



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**

## **MEETING AGENDA**

# **COUNCIL**

**Tuesday 21 April 2020  
at 1pm**

**VIA ZOOM (for members)**

*Recording is available online after the meeting*

<b>Chairperson:</b>	Mayor Neil Holdom
<b>Members:</b>	Cr Tony Bedford
	Cr Sam Bennett
	Cr Gordon Brown
	Cr David Bublitz
	Cr Anneka Carlson
	Cr Murray Chong
	Cr Amanda Clinton-Gohdes
	Cr Harry Duynhoven
	Cr Richard Handley
	Cr Stacey Hitchcock
	Cr Colin Johnston
	Cr Richard Jordan
	Cr Dinnie Moeahu
	Cr Marie Pearce

**Purpose of Local Government**

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option outlined in each report meets the purpose of local government and:

- Promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

END

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**APOLOGIES**

None advised

## **ADDRESSING THE MEETING**

*Requests for public forum and deputations need to be made at least one day prior to the meeting. The Chairperson has authority to approve or decline public comments and deputations in line with the standing order requirements.*

## **PUBLIC FORUM**

*Public Forums enable members of the public to bring matters to the attention of the committee which are not contained on the meeting agenda. The matters must relate to the meeting's terms of reference. Speakers can speak for up to 5 minutes, with no more than two speakers on behalf of one organisation.*

- None advised

## **DEPUTATIONS**

*Deputations enable a person, group or organisation to speak to the meeting on matters contained on the agenda. An individual speaker can speak for up to 10 minutes. Where there are multiple speakers for one organisation, a total time limit of 15 minutes, for the entire deputation, applies.*

- None advised

## **PREVIOUS COUNCIL MINUTES**

***Recommendation:***

**That the minutes of the following meeting of the Council, and the proceedings of the said meeting, as circulated, be taken as read and confirmed as a true and correct record:**

**Council (3 March 2020)  
Council Extraordinary (10 March 2020)  
Council Emergency (25 March 2020)**

## **COMMITTEE MINUTES**

***Recommendation***

**That the minutes of the following meetings, as circulated be received and:**

- a) Decisions made under delegated authority by the committees be incorporated in the minutes of this meeting of the Council.**

**Strategy and Operations Committee (10 March 2020)  
Finance, Audit and Risk Committee (7 April 2020)**

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END

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## **REPORTS**

### **Reports with Committee & Community Board Recommendations**

1. Parking Prohibitions – Waitara
2. Skateboard Bylaw Review
3. Drinking Water Quality Policy
4. Road Stopping – Green School, Oakura
5. Road Stopping – Ngapapa Street, Urenui
6. Deed of Grant Pipeline – Turangi Rd Upper, Motunui

### **Reports Direct to the Council**

7. Cemeteries and Crematoria Bylaw 2020
8. Initial Council Response to Covid-19 Pandemic

END

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## AMENDMENTS TO PARKING CONTROLS

### MATTER

1. The matter for consideration by the Board is amendments to parking controls at various locations within the Waitara Community Board area.

### RECOMMENDATION FOR CONSIDERATION

**That having considered all matters raised in the report and pursuant to the New Plymouth District Council Consolidated Bylaws 2008 Part 13: Traffic, the following parking controls in the New Plymouth District be imposed:**

#### *Item 1 Stafford Street, Waitara*

- **Prohibit parking on the north side of Stafford Street from 0.0m to 39.2m (39.2m) measured in an westerly direction from the prolongation of the east kerb of Dommett Street.**
- **Prohibit parking on the west side of Dommett Street from 0.0m to 8.5m (8.5m) measured in an northerly direction from the prolongation of the north kerb of Grey Street.**

### STRATEGY AND OPETATIONS COMMITTEE RECOMMENDATION

2. The Strategy and Operations Committee endorsed the officer's recommendation.

### WAITARA COMMUNITY BOARD RECOMMENDATION

3. The Waitara Community Board endorsed the officer's recommendation.

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance.
Options	This report identifies and assesses the following reasonably practicable options for addressing the matter: <ol style="list-style-type: none"> <li>1. Endorse the proposed amendments to parking controls.</li> <li>2. Do nothing and retain the existing parking controls.</li> </ol>
Affected persons	The persons who are affected by or interested in this matter are the residents/property owners and users of the transportation network in the relevant locations. The views of these persons are discussed in this report.

<b>COMPLIANCE</b>	
Recommendation	This report recommends <b>Option 1</b> for addressing the matter.
Long-Term / Annual Plan Implications	There are no implication for the Long-term or Annual Plan.
Significant Policy and Plan Inconsistencies	There are no significance implications for Council Policies or Plans.

## **BACKGROUND**

### **Item 1 Stafford Street, Waitara**

- This item recommends the introduction of parking prohibitions along the north side of Stafford Street, Waitara adjacent to No.1 and No.7. The primary purpose of this proposal is to provide safer access to a large manufacturing factory.

#### *Community Views and Preferences*

- This proposal has been requested by a business who has raised concerns regarding the safe access to their factory for truck units due to vehicles parking on both sides of the Street. This item was publicly notified on Wednesday 15 January 2020 in the North Taranaki Midweek. The occupiers of the adjacent property were concurrently advised of the proposal. One positive response to the proposal was received at the time of writing this report.

## **NEXT STEPS**

- Should the Board endorse the proposed changes (Option 1), as a whole or in part, NPDC staff will instruct our contractors to manufacture any required signage and install any required markings to finalise the changes to parking controls.
- For items that form part of private developments, this work will be completed by those other parties as those developments are nearing completion. For the other items, it is anticipated that the installation of signs and markings should be completed within four weeks of receiving notification that the proposed changes have been endorsed by the Board.

## **SIGNIFICANCE AND ENGAGEMENT**

- In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance because the changes herein can be funded from current transportation budgets.

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9. There are interested and affected parties regarding the matters raised in this report. Consultation has already been undertaken with these parties to obtain their views and preferences on the matters proposed in this report. Their views are covered in the options assessment section of this report.

## **OPTIONS**

10. There are two reasonably practical options:
- Endorse the proposed changes (Option 1).
  - Do nothing (Option 2).

The two options have been assessed together below:

### *Financial and Resourcing Implications*

11. The costs for amending parking controls are for changes to road-marking, signage, parking sensors, the construction of traffic calming and crossing facilities and associated administration costs. Costs and associated resourcing are relatively low and are covered within existing operational budgets.
12. There are no short term associated costs should the Board choose not to amend parking control(s) at this time. However, this could incur future costs if the Board needs to address safety or amenity issues in the future.

### *Risk Analysis*

13. The risk associated with implementing the proposed amendments are minimal. The proposed amendments have come through via various requests from our community, as a result of safety concerns, or to improve network functionality.
14. In some instances, proposed amendment addresses a current issue of non-compliance with standards, good practice or bylaws. The Board is exposed to risk when it is aware of these matters but fails to act on the issue.

### *Promotion or Achievement of Community Outcomes*

15. The proposed amendments promote the 'people' outcome by improving road safety and open space amenity for the community.

### *Statutory Responsibilities*

16. The proposed amendments enable the Council to meet its statutory responsibility to provide efficient, effective, and appropriate infrastructure to meet the needs of the community. The necessary road-marking and signage needed to make the changes necessary to implement this option must comply with:
- Land Transport Rule; Traffic Control Devices Rule 2004.
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- New Zealand Transport Agency; Traffic Control Devices Manual, Part 13 - Parking Control.
- New Plymouth District Council; Bylaws 2008, Part 13 - Traffic.

*Consistency with Policies and Plans*

17. The proposed amendments are consistent with the Long Term Plan. One of the key performance indicators for the transport network is reducing the number of fatal and serious crashes in the District.

*Participation by Māori*

18. Council officers do not consider there to be specific issues relating to Māori with this option.

*Community Views and Preferences*

19. Neighbouring residents are directly consulted regarding the proposed changes to parking controls. This direct consultation can include certain stakeholders such as public transport operators and schools. In addition to this there is a general notification in the local newspaper as a way of informing the wider community.

*Advantages and Disadvantages*

20. Changes to parking controls are often made to, improve public safety or, convenience. Not making the proposed changes in line with Option 1 would negatively impact the community.
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**OPTION SUMMARY**

	<b>Option 1</b>	<b>Option 2</b>
Financial and Resourcing Implications	-	-
Risk Analysis	✓	X
Promotion or Achievement of Community Outcomes	✓	X
Statutory Responsibilities	✓	X
Consistency with Policies and Plans	✓	X
Participation by Māori	-	-
Community Views and Preferences	✓✓	X
Advantages and Disadvantages	✓	X

*KEY: X Negative effect, ✓ Positive effect, - Neutral*

**RECOMMENDED OPTION**

This report recommends **Option 1** which endorses the amendments to parking controls as proposed for addressing these matters.

**APPENDICES**

**Appendix 1:** Plans of Proposed Changes (ECM 8244075)

**Report Details**

Team: Transportation  
 Prepared By: David Brown (Traffic and Safety Engineer)  
 Approved By: David Langford (Infrastructure Manager)  
 Ward/Community: Waitara  
 Date: 18<sup>th</sup> February 2020  
 File Reference: ECM# 8244086

