing dogs to roam without owner control contributes to:

- Dog aggression, resulting in fear and intimidation of the public
- Faeces contamination of public places
- Traffic hazards
- Stock worrying
- Dog fights
- Unwanted puppies
- The spread of disease
- Increased level of complaints requiring investigation

The infringement penalties under the Dog Control Act 1996 are substantial. Infringement fees for offences relevant to this policy are set by Parliament:

- Failure to carry a leash - s54A \$100
- Dog not controlled or confined on its own property – s52A \$200
- Dog not under control - s53(1) \$200
- Dog in a public place in contravention of bylaw – s20(5) \$300
- Dangerous or menacing dog at large – s32(2) & s33EC(1) \$300

POLICY 4 – Dog Exercise Areas

4.1 Council will make a bylaw allowing the exercise of dogs off leash in the areas listed below. Two of the areas are time limited, depending on the time of the year:

Havelock North

- Tainui, Tanner and Hikanui Reserves
- Tauroa Road Reserve
- Te Mata and Arataki Road Reserve
- Kingsgate Reserve from Te Mata Road to Reeve Drive, Ritchie Place, Fulford Place and Durham Drive
- The banks of the Karamu Stream, from a point adjacent to the southern most edge of Anderson Park, Havelock North to the vehicle over bridge on Havelock Road
- Keirunga Gardens along the extent of the western boundary walkway accessed from Tanner Street, and including the open grass areas at the southern end northern ends of the Park.
- Te Mata Peak Road and Te Mata Peak Park
- James Cook Street Reserve
- Palmbrook Reserve

Hastings

- Karamu Road South, from Pattison Road south to Murdoch Road
- Ebbett Park between 5.00pm and 8.00am the following day
- Duke Street Reserve.

- Pakowhai Country Park.

Flaxmere

- Along Portsmouth Road, from Wilson Road west to the end of Portsmouth Road
- The Flaxmere Green Belt to the west of Tarbet Street, Arklow Place and Frobisher Street between Kirkwood Road and Flaxmere Avenue.

Haumoana and Te Awanga

The Haumoana-Te Awanga coastal beach front area from the mouth of the Tukituki River south to the boundary of the Clifton No. 2 camp, Te Awanga, excluding the beach front between numbers 3 and 41 Clifton Road Haumoana.

Waimarama and Ocean Beach

- The beach front of the Ocean Beach settlement north to the surf club during daylight saving hours between 7.30pm and 7.30am the following day, and 6pm and 7am the following day during the remainder of the year
- Ocean Beach north of the surf lifesaving club to 100m south of the predator proof fence
- Waimarama Beach north to the Puhokio Stream river mouth during daylight saving hours between 7.30pm and 7.30am the following day, and during the remainder of the year 6pm and 7am the following day
- Waimarama Beach north of the Puhokio Stream river mouth to Pututaranui Point at any time

Whirinaki and Eskdale

- The North Shore and Whirinaki to Tangoio Beach road reserve
- Eskdale Park along the southern or right-hand side of, and to the end of the park driveway.

Waipatiki Beach

- The beach front of Waipatiki Beach Settlement, coast-wards of the reserve, during daylight savings hours between 7:30pm and 7:30am the following day, and during the remainder of the year 4:00pm to 10:00am the following day
- Wapatiki beach north and south of the area referred to above

Explanation

There are many areas where dogs can be exercised in the district. Council accepts that the majority of dog owners are responsible people. Dogs are able to be exercised off a leash in all public places in the district other than the prohibited areas and leash control areas.

POLICY 5 – Menacing Dogs

- 5.1 Council will require that all dogs classified by it as menacing under sections 33A or 33C of the Dog Control Act 1996 be neutered under section 33E(1)(b) of the Dog Control Act 1996.
- 5.2 Council will require that dogs classified as menacing under section 33A or 33C of the Dog Control Act 1996 by any other territorial authority are required to be neutered under section 33EB(2) of the Dog Control Act 1996 if the dog is transferred to the Hastings District.

Explanation

Section 33A(1)(b) of the Dog Control Act 1996 allows Council to classify dogs as menacing if it considers the dog *“may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of:*

- (i) Any observed or reported behaviour of the dog.*
- (ii) Characteristics typically associated with the dog’s breed or type.”*

Section 33C of the Dog Control Act 1996 requires that Council must classify the breeds or types of dogs listed in Schedule 4 of the Dog Control Act 1996 as menacing. Currently those breeds or types are:

Breeds:

Brazilian Fila
Dogo Argentino
Japanese Tosa
Perro de Presa Canario

Type:

American Pit Bull Terrier

Council believes it is appropriate that dogs classified as menacing be required to be neutered. Neutered dogs appear to feature less in reported dog bite statistics.