-----End of Report -----

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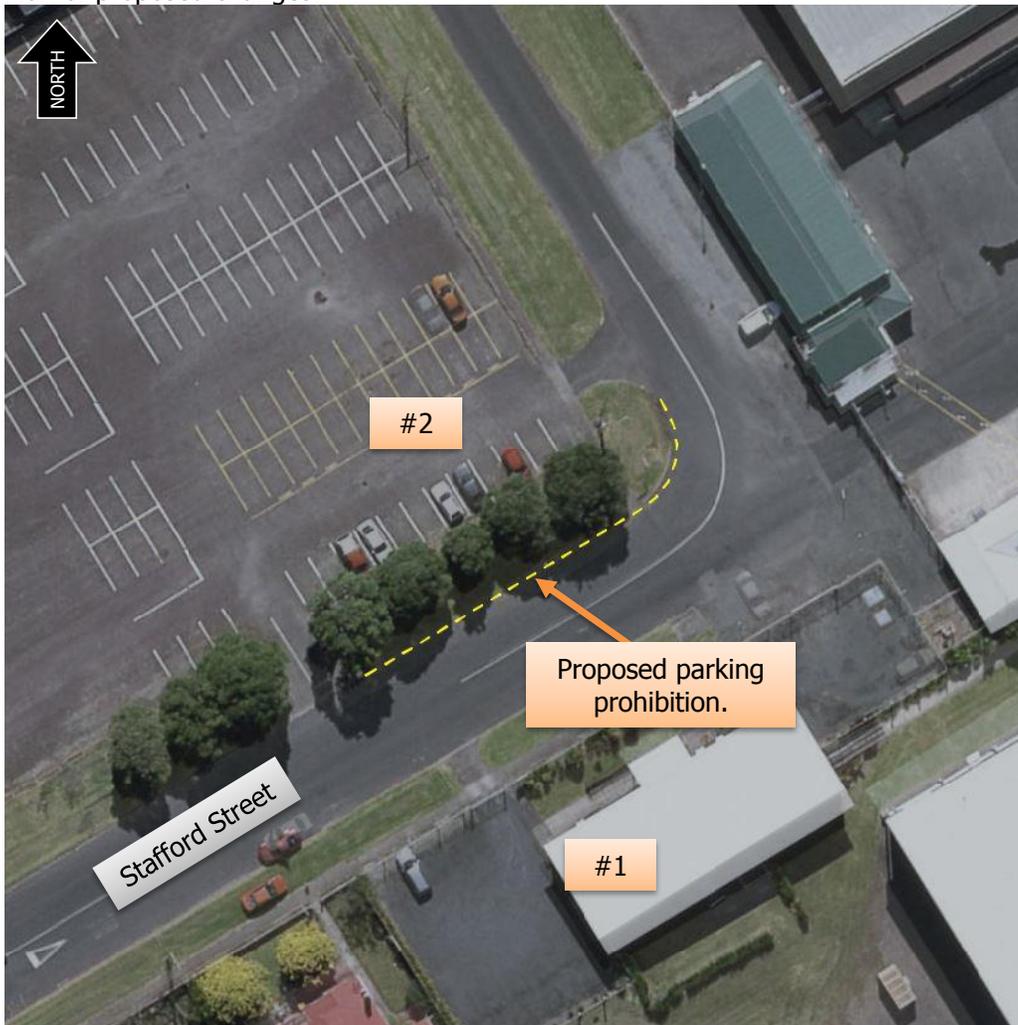
## AMENDMENTS TO PARKING CONTROLS

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**Appendix A:** Plans of Proposed Changes.

**Item 1** *Stafford Street, Waitara*

Plan of proposed changes:



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## **SKATEBOARDS BYLAW – BYLAW REVIEW DETERMINATIONS**

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### **MATTER**

1. The matter for consideration by the Council is whether or not to approve the initiation of a review of the New Plymouth District Council Bylaw 2008 Skateboards Part 8 (the Bylaw), and to determine whether a bylaw is the most appropriate way of addressing the nuisance or problem relevant to the Bylaw as per the Local Government Act 2002 (LGA).

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report the Council:**

- a) **Determine that a bylaw is not the most appropriate way of addressing the perceived problems that arise in relation to skateboards in accordance with section 155(1) of the Local Government Act 2002, and**
- b) **Determine not to initiate a review of the New Plymouth District Council Bylaw 2008 Part 8 Skateboards.**
- c) **Note that under the provisions of s160A LGA, the New Plymouth District Bylaw 2008 Part 8 Skateboards, will be revoked on 1 July 2020.**
- d) **Note that the nuisance and problem matters that the Bylaw was created to address are now considered to be minor and can be sufficiently covered by existing legislation and the New Plymouth District Council Bylaw 2008 Part 5 Public Places.**

### **STRATEGY AND OPERATIONS COMMITTEE RECOMMENDATION**

2. That having considered all matters raised in the report the Council:
    - a) Determine that a bylaw continues to be the most appropriate way of addressing the perceived problems that arise in relation to skateboards in accordance with section 155(1) of the Local Government Act 2002, and
    - b) Approves the initiation of a review of the New Plymouth District Council Bylaw 2008 Part 8 Skateboards, in accordance with section 158 of the Local Government Act 2002.
    - c) Notes the review considered the option to create a standalone Skateboards Bylaw as an alternative to its continued incorporation within the existing consolidated New Plymouth District Bylaw 2008.
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- d) Determines that the form of the bylaw as proposed is the most appropriate form of bylaw in light of the requirements of the Local Government Act 2002.
  - e) Determines that the bylaw as proposed does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
  - f) Adopts the "Skateboards Bylaw Statement of Proposal" for public consultation using a special consultative procedure as set out in Section 83 of the Local Government Act 2002.

### **WAITARA COMMUNITY BOARD RECOMMENDATION**

- 3. The Waitara Community Board endorsed the Strategy and Operations Committee recommendation and also recommended that micro e-transport be considered for inclusion in the review of the by-law.

### **INGLEWOOD COMMUNITY BOARD RECOMMENDATION**

- 4. Due to the changing situation surrounding COVID-19 (Corona Virus) and the subsequent Government announcement regarding Alert Level 4 lockdown, the Inglewood Community Board did not meet to consider this report, and was therefore unable to make a recommendation on this matter.

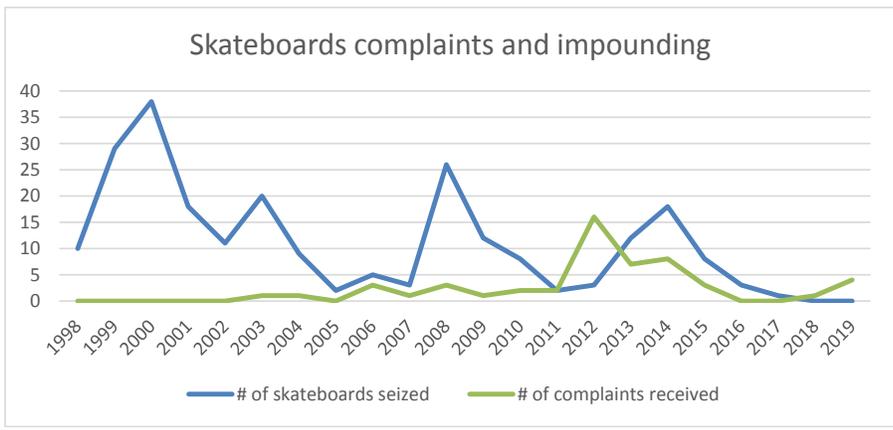
<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. Determine that a bylaw relating to skateboards is not required to address the problems raised in this report and determine not to initiate a review of the Bylaw.</li> <li>2. Determine that a bylaw is the most appropriate way of addressing the perceived problems relevant to the Skateboards Bylaw, approve the review of the Bylaw and adopt a Statement of Proposal and draft Skateboards Bylaw for consultation.</li> </ol>
Affected persons	<p>The persons who are affected by or interested in this matter are:</p> <ul style="list-style-type: none"> <li>• Business owners in the CBD areas of New Plymouth, Inglewood and Waitara</li> <li>• Members of the public who skateboard and use other similar devices</li> <li>• The New Plymouth District community.</li> </ul>

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<b>COMPLIANCE</b>	
Recommendation	This report recommends option one for addressing the matter.
Long-Term Plan / Annual Plan Implications	No
Significant Policy and Plan Inconsistencies	No

**EXECUTIVE SUMMARY**

5. Council officers recommend that Council determine that the Bylaw is not the most appropriate way of addressing the perceived problems that arise in relation to the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians. As a result Council officers recommend that the Council determine not to initiate a review of the Bylaw, noting that the Bylaw will be revoked on 1 July 2020 under the provisions of section 160A LGA.
6. Staff advise that the issues the Bylaw seeks to control are no longer considered to be a problem and therefore a bylaw for this purpose is no longer required. This is demonstrated by the graph below.



7. Taking this approach will mean that on 1 July 2020 the Bylaw will be revoked under s160A LGA and there will be no prohibitions on people wanting to use skateboards in the District.
8. There are no significant risks associated with not reviewing the Bylaw. The Council has existing legislation such as the Public Places Bylaw, the Summary Offences Act and the Trespass Act, that can be used to address nuisance and problems associated with skateboarding.

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9. If Council determines that a bylaw is not the best way to address the perceived problem and determines not to review the Bylaw, no further process needs to occur and the Bylaw will be revoked under section 160A LGA on 1 July 2020.

## **BACKGROUND**

### **Overview of Bylaws**

10. Bylaws are a useful way to deal with local problems or 'nuisances', as they only focus on those issues which the Council and community deem necessary for local regulation. A bylaw allows Council to respond to such nuisances or problems in ways that are appropriate and practical for the local community. A bylaw is often made in response to a regulatory gap, or when there is empowering legislation specific to the subject matter of the bylaw.
11. The Council has general bylaw making powers prescribed under sections 145 and 146 of the LGA and the authority and requirement to review a bylaw no later than five years after it was made and ten years after its last subsequent review (see sections 158 and 159 of the LGA).
12. Bylaws do not have the authority to override primary legislation; they seek to supplement and support national rules with local rules. All bylaws must be reasonable. Bylaws must focus on providing a remedy to the identified problem. Amongst other things, the requirement to be reasonable relates to the bylaw not unnecessarily impacting upon a person's freedom. A bylaw must not be inconsistent with the New Zealand Bill of Rights Act 1990.
13. In reviewing and developing bylaws the Council is required to follow both the decision making and consultation requirements set out in the LGA. Each bylaw must be assessed in terms of its costs and benefits to the community, as well as an assessment of the other options available to the council to regulate or remedy the problem. Under section 160 of the LGA, if after the review the Council considers that the bylaw should be amended, revoked, or revoked and replaced, it must use a special consultative procedure to effect these changes.
14. The Bylaw is required to be review by 1 July 2018, with a two year period allowed before it lapses, therefore it has been prioritised for review. The existing Bylaw is attached in Appendix One.

### **Determinations**

15. To aid Council in determining to review or revoke the Bylaw or allow it to lapse, a Regulatory Impact Assessment (RIA) has been undertaken and is attached in Appendix Two. The assessment sets out the authority to make a bylaw, the perceived problems or nuisance the bylaw addresses, and the options available to Council to deal with these problems.
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16. The RIA shows that there has been a steady decline in the number of complaints received about skateboards, in particular the last five years have seen very few complaints or impounding of skateboards under the Bylaw. This indicates that the issues that were of concern in the past are no longer causing the same level of nuisance in the District. There were no complaints in 2016/17 and of the five complaints in 2018 and 2019 four related to skateboarding in areas outside of the defined prohibited areas. The last year where a skateboard was impounded was in 2017.
  17. The RIA also details that a bylaw on skateboards is not compulsory and that the nuisance and problem matters that the Bylaw was created to address can be sufficiently covered by existing legislation and the New Plymouth District Council Bylaw 2008 Part 5 Public Places which has general provisions to address behaviour and activity in a public place that may cause damage, danger or obstruction to any person or property.
  18. As a result of the reduction in complaints and the provisions of the Public Places Bylaw, the RIA concludes that the Bylaw is no longer the most appropriate means of addressing the perceived problems relating the skateboards.

#### **Consolidated bylaw review**

19. Currently, the Council has a consolidated bylaw, which operates as one large bylaw made up of parts which deal with different topics. It includes an introductory bylaw that outlines common definitions and processes which affect all the parts of the consolidated.
20. Council has previously received legal advice which suggested splitting the consolidated bylaw into separate bylaws, as is common with other Councils. Doing so will allow Council to establish more of a staggered approach to reviewing its bylaws and helps to smooth the workload of internal policy resources.
21. If the Council determines to review the Bylaw, then it is proposed to create a standalone Skateboard Bylaw which would be separate from the consolidated bylaws.

#### **Pre-consultation**

22. Council staff have undertaken pre-consultation in the form of an online survey which ran from 25 November to 16 December 2019. Key stakeholder groups including business groups (through BARA) and representatives of the youth, aged and accessibility sectors were invited to complete the survey. The results indicated general support for the prohibition of the recreational use of skateboards within busy pedestrian areas, though there was a low response to this survey, with only 18 full responses and one partial response received.
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## NEXT STEPS

23. If Council determines that a bylaw is not the best way to address the perceived problem, and approves to allow the bylaw to lapse on 1 July 2020, no further process needs to occur to revoke the Bylaw and it will be revoked under section 160A LGA.

## SIGNIFICANCE AND ENGAGEMENT

24. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance because:
- Without reviewing the Bylaw, it will be revoked under section 160A of the LGA on 1 July 2020.
  - The Bylaw provides a tool for the Council to manage, regulate and promote the public's safety and manage nuisance in regard to skateboards.
  - The matter does not impact on the council's levels of service, statutory purpose, obligations or duties.

## OPTIONS

- Option 1 Determine that a bylaw relating to skateboards is not required to address the problems raised in this report and determine not to initiate a review of the Bylaw.**

### *Financial and Resourcing Implications*

25. There are considered to be no financial or resourcing implications associated with this option.

### *Risk Analysis*

26. Without the regulatory regime provided by the Bylaw, Council will rely on existing legislation such as the Public Places Bylaw, the Summary Offences Act and the Trespass Act, which mitigates this risk.

### *Promotion or Achievement of Community Outcomes*

27. This option promotes Our People and Our Place community outcomes relating to the promotion of recreation and active transport.
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*Statutory Responsibilities*

28. Council is not legislatively required to have a bylaw regulating the use of skateboards.

*Consistency with Policies and Plans*

29. This option is consistent with Council's existing Policies and Plans.

*Participation by Māori*

30. This option would not provide opportunity for consultation with Māori.

*Community Views and Preferences*

31. A pre-consultation survey was undertaken with the community through a community survey. While the survey results indicated support for a bylaw to manage, regulate and promote the public's safety in regard to skateboards, there was a low response to the survey with 18 responses and one partial response received.
32. This option would not provide opportunity for the community to have their say through a special consultative procedure.

*Advantages and Disadvantages*

33. An advantage of this option is that Council would not spend time and resources reviewing and administering a bylaw that it does not require when the problems are very minor and can still be addressed through the existing Public Places Bylaw and other legislation. A disadvantage is that it does not provide opportunity for the community to have their say on the revocation of the Bylaw.

**Option 2 Determine that a bylaw is the most appropriate way of addressing the perceived problems relevant to the Bylaw, approve the review of the Bylaw and adopt a Statement of Proposal and draft Skateboards Bylaw for consultation.**

*Financial and Resourcing Implications*

34. A review of the Bylaw would require resources and must be completed before July 2020, or it will lapse under section 160A of the LGA.

*Risk Analysis*

35. There is little risk involved in undertaking the Bylaw review. The main risk is that Council may spend time and resources on a bylaw it does not require.
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*Promotion or Achievement of Community Outcomes*

36. This option retains the prohibitions for skateboards therefore it does not promote the People and Place community outcomes regarding the promotion of recreation and active transport opportunities.

*Statutory Responsibilities*

37. This option is consistent with the LGA requirements to review bylaws. Under the LGA, a local authority must, before commencing the process for making or reviewing a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem. This option meets this requirement.
38. As per the LGA, Council would need to make and resolve the required determinations to address the following:
- a bylaw continues to be the most appropriate way of addressing the perceived problems that arise in relation to skateboards
  - the bylaw as proposed is the most appropriate form of bylaw
  - the bylaw as proposed does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
39. A draft Statement of Proposal including a draft Skateboard Bylaw has been prepared as per the requirements of the LGA and is included as Appendix Three should Council wish to proceed with this option.

*Consistency with Policies and Plans*

40. A decision to review this bylaw is consistent with Council's policies and plans.

*Participation by Māori*

41. A review of this bylaw will include opportunities for consultation with Māori and consideration of their views.

*Community Views and Preferences*

42. Community consultation via a special consultative procedure is required under this option to review the Bylaw.
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*Advantages and Disadvantages*

43. The advantage of this option is that the Bylaw will not be revoked under section 160A of the LGA without review. Additionally, community views and preferences will be collected regarding the Bylaw.
44. A disadvantage is that the Council may continue to have a bylaw for perceived problems that no longer exist and that it may carry out a review of a bylaw that is no longer required.

**Recommended Option**

This report recommends option one **determine that a bylaw relating to skateboards is not required and determine not to initiate a review of the Bylaw** to address the problems raised in this report and allow the Bylaw to lapse.

**APPENDICES**

- Appendix 1 Skateboards Bylaw (Part 8) (ECM283417)
- Appendix 2 Regulatory Impact Statement for the Skateboards Bylaw (ECM8242506)
- Appendix 3 Draft Statement of Proposal and Draft Skateboards Bylaw (ECM8242508)

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**Report Details**

Prepared By: Richard Mowforth (Senior Policy Adviser)  
 Team: Policy Development  
 Reviewed By: Mitchell Dyer (Policy Development Lead)  
 Approved By: Liam Hodgetts (Group Manager Strategy)  
 Ward/Community: District Wide  
 Date: 18 February 2020  
 File Reference: ECM 8242242

-----*End of Report*-----



New Plymouth District Council Bylaw 2008

Part 8

# Skateboards

The purpose of this part of the bylaw is to control the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to council property.

(ECM 283417)



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**



## 1. Authority

- 1.1 This part is made under Sections 145 and 146 of the Local Government Act 2002.

## 2. Purpose

- 2.1 The purpose of this part is to control the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to council property.

## 3. Interpretation

- 3.1 This part shall be in addition to the provisions of Part 1 Introductory and if this part is inconsistent with Part 1 Introductory then the provisions of this part shall prevail.

- 3.2 In this part unless the context otherwise requires:

### Definitions

**Enforcement officer** means:

- a) Any person who is an enforcement officer under the Local Government Act 2002; or
- b) Any person who is an enforcement officer under the Land Transport Act 1998.

**Ride a skateboard** means having either one or both feet or any other part of the body on the skateboard while it is moving.

**Skateboard:**

- a) Means a wheeled device controlled or propelled by gravity or by the muscular energy of the rider, including roller skates, in-line skates, scooters or other similar recreational devices; but
- b) Excludes bicycles, unicycles, tricycles, wheelchairs, baby or invalid carriages.

## 4. Skateboards prohibited in certain areas

- 4.1 The council may from time to time by resolution publicly notified-
- a) Prescribe any public place (including any road, accessway or service lane) where no person shall ride a skateboard; and
  - b) Subsequently amend any such resolution by adding new public places (including any road, accessway or service lane), deleting or changing any of the public places so prescribed.
- 4.2 No person shall ride a skateboard on any public place (including and road, accessway or service lane) referred to in a resolution made under subclause (1).

- 4.3** The council may erect signage advising of the skateboard prohibition in public places referred to in a resolution made under subclause (1) as the council considers reasonable and appropriate.

**5. Skateboard events**

- 5.1** No person may organise, hold or conduct a competition or event that involves riding a skateboard, go-kart or other similar thing on a road or other public place without prior written approval from an authorised officer.
- 5.2** Any person undertaking an activity under clause 5.1 shall comply with any conditions imposed by the authorised officer in the written permission.

**6. Skateboards may be impounded**

- 6.1** Every person who commits an offence against this part is liable to have the skateboard, go-kart or other similar device impounded by an enforcement officer.
- 6.2** Sections 164 to 168 of the Local Government Act 2002 apply to the impounding of anything under this part.
- 6.3** The council will:
- a) Provide a place for anything impounded under this part; and
  - b) Keep a register of anything impounded under this part; and
  - c) Be satisfied that a person claiming ownership of an impounded skateboard is the owner or is otherwise entitled to the custody and control of the skateboard.
- 6.4** Nothing in this part renders the council or any enforcement officer liable in damages or otherwise to any person for anything impounded under this part.

**APPENDIX 1**

This appendix is for information purposes only. This appendix does not form part of the New Plymouth District Council Bylaw 2008.