POLICY 6 – Other matters

- 6.1 Council will make a bylaw which limits the number of dogs over the age of 3 months that may be kept on any premises within the urban areas of the district.
- 6.2 Council will make a bylaw which requires a dog owner to remove, carry away and dispose of in a sanitary manner, any faeces which may be left in a public place, private way or other premises not occupied that owner.
- 6.3 Council will make a bylaw which requires the owner of a bitch in season to keep it confined, but properly exercised, while in season.

Explanation

Minimising nuisance to the community generally is one of the matters to which Council must have regard under s 10(4) of the Dog Control Act 1996. Each of the matters covered by this policy are addressed to that issue:

- The more dogs on an urban property the greater the potential for escape, complaints about barking and complaints about nuisance caused by smell and flies;
- The fouling of public places by dog faeces is a general community nuisance issue. It is also a public health issue, arising from the fouling of footpaths and sports fields and the insanitary disposal of dog faeces;
- If bitches in season are allowed to roam freely there is increased risk of aggressive behaviour from any male dogs which are also roaming at the same time. Many people find the sight of dogs coupling in public places to be offensive. If bitches remain confined the risk of unplanned pregnancies is largely removed. Again this policy is aimed at minimising nuisance to the community.

POLICY 7 - Fees

- 7.1 Dog control fees will be set by Council resolution having regard to the levels of service in the Council's Long Term Plan and the costs actually incurred by Council to provide the dog control function.
- 7.2 Dog registration fees will be set based on the location where the dog is normally kept. Fees for dogs kept in the urban area will be higher than for dogs kept in the rural area.
- 7.3 The proportion of funding of Dog Control operations to be borne by rates, and the proportion to be borne by dog owners will be determined based on a public and private benefit assessment made by Council.
- 7.4 Pound fees will be set to recover costs and encourage retrieval of impounded dogs.
- 7.5 Pound fees will be increased for any subsequent impounding of that same dog to impose a greater penalty element.
- 7.6 Sustenance charges will be set to recover all the costs of feeding and care.
- 7.7 A lesser dog registration fee will be offered to those who register their dogs before 1 August.
- 7.8 A reduced dog registration fee will be offered to owners approved under the Selected Owner Policy.

Explanation

The dog control fees reflect the costs of the dog control service, less a small element of public good which is subsidised by rate funding.

Because the majority of the work undertaken by the Dog Control staff occurs in urban areas, it is considered fair and reasonable that a greater cost is carried by those dog owners.

Impounding fees and sustenance charges are user-pays charges and lie with the owner of the dog. These fees will not be subsidised by ratepayers.

POLICY 8 - Public Education

- 8.1 Council will encourage responsible dog ownership through education programmes and seminars which will be particularly targeted at dog owners and schools. Dog owners will be encouraged to attend puppy socialisation and dog obedience courses.
- 8.2 Media publicity and Council's website will be used to promote public awareness of dog registration obligations, this policy and the Dog Control Bylaw.
- 8.3 Counselling and consultation will be undertaken with alleged offenders by dog control staff.

Explanation

A strong focus is placed on providing dog owners with the necessary knowledge to better manage their dogs. An education focus is a crucial first line approach to compliance, however there are some instances where enforcement action is required.

Through public and school education, people will be given the knowledge to deal with some of the situations and nuisances that they may come in contact with, including advice on "bite prevention". That education may also lead to a more responsible attitude towards dog ownership in the future.

POLICY 9 – Enforcement

- 9.1 Council will actively enforce the statutory obligations of dog owners under the Dog Control Act and under the Dog Control Bylaw. When offences are committed infringement notices and/or prosecutions will be commenced of dogs which have been classified as menacing under the Dog Control Act 1996.
- 9.2 The following infringements fees are set under the Dog Control Act 1996. Council has no discretion to alter these fees:

Offence	Penalty
Wilful obstruction of a Dog Control Officer	\$750
Failure or refusal to supply information or providing false particulars	\$750
Failure to supply information or providing false particulars about a dog	\$750
Failure to comply with any Dog Control Bylaw	\$300
Failure to undertake education programme or obedience course	\$300
Failure to comply with obligations of probationary owner	\$750