**Part A:** Public places where it is prohibited to a ride a skateboard:

**NEW PLYMOUTH CENTRAL BUSINESS AREA including:**

- Ariki / Gill St - from Egmont St to Eliot St
- Boon Lane
- Brougham St - from Powderham St to Ariki St
- Courtenay St – Robe St to Eliot St
- Currie Lane
- Currie St
- Devon St East and West - from Robe St to Eliot St
- Egmont St - from Devon St West to Molesworth St
- Eliot St – from Molesworth St to Courtenay St
- Farmer’s Lane
- Flyger Lane
- Gasworks Lane
- Gover St - from Courtenay St to Molesworth St
- Hayton Lane
- Huatoki Lane
- Huatoki Project site from James Lane to the Kings Building
- James Lane
- King St - from Queen St to Brougham St
- Liardet St - from Lemon St to Molesworth St
- Molesworth St – from Eliot St to Queen St
- Puke Ariki Landing – from Huatoki Stream in the east to Puke Ariki building entrance in the west.
- Queen St – St Aubyn St to Devon St West
- Robe St – from Devon St West to Powderham St

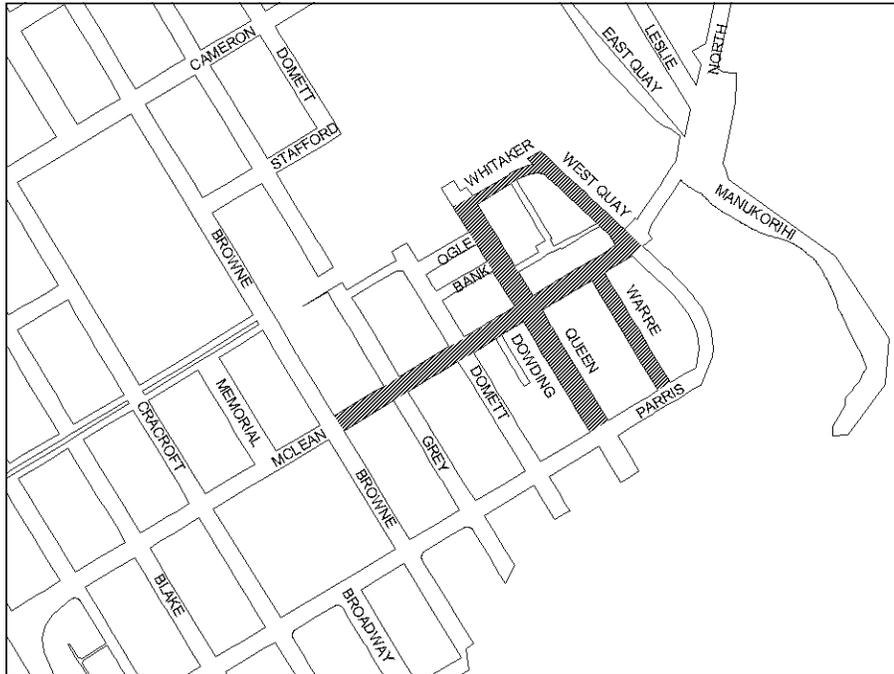


ALL OF THE ABOVE PROHIBITED AREAS BEING SHOWN AS SHADED ON PLAN AND INCLUDING BOTH SIDES OF THE STREET

**Part B:** Public places where it is prohibited to a ride a skateboard:

**WAITARA CENTRAL BUSINESS AREA including:**

- McLean Street – from Browne Street to West Quay
- Queen Street – from Parris Street to Whitaker Street
- Warre Street
- West Quay – from McLean Street to Whitaker Street
- Whitaker Street



ALL OF THE ABOVE PROHIBITED AREAS BEING SHOWN AS SHADED ON PLAN AND INCLUDING BOTH SIDES OF THE STREET

**Part C:** Public Places where it is prohibited to a ride a skateboard:

**INGLEWOOD CENTRAL BUSINESS AREA including :**

Rata Street – from Cutfield Street to Standish Street

Matai Street – from Rata Street to Kelly Street

Moa Street – from Rata Street to the Railway Station on Moa Street



ALL OF THE ABOVE PROHIBITED AREAS BEING SHOWN AS SHADED ON PLAN AND INCLUDING BOTH SIDES OF THE STREET

## **APPENDIX TWO: REGULATORY IMPACT ASSESSMENT FOR THE SKATEBOARDS BYLAW**

The purpose of a Regulatory Impact Assessment is to provide an overview of the matters that the Council must consider before determining whether a bylaw is the most appropriate way to address problems related to the use of skateboards in busy public places.

This Regulatory Impact Assessment addresses the following matters:

1. Determinations
2. Legislative authority to deal with the perceived problem
3. Current Status of the Bylaw
4. Rationale for review of the Bylaw
5. Problem identification
6. Evidence of problems occurring
7. Perceived problem analysis
8. Other legislation
9. Options for the Bylaw

### 1. Determinations

Under section 155 of the LGA, Council is required to determine whether a bylaw is the most appropriate way of addressing the perceived problem, determine whether the proposed bylaw is the most appropriate form of bylaw, and determine that the proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990. This assessment undertakes to answer the first part of this determinations, and defines the problem and whether a bylaw is the most appropriate way of dealing with this problem. The other determinations are made by Council if the review is initiated.

### 2. Legislative authority to deal with the perceived problem

Sections 145 and 146 of the Local Government Act 2002 (LGA) allows the Council to make a bylaw relating to skateboards.

#### *Section 145 General bylaw-making power for territorial authorities*

*A territorial authority may make bylaws for its district for 1 or more of the following purposes:*

- a) protecting the public from nuisance:*
- b) protecting, promoting, and maintaining public health and safety:*
- c) minimising the potential for offensive behaviour in public places.*

#### *Section 146 Specific bylaw-making powers of territorial authorities*

*Without limiting section 145, a territorial authority may make bylaws for its district for the purposes—*

- b) of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with....*
- (v) reserves, recreation grounds, or other land under the control of the territorial authority:*

### 3. Current status

The Skateboard Bylaw (the Bylaw) was developed, consulted upon and made in accordance with the provisions of the LGA. Its purpose is to control the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to Council property.

In 2008, Council reviewed the Bylaw.

Under the LGA, the Bylaw must be reviewed no later than ten years after the bylaw was last reviewed. A bylaw that is not reviewed as required is revoked two years after the due date for review. As such, the Bylaw review must be completed by 1 July 2020 to stop it from being revoked.

### 4. Rationale for review of the Bylaw

The Bylaw must be reviewed before 1 July 2020 otherwise it will lapse. As there is a case to not review the Bylaw, Council has the option to allow the Bylaw to lapse.

### 5. Problem identification

The problem or matter the Bylaw seeks to address is the appropriate management and regulation of skateboards and other devices in public places. In addition to providing rules relating to behaviour, events and impounding, it currently imposes a prohibition on skateboarding in marked areas within the New Plymouth, Waitara and Inglewood Central Business Districts.

### 6. Evidence of problems occurring

Council receives low numbers of complaints relating to skateboarding. Between 1 January and 31 December 2018 Council received one service request in relation to skateboards, and between 1 January and 31 December 2019, four were received. In 2016 and 2017, no complaints relating to skateboarding were received at all.

Under the current Bylaw, Council may impound a person's skateboard if they commit an offence against the Bylaw. The table below shows the number of skateboards (or similar devices) impounded over the last five years.

<b>Year</b>	<b># skateboards seized</b>	<b># complaints received</b>
<b>2015</b>	8	3
<b>2016</b>	3	0
<b>2017</b>	1	0
<b>2018</b>	0	1
<b>2019</b>	0	4

The Council ran a community survey on skateboarding in the district as part of pre-consultation. The results indicated general support for the prohibition of the recreational use of skateboards within busy pedestrian areas, though there was a

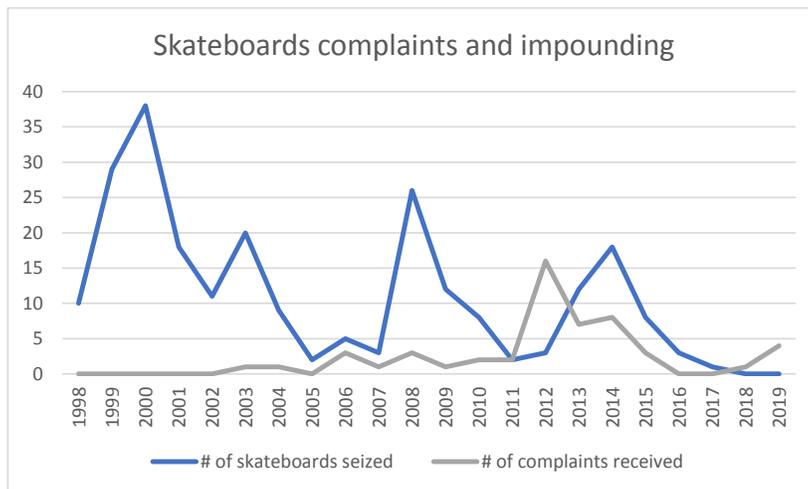
low response to this survey, with only 18 full responses and one partial response received.

### 7. Perceived problem analysis

The New Plymouth District Council Bylaw 2008 Part 8: Skateboards first came into force in 1997 and was last reviewed in 2008. At that time, the efficacy of the Bylaw was assessed, and it was determined that the bylaw was working well, especially as there had also been work undertaken around the District to provide alternative areas for skateboarders such as dedicated skateparks. The number of complaints and skateboards impounded had already been steadily decreasing since the introduction of the Bylaw, though incidentally there was a noticeable spike in the number of skateboards impounded in the 2008 year, without a corresponding increase in complaints.

Since 2008, there has continued to be a steady decline in complaints relating to skateboards, as well as the number of skateboards impounded. The last five years in particular have seen very few complaints or impounding of skateboards (see table in section 6 above), indicating that issues that were of concern in the past are no longer causing the same level of nuisance in the District.

The graph below shows time series data from 1998 through to 2019, and clearly demonstrates that issues related to skateboards have significantly declined over the past 22 years. There are a couple of spikes showing temporary increases (in 2008 and 2014) in the numbers, particularly for impounding skateboards. Actual complaint numbers over the past 22 years have been consistently low, with the exception of a spike in complaint numbers in 2012. The average number of complaints per year over this whole period was 2.4.



The Skateboards Bylaw is not a compulsory bylaw for NPDC. The relevant matters can be covered by the Public Places Bylaw and existing legislation (see section 8 below for further details). As such, staff advise that the New Plymouth District

Council Skateboards Bylaw is no longer the most appropriate means of addressing the perceived problem.

## 8. Other legislation

**Section 175 of the LGA** gives councils the power to recover for damage by wilful or negligent behaviour.

The **NPDC Public Places Bylaw 2014** contains clauses such as clause 23.1 (b) and clause 23.3 that can easily be applied to the use of skateboards in public places.

*23.1 No person may in any public place  
(b) Act in any manner, including the playing of games, so as to cause damage, danger, or obstruction to any person or property;*

*23.3 No person may fail to leave a public place or any part of it, after being requested to do so by an enforcement officer.*

The **NPDC Introductory Bylaw** which applies to most NPDC Bylaws provides a definition of public place. This captures the areas covered by the current Part 8 Skateboards Bylaw.

*Public places*

*a) Means a place that is under the control of the Council and open to or being used by the public, whether admission is free or on payment of a charge; and*

*b) Includes*

*i. A road under the control of Council; and*

*ii. One or more parts of a public place.*

The **Summary Offences Act 1981** enables the New Zealand Police to address more serious instances of obstruction, intimidation and disorderly behaviour in public places, as well as acts or things endangering public safety.

The **Trespass Act 1980** can also be used by the New Zealand Police if a person has been warned to leave or stay off a public place.

### 9. Options

The following options exist to address the problem:

1. Allow the Bylaw to lapse and rely on existing legislation to address the perceived problem.
2. Formally revoke the Bylaw and rely on existing legislation to address the perceived problem.
3. Review and amend the current Bylaw.

#### Option one: Allow the Bylaw to lapse and rely on existing legislation to address the perceived problem

This option would require Council to rely on existing legislation and alternative mechanisms to address any problems that arise relating to skateboard nuisance. There would be no specific provision for the organisation of skateboard events in public places, however, there are provisions in Part 5: Public Places Bylaw 2008 relating to events in public places, and guidelines and application information on the Council website, which highlight requirements for Council permission for events<sup>1</sup>.

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Provides a non-adversarial approach to skateboard regulation.</li> <li>• Encourages alternative transport options.</li> <li>• Reduces Council’s regulatory role and enforcement burden.</li> <li>• Council would not spend time and resources reviewing and administering a bylaw that it does not require.</li> <li>• Many of the issues relating to this bylaw are covered in Council’s Public Places Bylaw.</li> <li>• More serious issues relating to this bylaw are Police matters, and Council is able to work with Police to resolve these through, for example, the Summary Offences Act 1981 and the Trespass Act 1980.</li> </ul>	<ul style="list-style-type: none"> <li>• Compromises Council’s ability to provide regulation specifically around skateboarding.</li> <li>• By allowing the Bylaw to lapse, there may be a public perception that Council will be less responsive to issues around skateboarding.</li> <li>• Without running a special consultative procedure to revoke the Bylaw, the public would not have an opportunity to submit their views on the matter.</li> <li>• Inconsistent with Council’s previous approach of having a bylaw.</li> </ul>

<sup>1</sup> <http://www.newplymouthnz.com/Business/Using-Public-Places/Events-Information-for-Event-Organisers/Events-on-the-road-and-footpath>

Option two: Formally revoke the Bylaw and rely on existing legislation to address the perceived problem

This option would also require Council to rely on skateboarders to skateboard responsibly throughout the District. As with option one, there would be no specific provision for the organisation of skateboard events in public places, however, there are provisions in Part 5: Public Places Bylaw 2008 relating to events in public places, and guidelines and application information on the Council website, which highlight requirements for Council permission for events.

The difference between this option and option one is that to go through the process of formally revoking a bylaw, Council is required to run a special consultative procedure and seek feedback from the community before making a final decision.

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Provides a non-adversarial approach to skateboard regulation</li> <li>• Reduces Council’s regulatory role and enforcement burden</li> <li>• Council would not spend time and resources reviewing and administering a bylaw that it does not require.</li> <li>• Many of the issues relating to this bylaw are covered in Council’s Public Places Bylaw.</li> <li>• More serious issues relating to this bylaw are Police matters, and Council is able to work with Police to resolve these through for example the Summary Offences Act 1981 and the Trespass Act 1980.</li> <li>• Still allows the community to participate in consultation relating to this issue.</li> </ul>	<ul style="list-style-type: none"> <li>• Compromises Council’s ability to provide regulation specifically around skateboarding.</li> <li>• The current Bylaw would still need to be revoked, requiring a special consultative procedure.</li> <li>• Inconsistent with Council’s previous approach of having a bylaw.</li> <li>• Additional staff resource required to achieve the same outcome as option one.</li> </ul>

Option three: Review and amend the current Bylaw

This option involves reviewing the Bylaw in light of learnings from the operation of the Bylaw since it was last reviewed.

This option provides reasonable controls to:

- Protect health and safety
- Provide for regulation and management of skateboarding activities in public places.

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Provides Council with a tool in the form of a bylaw to manage and regulate skateboarding in public places.</li> <li>• Consistent with Council’s previous approach.</li> <li>• Rules will be in one place, clear and known to key stakeholders and the public.</li> <li>• Proactive approach to regulation of skateboarding.</li> <li>• Community views and preferences regarding the regulation of skateboarding will be collected and responded to.</li> </ul>	<ul style="list-style-type: none"> <li>• Council resources required to undertake review</li> <li>• In the last five years there have been minimal issues arising from skateboarding, so possibility that a standalone Skateboards Bylaw is excessive to Council needs.</li> </ul>

## Skateboards Bylaw - Statement of Proposal

### Introduction

The New Plymouth District Council is reviewing its Skateboards Bylaw, Part 8 of the New Plymouth Consolidated Bylaw 2008, as required by the Local Government Act 2002.

The proposed bylaw provides measures to regulate the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to council property.

Council has taken the review as an opportunity to revisit the previous approach adopted in 2008 by creating a standalone bylaw, with changes made to better address the perceived problems that arise in relation to skateboards in the District.

The proposed Skateboards Bylaw will replace the existing Skateboards Bylaw under Part 8 of the New Plymouth District Consolidated Bylaw 2008. A copy of the proposed bylaw is included in this document.

### Determinations from the Council

Council is required to undertake analysis to ensure that the making of a bylaw is the best way to address the perceived problem. Council is able to make bylaws relating to protecting the public from nuisance, protecting, promoting and maintaining public health and safety, and minimising the potential for offensive behavior in public places under the Local Government Act 2002 (LGA). The LGA also empowers Council to make bylaws to manage damage, misuse, or loss of infrastructure associated with the land under the control of the territorial authority.

In proposing this bylaw Council has also considered whether there are any implications under the New Zealand Bill of Rights Act 1990. Council is of the view that a bylaw is the most appropriate means of addressing the perceived problem and considers that the proposed bylaw is not inconsistent with the Bill of Rights Act.

### Reasons for the proposal

The problem or matter the bylaw seeks to address is the appropriate management and regulation of skateboards and other similar devices in public places. In addition to providing rules relating to behaviour, events and impounding, the existing bylaw imposes a prohibition on skateboarding in marked areas within the New Plymouth, Waitara and Inglewood Central Business Districts.

Reasons for the proposal are as follows:

- Without reviewing Part 8 Skateboards, this part of the Bylaw will lapse and be revoked under section 160A of the LGA on 1 July 2020.
- The Skateboards Bylaw provides a tool for Council to manage, regulate and promote the public's safety and manage nuisance in regard to skateboards and other similar devices in public places.
- This decision can impact on the present and future interests of the District and community by not having a clear framework as to the management and regulation of skateboards and other similar devices.

- Not having an up to date Skateboards Bylaw would also be contrary to the historical Council position to have a bylaw on this matter.

## Options

When determining the best approach, reviewing and amending the current Bylaw was considered the most appropriate.

The Council considered three options when determining to review this Bylaw:

1. Allow the Bylaw to lapse and rely on existing legislation to address the perceived problem.
2. Formally revoke the Bylaw and rely on existing legislation to address the perceived problem.
3. Review and amend the current Bylaw.

The table below provides a summary of the analysis:

Option	Advantages	Disadvantages
1. Allow the Bylaw to lapse and rely on existing legislation to address the perceived problem.	<ul style="list-style-type: none"> <li>• Provides a non-adversarial approach to skateboard regulation.</li> <li>• Encourages alternative transport options.</li> <li>• Reduces Council's regulatory role and enforcement burden.</li> <li>• Council would not spend time and resources reviewing and administering a bylaw that it does not require.</li> <li>• Many of the issues relating to this bylaw are covered in Council's Public Places Bylaw.</li> <li>• More serious issues relating to this bylaw are Police matters, and Council is able to work with Police to resolve these through, for example, the Summary Offences Act 1981 and the Trespass Act 1980.</li> </ul>	<ul style="list-style-type: none"> <li>• Compromises Council's ability to provide regulation specifically around skateboarding.</li> <li>• By allowing the Bylaw to lapse, there may be a public perception that Council will be less responsive to issues around skateboarding.</li> <li>• Without running a special consultative procedure to revoke the Bylaw, the public would not have an opportunity to submit their views on the matter.</li> <li>• Inconsistent with Council's previous approach of having a bylaw.</li> </ul>
2. Formally revoke the Bylaw and rely on existing legislation to address the perceived problem.	<ul style="list-style-type: none"> <li>• Provides a non-adversarial approach to skateboard regulation</li> <li>• Reduces Council's regulatory role and enforcement burden</li> <li>• Council would not spend time and resources reviewing and administering a bylaw that it does not require.</li> <li>• Many of the issues relating to this bylaw are covered in Council's Public Places Bylaw.</li> <li>• More serious issues relating to this bylaw are Police matters, and Council is able to work with Police</li> </ul>	<ul style="list-style-type: none"> <li>• Compromises Council's ability to provide regulation specifically around skateboarding.</li> <li>• The current Bylaw would still need to be revoked, requiring a special consultative procedure.</li> <li>• Inconsistent with Council's previous approach of having a bylaw.</li> <li>• Additional staff resource required to achieve the same outcome as option one.</li> </ul>

Option	Advantages	Disadvantages
	to resolve these through for example the Summary Offences Act 1981 and the Trespass Act 1980. <ul style="list-style-type: none"> <li>• Still allows the community to participate in consultation relating to this issue.</li> </ul>	
3. Review and amend the current Bylaw.	<ul style="list-style-type: none"> <li>• Provides Council with a tool in the form of a bylaw to manage and regulate skateboarding in public places.</li> <li>• Consistent with Council’s previous approach.</li> <li>• Rules will be in one place, clear and known to key stakeholders and the public.</li> <li>• Proactive approach to regulation of skateboarding.</li> <li>• Community views and preferences regarding the regulation of skateboarding will be collected and responded to.</li> </ul>	<ul style="list-style-type: none"> <li>• Council resources required to undertake review</li> <li>• In the last five years there have been minimal issues arising from skateboarding, so possibility that a standalone Skateboards Bylaw is excessive to Council needs.</li> </ul>

**Key changes proposed**

This proposal reviews the Bylaw in light of learnings from the operation of the Bylaw since it was last reviewed, as well as the data collected from the pre consultation survey undertaken during November and December 2019.

**Existing bylaw provisions on behaviour, events, impounding and prohibited areas transferred to proposed bylaw**

Rules and provisions from the existing bylaw relating to behaviour, events and impounding of skateboards have been transferred to the proposed Bylaw.