Failure to comply with the effects of disqualification	\$750
Failure to comply with requirements of dangerous dog classification	\$300
Fraudulent sale or transfer of a dangerous dog	\$500
Failure to comply with requirements of menacing dog classification	\$300
Failure to advise person of muzzle and leashing requirements s33F(3)	\$100
Failure to implant a microchip transponder in dog	\$300
False statement relating to dog registration	\$750
Falsely notifying death of dog	\$750
Failure to register dog	\$300
Fraudulent procurement or attempt to procure replacement dog registration label or disc	\$500
Failure to advise change of dog ownership	\$100
Failure to advise change of address	\$100
Removal, swapping, or counterfeiting of registration label or disc	\$500
Failure to keep dog controlled or confined	\$200
Failure to keep dog under control	\$200
Failure to provide proper care and attention, to supply proper and sufficient food, water, and shelter, and to provide adequate exercise	\$300
Failure to carry leash in public	\$100
Failure to comply with barking dog abatement notice	\$200
Allowing a known dangerous dog at large unmuzzled or unleashed	\$300
Failure to advise person of muzzle and leashing requirements s62(5)	\$100
Releasing dog from custody	\$750

POLICY 10 - Dog Adoption

10.1 The adoption of any dog from the Animal Welfare Centre will be subject to:

- a) the dog remaining unclaimed more than seven days after impounding;
- b) the dog having a suitable temperament/potential for adoption and being healthy, neutered, vaccinated, wormed, flea treated, registered and micro-chipped;
- c) approval of the new owner by Council;
- d) Payment of an adoption fee.

10.2 No dogs will be released for research, testing or teaching purposes.

Explanation

The Dog Control Act 1996 allows Council to sell, destroy or otherwise dispose of an impounded, unclaimed dog after the expiration of seven days.

Adoption fees will be set to recover the costs incurred under Policy 10.1(b), without deterring purchasers.

POLICY 11 - Unwanted Dogs

- 11.1 Council may accept unwanted dogs into the pound for disposal either by adoption or by euthanasia subject to a payment of the fee for the service

Explanation

This policy is intended to prevent the release of unwanted dogs into the community, or to solve a problem where the owner is having difficulties managing or caring for the dog. If euthanasia is the only option for disposal owners will be encouraged to use veterinary practices in the first instance.

POLICY 12 - Selected Owner Policy

- 12.1 Dog owners who demonstrate through a dog ownership scheme run by Council (the Selected Owner Scheme) that they are responsible owners will receive a reduction in registration fees payable for their dogs. The Selected Owner Scheme is not available to:

- An owner of a dangerous dog
- A dog owner who does not complete the requirements of the scheme and/or pay the scheme fee before 31 March in each year;
- A dog owner who has been disqualified under policy 12.2 within the preceding two registration years

- 12.2 A dog owner will be disqualified from membership under the Selected Owner Policy immediately upon the occurrence of any of the following events:

- The owner is convicted of an offence under the Dog Control Act 1996 or the Dog Control Bylaw, or
- The owner is convicted of an offence under the Animal Welfare Act 1999 in respect of a dog, or
- A dog belonging to the owner is impounded, or
- A dog belonging to the owner is the subject of more than one complaint, which upon investigation by Council is found to be justified, in any registration year, or
- A dog belonging to the owner remains unregistered after the penalty date in any registration year.

Explanation

Owners who can demonstrate that they are responsible dog owners should be rewarded by a reduction in dog registration fees.

POLICY 13 – Tethering of Dogs

13.1 Council does not encourage restraining dogs by means of a chain or tether as a permanent means of controlling a dog.

(a) Explanation

(b)

(c) Chaining or tethering a dog poses serious threats to a dogs physical, psychological and emotional wellbeing. Research confirms that chained dogs are more aggressive. Chained or tethered dogs can feel threatened, fearful and frustrated, causing them to become antisocial and aggressive.

(d)

(e) Other reasons why you should not chain or tether your dog for long periods:

- Without the physical barrier of a cage, tethered dogs can feel unprotected
- Natural instincts of survival, fight and flight are disengaged
- Dogs can easily tip over their food and water
- Have been known to die from accidental strangulation
- Can get easily tangled
- More likely to get parasites, disease, injuries and infections
- Lunging and pulling against the tether can cause abrasions to the neck
- Forced to defecate and urinate in the same place they sleep, eat and run
- Barking continuously from boredom and frustration

Conservation Controlled Dog Areas and National Parks

There are currently no controlled dog or open dog areas under section 26ZS of the Conservation Act or national parks constituted under the National Parks Act 1980 in the Hastings District.