The existing bylaw also provides Council with the ability to impose prohibition on skateboards and other similar devices in specified areas, which are described in the appendices of the bylaw. The existing bylaw prohibits the use of skateboards in busy pedestrian areas in the central business districts in New Plymouth, Waitara, and Inglewood. The proposed bylaw retains these prohibitions.

**Clarifying the use of e-scooters**

The proposed Bylaw includes changes to clarify the use of e-scooters and the exclusion of these from the Bylaw. The changes include listing e-scooters in the excluded section of the definition of skateboards (as seen below) and the inclusion of a note on how e-scooters are regulated and what rules users of e-scooters on footpaths must follow.

The proposed bylaw provides a definition of skateboard, which is:

*A wheeled device controlled or propelled exclusively by gravity or by the muscular energy of the rider, including roller skates, in-line skates, scooters or other similar devices.*

*This definition excludes bicycles, unicycles, tricycles, wheelchairs, baby or invalid carriages and electric scooters.*

### **Regulation for transportation use**

Council acknowledges that promoting alternative methods of transport is better for the health and wellbeing of both our community and our environment. While skateboards are mainly a recreational tool, they are also a tool for transport.

The proposed bylaw adds a provision which allows Council to regulate skateboarding in certain areas of the district, restricting the use of skateboards in these regulated areas for the purpose of transportation only. The proposed bylaw does not specify any areas that will be regulated for this purpose at this time, however the addition of this provision means that Council can be responsive to the community's desire to protect the health and safety of pedestrians, while also providing for alternative transport options through the district.

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*The use of e-scooters is regulated through Central Government. This bylaw only relates to areas where they can't be used in the district.*

*The New Zealand Transport Authority defines e-scooters as wheeled recreational devices of less than 300 watts in power, with wheels smaller than 355mm.*

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The proposed bylaw allows for future additions or changes to areas of prohibition or regulation of skateboards to be made by Council resolution.

### **Standalone bylaw**

The proposed bylaw contains those provisions and definitions which previously sat in the Introductory Bylaw to enable the Skateboards Bylaw to separate from the consolidated bylaw.

### **Have your say!**

The consultation period for the Bylaw is **from XXXX to XXXX**. A submission form is provided with this document or you can fill in your submission online.

To get your submission to us, either:

**Post it to:** NPDC Skateboards Bylaw Submissions, Reply Paid DX, DX Box NX10026, New Plymouth 4342

**Deliver it to:** Civic Centre, Liardet Street, New Plymouth or to a library and service centre in Bell Block, Inglewood or Waitara

**Email it to:** [submissions@npdc.govt.nz](mailto:submissions@npdc.govt.nz)

**Do it online:** [www.newplymouthnz.com/HaveYourSay](http://www.newplymouthnz.com/HaveYourSay)

Be sure to get your submission to the Council by **XXXX 2020**. If you have any questions about this proposal or about how to make a submission, please contact **XXX**.

### **Opportunity to speak**

Please tell us if you would like to speak to the Council about your feedback on the proposed Bylaw. Please include a phone number and email address to ensure we can contact you to arrange a time for you to speak.

### **What happens next?**

After submitters have had an opportunity to speak with the Council, the Council will consider all the submissions received and make decisions on the proposal. The Council is expected to make its decision in **XX** 2020.

### **Where can I get more information?**

For more information about this consultation and other current consultations, visit the Council's website [www.newplymouthnz.com/HaveYourSay](http://www.newplymouthnz.com/HaveYourSay) or phone 06-759 6060.

Further copies of this document are available from the Civic Centre, Liardet Street, New Plymouth or library and service centres at Bell Block, Inglewood and Waitara.

# DRAFT Skateboards Bylaw 2020

## New Plymouth District Council

The purpose of this bylaw is to control the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to council property.

### Title and Commencement

- 1.1. This bylaw is the New Plymouth District Council Skateboards Bylaw 2020.
- 1.2. This bylaw comes into force on [to be determined].

### Authority

- 1.3. This bylaw is made under sections 145(a) and (b) and 146(b) of the Local Government Act 2002.

### Purpose

- 1.4. The purpose of this bylaw is to control the riding of skateboards and other similar devices in public places where a nuisance or injury may be caused to pedestrians or damage caused to council property.

### Interpretation

#### Definitions

- 1.5. In this bylaw unless the context otherwise requires:

**Approval or Approved** means a written approval from the Council.

**Authorised officer** means an officer or other person appointed by the Council to exercise powers and perform duties under this bylaw.

**Bylaw** means the New Plymouth District Council Skateboards Bylaw 2020.

#### **Enforcement officer means:**

- a) Any person who is appointed as an enforcement officer under section 177 of the Local Government Act 2002 in relation to this bylaw; or
- b) Any person who is appointed as an enforcement officer under the Land Transport Act 1998 by the New Zealand Police or the New Zealand Transport Agency.

**Nuisance** means any unreasonable interference with the peace, comfort or convenience of another person.

**Person** means an individual, a corporation sole, a body corporate, or an unincorporated body.

#### **Public place:**

- a) means a place that is under the control of the Council and open to or being used by the public, whether for free or on payment of a charge; and
- b) includes:
  - i) any road, accessway or service lane; and

- ii) one or more parts of a public place.

**Ride a skateboard** means having either one or both feet or any other part of the body on the skateboard while it is moving.

**Road** has the meaning given to that term in section 315 of the Local Government Act 1974.

**Skateboard:**

- a) means a wheeled device controlled or propelled exclusively by gravity or by the muscular energy of the rider, including roller skates, in-line skates, scooters, go-karts or other similar devices; but
- b) excludes bicycles, unicycles, tricycles, wheelchairs, baby or invalid carriages, and electric scooters.

*Note: The use of electric scooters is regulated through Central Government. The Land Transport (Road User) Rule 2004 applies to electric scooters (of less than 300 watts). Guidance from NZTA is as follows.*

*While on the footpath, users of e-scooters must:*

- *operate the device in a careful and considerate manner*
- *operate the device at a speed that does not put other footpath users at risk*
- *give way to both pedestrians and drivers of mobility devices.*  
*On the road, e-scooters must be operated as near as practicable to the edge of the roadway. A helmet is not legally required but is recommended.*

**References to repealed enactments**

- 1.6. A reference in this bylaw to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the repealed enactment, standard or document repealed.

**Regulation of skateboards**

**Skateboards prohibited in certain areas**

- 1.7. The Council may from time to time by resolution publicly notified prescribe any public place where no person may ride a skateboard.
- 1.8. No person may ride a skateboard in any public place prescribed in a resolution made under clause 5.1 of this bylaw.

**Skateboards regulated in certain areas**

- 1.9. The Council may from time to time by resolution publicly notified prescribe any public place where skateboards may be used for transportation purposes only (and not for recreational purposes).
- 1.10. No person may ride a skateboard for any reason other than for transportation purposes on any public place prescribed in a resolution made under clause 5.3 of this bylaw.

**Skateboard events**

- 1.11. No person may organise, hold or conduct a competition or event that involves riding a skateboard on a road or other public place without prior written approval from an authorised officer.
- 1.12. Any person undertaking an activity under clause 6.1 of this bylaw must comply with any conditions imposed by the authorised officer in the written approval.

### **Skateboards may be seized and impounded**

- 1.13. An enforcement officer has the power in section 164 of the Local Government Act 2002 to seize and impound a skateboard materially involved in the commission of an offence against this bylaw.
- 1.14. Sections 164 to 168 of the Local Government Act 2002 apply to the seizure and impounding of any skateboard under this bylaw.
- 1.15. The Council will make its best endeavours to:
  - a) provide storage for any skateboard impounded under this bylaw;
  - b) keep a register of any skateboard impounded under this bylaw; and
  - c) be satisfied that a person claiming ownership of an impounded skateboard is the owner or is otherwise entitled to the custody and control of the skateboard before releasing it to that person.
- 1.16. Nothing in this bylaw renders the Council or any enforcement officer liable in damages or otherwise to any person for any skateboard impounded under this bylaw.

### **Fees**

- 1.17. The Council may, in accordance with the provisions of section 150 of the Local Government Act 2002, prescribe fees for services provided under this bylaw.

### **Offences and penalties**

- 1.18. Any person who fails to comply with the requirements of this bylaw (excluding clause 7.3) commits an offence, and may be liable to a penalty under the Local Government Act 2002.

### **Revocation**

- 1.19. All bylaws previously made by Council which relate to skateboards or any matter dealt with in this bylaw, or which are inconsistent with this bylaw, are hereby revoked.

## SUMMARY OF RESOLUTIONS MADE UNDER SKATEBOARD BYLAW 2020

*This summary is for information purposes only. It does not form part of the New Plymouth District Council Skateboards Bylaw 2020.*

### 1. Skateboards prohibited in certain areas

- 1.1. In accordance with clause 5.1 of the New Plymouth District Council Skateboards Bylaw 2020, the Council has resolved as follows:

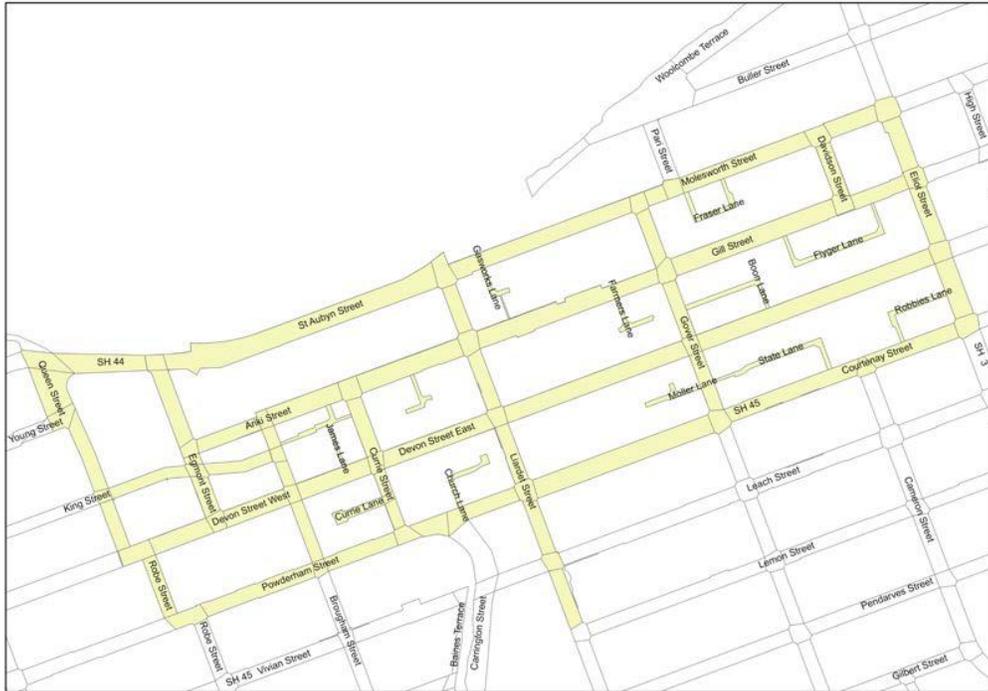
Date	Resolution	Council minute number	ECM document number
[Date bylaw adopted]	[To be determined]	[To be determined]	[To be determined]

- 1.2. As per the resolutions recorded in section 1.1, skateboards are prohibited from the following areas as described, and shown in maps, in sections 1.3, 1.4 and 1.5 below:

#### 1.3. NEW PLYMOUTH CENTRAL BUSINESS AREA

Including the footpaths of both sides of the road of:

1. Ariki / Gill St - from Egmont St to Eliot St
2. Boon Lane
3. Brougham St - from Powderham St to Ariki St
4. Courtenay St – Robe St to Eliot St
5. Currie Lane
6. Currie St
7. Devon St East and West - from Robe St to Eliot St
8. Egmont St - from Devon St West to Molesworth St
9. Eliot St – from Molesworth St to Courtenay St
10. Farmer's Lane
11. Flyger Lane
12. Gasworks Lane
13. Gover St - from Courtenay St to Molesworth St
14. Hayton Lane
15. Huatoki Lane
16. Huatoki Project site from James Lane to the Kings Building
17. James Lane
18. King St - from Queen St to Brougham St
19. Liardet St - from Lemon St to Molesworth St
20. Molesworth St – from Eliot St to Queen St
21. Puke Ariki Landing – from Huatoki Stream in the east to Puke Ariki building entrance in the west.
22. Queen St – St Aubyn St to Devon St West
23. Robe St – from Devon St West to Powderham St

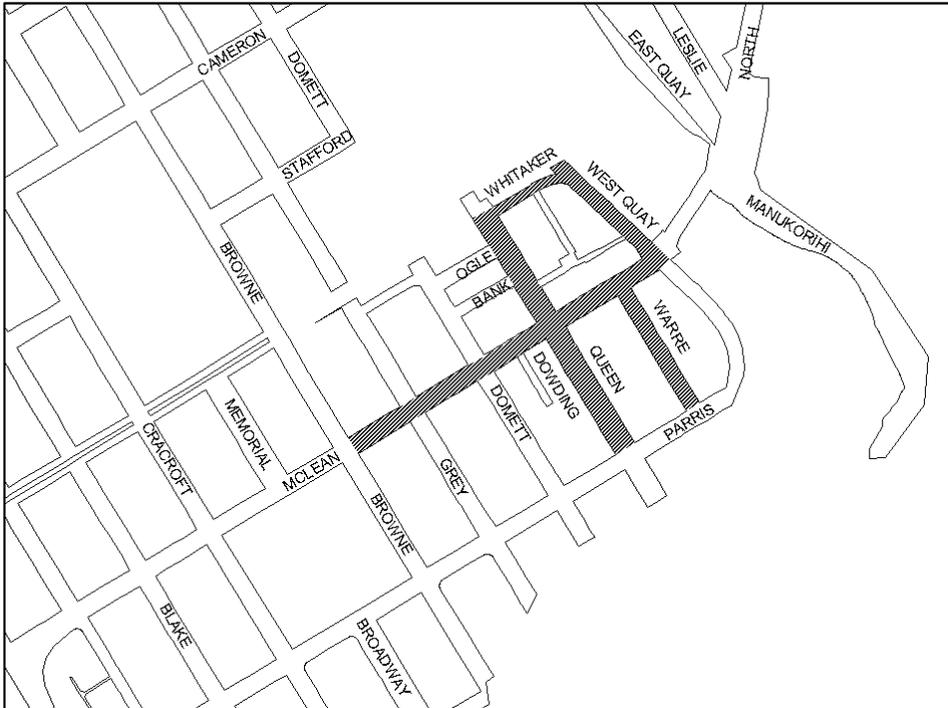


*Includes the footpaths on both sides of the highlighted roads*

**1.4. WAITARA CENTRAL BUSINESS AREA**

Including the footpaths on both sides of the road of:

1. McLean Street – from Browne Street to West Quay
2. Queen Street – from Parris Street to Whitaker Street
3. Warre Street
4. West Quay – from McLean Street to Whitaker Street
5. Whitaker Street



*Includes the footpaths on both sides of the highlighted roads*

**1.5. INGLEWOOD CENTRAL BUSINESS AREA**

Including the footpaths on both sides of the road of:

1. Rata Street – from Cutfield Street to Standish Street
2. Matai Street – from Rata Street to Kelly Street
3. Moa Street – from Rata Street to the Railway Station on Moa Street



*Includes the footpaths on both sides of the highlighted roads*

**2. Skateboards regulated in certain areas**

- 2.1. In accordance with clause 5.3 of the New Plymouth District Council Skateboards Bylaw 2020, the Council has resolved as follows:

Date	Resolution	Council minute number	ECM document number

- 2.2. As per the resolutions recorded in section 2.1, skateboards are to be used for the purpose of transportation only in the areas described below. Skateboards cannot be used for recreational purposes in these areas:

*No regulated areas currently identified.*

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## **DRINKING-WATER QUALITY POLICY**

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### **MATTER**

1. The matter for consideration by the Council is the adoption of the draft Drinking-Water Quality Policy.

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report the Council:**

- a) **Note the requirement to have a policy on drinking-water quality as a part of the Council's Water Safety Plan as required by the Health Act 1956.**
- b) **Adopt the draft Drinking-Water Quality Policy.**
- c) **Note that the Water Safety Plan (including the Drinking-Water Quality Policy) will be sent to the water safety assessor for assessment.**

### **STRATEGY AND OPERATIONS COMMITTEE RECOMMENDATION:**

2. The Strategy and Operations Committee endorsed the officer's recommendation.

### **COMMUNITY BOARD RECOMMENDATIONS**

3. The Clifton and Waitara Community Boards endorsed the officer's recommendation.
4. Due to the changing situation surrounding COVID-19 (Corona Virus) and the subsequent Government announcement regarding Alert Level 4 lockdown, the Inglewood Community Board, and the Kaitake Community Board did not meet to consider this report. Therefore, they were unable to make a recommendation on this matter.

### **TE HUINGA TAUMATUA RECOMMENDATION**

5. Referring to the COVID-19 Alert Level 4 lockdown situation in paragraph 4 of this report, Te Huinga Taumatua did not meet to consider this report, and was therefore unable to make a recommendation on this matter.
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<b>COMPLIANCE</b>	
Significance	This matter is assessed as being significant.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. Adopt the draft Drinking-Water Quality Policy.</li> <li>2. Adopt the draft Drinking-Water Quality Policy with amendments.</li> </ol>
Affected persons	The persons who are affected by or interested in this matter are all residents of New Plymouth District especially those connected to the water network.
Recommendation	This report recommends option one <b>adopt the Drinking-Water Quality Policy</b> for addressing the matter.
Long-Term Plan / Annual Plan Implications	No implications for the current LTP, though the policy will guide future LTP decisions regarding drinking-water quality.
Significant Policy and Plan Inconsistencies	No

### **EXECUTIVE SUMMARY**

6. Council officer's recommend that Council adopts the draft Drinking-Water Quality Policy in order to meet its statutory obligations under the Health Act 1956 regarding the contents of a Water Safety Plan which includes the development of a policy or statement on drinking-water quality.
7. Taking this approach will ensure that the Water Safety Plan (including the policy) can meet its legislative requirements and can be submitted to the drinking-water assessor for assessment within the required timeframe of no later than 25 May 2020.
8. There are no risks associated with the recommendation. The next steps will be to incorporate the policy into the Water Safety Plan and submit the plan to the drinking-water assessor for assessment. Once adopted by the Council, the policy will be included on all relevant Council policy information portals including the policy page on the Council's website.

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## BACKGROUND

### *Health Act requirement to have a policy*

9. Section 69Z Health Act 1956 requires the Council, as a water supplier, to prepare and implement a Water Safety Plan (WSP).
10. The Ministry of Health (Ministry) developed a new framework and handbook to assist councils to prepare a WSP.
11. The framework sets out what the Ministry expects Councils to include in the WSP and the handbook provides guidance on how to meet the expectations of the framework.
12. The handbook has an action for the Council to develop a policy or statement on drinking-water quality which:
  - a) Defines the Council's commitments and priorities relating to drinking-water quality (formalises the level of service for drinking-water).
  - b) Incorporates the six fundamental principles of drinking-water safety in New Zealand (from Havelock North inquiry).
  - c) Provides the basis on which all subsequent actions can be judged.
13. The action to develop a policy or statement on drinking-water quality is new and as such has required the creation of a new Council policy.
14. The draft Drinking-Water Quality Policy (the Draft Policy) recommended for adoption is attached in Appendix 1.

### *Showing our commitment to managing drinking-water quality*

15. One of the components of the framework recognises that organisational support and long-term commitment is the foundation of an effective system for providing safe and secure drinking-water.
  16. The framework highlights that, in addition to understanding and committing to legislative requirements, successful implementation of an effective system for providing safe and secure drinking-water requires:
    - a) An awareness and understanding of the importance of drinking-water quality management, and how decisions affect the protection of public health.
    - b) An organisational philosophy that fosters commitment to continual improvement, and cultivates employee responsibility and motivation.
-

- 
- c) The ongoing and active involvement of senior leadership to maintain and reinforce the importance of drinking-water quality management to all employees, as well as those outside the organisation.
17. The Draft Policy is an important mechanism in defining the Council's commitments and priorities relating to drinking-water quality.

*Policy guided by the principles of drinking-water quality in New Zealand*

18. The Draft Policy is based on the six fundamental principles of drinking-water safety in New Zealand that were developed as an outcome of the Government Inquiry into Havelock North Drinking Water 2017:

Principle 1 A high standard of care must be embraced

Principle 2 Protection of source water is of paramount importance

Principle 3 Maintain multiple barriers against contamination

Principle 4 Change (including changes to processes and hazardous events) precedes contamination

Principle 5 Suppliers must own the safety of drinking-water

Principle 6 Apply a preventative risk management approach

19. Accompanying each principle in the Draft Policy are one or more high-level statements that show the Council's commitment to incorporating the principles into its management of drinking-water quality.
20. The Draft Policy also acknowledges the need for the water supply to meet requirements under relevant legislative including the Health (Drinking Water) Amendment Act 2007 and the Drinking-water Standards for New Zealand.

**NEXT STEPS**

21. The Draft Policy (if adopted) will be included in the Council's WSP which must be submitted to a drinking-water assessor for assessment no later than 25 May 2020.
22. The Draft Policy once adopted will be included on all relevant Council policy information portals including the policy page on the Council's website.

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## **SIGNIFICANCE AND ENGAGEMENT**

23. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as significant because; the Draft Policy covers a strategic asset (water supply network and treatment), drinking-water quality is of significant interest to the community and having a policy meets the Council's statutory requirements under the Health Act 1956.

### *Community views and preferences expressed during the 2018-28 Long Term Plan*

24. Community views and preferences are already known regarding the Council ensuring that it manages the water supply effectively to provide safe, high-quality drinking water. As a result, it is considered that no further consultation is required on the Draft Policy.
25. Water network resilience (including wastewater network) was a main topic of public engagement during the 2018-2028 Long-Term Plan, during which the community provided their views and preferences on the Council's proposal to invest more to look after the drinking-water network and invest in upgrades to make the drinking-water network more resilient. This proposal would provide more resilience for the drinking-water network and lower the risk of prolonged water outages and the associated health risks.
26. This was proposed as an outcome of the impacts of ex-cyclone Gita when a tree damaged the single trunk main which supplies all of the district eastwards of the Waiwhakaiho River. The impact of this event was the loss of water to over 10,000 households and much of New Plymouth's large industry for up to 3 days. In addition a boil water notice was issued for the whole of the New Plymouth water supply due to the risk of contamination. This boil water notice remained in place for 10 days resulting in a lot of disruption to businesses and inconvenience to private individuals.
27. 3,660 submissions were received on water network resilience with most submissions noting the importance of Water Services to the community. 78.03% of submitters supported one of the options proposing to invest in Water Network Resilience. The Council approved investing more to look after our current drinking-water and waste water networks and invest in upgrades to make our drinking-water and waste water networks more resilient and include \$44.5 million in the 2018 Long Term Plan in order to invest in operational and capital improvements in our water, wastewater and stormwater networks.
28. The Draft Policy supports the community views and preferences and the Council's decisions during the 2018-2028 LTP on the importance of the drinking-water network.
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## **OPTIONS**

### **Option 1 Adopt the drinking-water quality policy**

#### *Financial and Resourcing Implications*

29. The policy will guide future planning for the water supply network and water treatment. Future capital and operational expenditure requirements for the water supply network and water treatment will be considered during Long-Term Plan and Annual Plan processes.

#### *Risk Analysis*

30. There are no risks associated with adopting the policy.

#### *Promotion or Achievement of Community Outcomes*

31. Managing the water supply effectively to provide safe, high-quality drinking-water benefits the district and as such promotes the People, Place and Prosperity community outcomes.

#### *Statutory Responsibilities*

32. The Council is required to have a policy (or similar statement) as part of a WSP as required under the Health Act 1956.

#### *Consistency with Policies and Plans*

33. This option is consistent with the Water Supply activity information in the 2018-2028 Long-Term Plan which, amongst other things, states that the Council ensures its water supply complies with the New Zealand Drinking Water Standards.

#### *Participation by Māori*

34. The Draft Policy was provided to the Iwi representatives on the He Puna Wai Working Party, the Council's partnership with Iwi and Hapu for the joint planning and management of the Council's three water services.
35. The Draft Policy was discussed at the He Puna Wai Hui on 22 Jan 2020. During this meeting feedback was provided by the Iwi representatives. In general there was support for the policy but there was also a desire to see the principals of He Puna Wai incorporated into the policy. In particular, the reciprocal relationship between water flowing across the land of Taranaki to sustain the people and, in turn, the people sustaining the water.

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36. Following the feedback from the He Puna Wai group, the policy was updated to include explicit reference to the He Puna Wai whakataukī alongside Principle 2 – Protection of source water is of paramount importance.
  37. The updated policy was then shared with the Iwi representatives of the He Puna Wai working party. At the time of writing this report no further feedback had been received.

*Community Views and Preferences*

38. This option is consistent with the community views and preferences obtained during the 2018-2028 LTP process as described in the significance assessment of this report.

*Advantages and Disadvantages*

39. The main advantage of this option is that it ensures the Council is meeting its statutory obligations under the Health Act 1956.
40. There are no known disadvantages associated with this option.

**Option 2**  
**Adopt the drinking-water quality policy with amendments**

*Financial and Resourcing Implications*

41. Any amendments would have to be assessed for any financial or resourcing implications.

*Risk Analysis*

42. Any amendments would have to be assessed to identify any associated risks.

*Promotion or Achievement of Community Outcomes*

43. Any amendments would have to be assessed for their promotion or achievement of community outcomes.

*Statutory Responsibilities*

44. Any amendments would have to be assessed for their consistency with the Ministry of Health water safety framework and handbook to ensure the policy meets requirements.

*Consistency with Policies and Plans*

45. Any amendments would have to be assessed against relevant Council policies and plans.
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*Participation by Māori*

46. Further engagement with He Puna Wai is recommended on any amendments to the Draft Policy. .

*Community Views and Preferences*

47. Any amendments would require assessment against known community views and preferences obtained as part of the 2018-2028 LTP process.

*Advantages and Disadvantages*

48. The advantage of this option is that it enables the Council to make changes to the Draft Policy. The disadvantage is that any amendment may require further assessment to ensure the policy is consistent with legislative requirements and other matters.

**Recommended Option**

This report recommends option one **adopt the Drinking-Water Quality Policy** for addressing the matter.

**APPENDICES**

Appendix 1 Draft Drinking-Water Quality Policy (ECM8232524)

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**Report Details**

Prepared By:	Richard Mowforth (Senior Policy Adviser), Graeme Pool (Principal Operations Engineer)
Team:	Policy Development, Three Waters
Reviewed By:	Mark Hall (Manager Three Waters), Mitchell Dyer (Policy Development Lead)
Approved By:	David Langford (Infrastructure Manager)
Ward/Community:	District Wide
Date:	5 February 2020
File Reference:	ECM 8232521

-----*End of Report*-----

## **POLICY ON DRINKING-WATER QUALITY**

**“He puna wai e kore e mimiti, ka koropupū, ka koropupū tonu”**

***He Puna Wai:*** *The source of our water flows from our mountain Taranaki*

***E kore e mimiti:*** *It provides us with sustenance, connection to the land and identity*

***Ka koropupū tonu, ka koropupū tonu:*** *This enduring connection will sustain the land and its people and, so too, must we sustain it.*

### Commitment to provide safe, high-quality drinking-water

This excerpt from a longer whakataukī unique to Taranaki denotes the water flowing from the Mouna as a source of life and energy that will always sustain the people of Taranaki. It is an enduring symbol of identity which connects all Taranaki people to Taranaki whenua. As the water sustains us, so too, we have a responsibility to sustain the water.

The New Plymouth District Council (NPDC) recognises drinking water is critical to sustaining the health of its community and is committed to managing its water supplies effectively in order to provide safe, high-quality drinking-water.

NPDC will ensure that its water supply consistently meets the expectations of the *New Zealand Drinking-water Safety Plan Framework* the requirements of the Health (Drinking Water) Amendment Act 2007 and *Drinking-water Standards for New Zealand*, and consumer and other regulatory requirements.

### Principles to guide the effective management of water

To achieve this, NPDC will ensure that the management of its water supply is guided by the six principles of drinking-water safety in New Zealand.

In partnership with iwi, stakeholders and relevant agencies, NPDC (including Elected Members, executive management and employees) will:

#### *Principle 1 – A high standard of care must be embraced*

- I. Apply the highest standard of care to supply safe drinking-water from source to tap.
- II. Obtain feedback on the needs and expectations of our stakeholders, and assess our performance to ensure these needs and expectations continue to be met.

#### *Principle 2 – Protection of source water is of paramount importance*

- III. Acknowledge that protection of source water is of paramount importance in protecting consumers against drinking-water contamination and illness. This reflects the He Puna Wai whakataukī of sustaining the health of the water so that it can sustain the health of the people of Taranaki. We will work with the Taranaki Regional Council to ensure source water is protected.

*Principle 3 – Maintain multiple barriers against contamination*

- IV. Maintain robust multiple barriers against contamination appropriate to the level of potential contamination and harm.

*Principle 4 – Change (including changes to processes and hazardous events) precedes contamination*

- V. Acknowledge that contamination is almost always preceded by some kind of change and council will always respond to change to ensure continued understanding of drinking-water quality issues and performance. Change can include natural events, changes in processes and procedures, organisational and personnel changes.

*Principle 5 – Suppliers must own the safety of drinking-water*

- VI. Maintain a personal sense of responsibility and dedication to providing consumers with safe drinking-water.
- VII. Undertake regular monitoring of the quality of drinking-water to provide relevant and timely information, and promote confidence in the water supply and its management.

*Principle 6 – Apply a preventative risk management approach*

- VIII. Implement a preventive risk-based approach in which potential threats to water quality and quantity are identified and managed via developing appropriate contingency planning and incident response capability.

Whole of Council commitment to providing safe, high-quality drinking-water

- IX. All elected members, managers and employees involved in the supply of drinking-water are responsible for understanding, implementing, maintaining and continually improving the drinking-water quality management system.

Policy review

Policy to be reviewed every 3 years to inform the council's long term planning process. Next review 2023.

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## **ROAD STOPPING AND DISPOSAL TO ADJOINING OWNER – UNFORMED LEGAL ROADS IN THE PAPER TOWNSHIP OF KORU, OAKURA**

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### **MATTER**

1. The matter for consideration by the Council is the proposed stopping, pursuant to the Public Works Act 1981, a number of unformed legal rural roads and subsequent disposal of the land to the adjoining owner (Green School Farm Limited).

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report, the Council:**

- a) **Approves the stopping of unformed White Street, Moore Street, Patten Road, Lett Street, Heath Road and an unformed section of part Walsh Street, situated at Oakura comprising approximately 4.0508 Ha (subject to survey), pursuant to the provisions of Sections 116(1) and 117(1) of the Public Works Act 1981.**
- b) **Authorises the Chief Executive to request the consent of the Minister of Land Information’s delegate to undertake the necessary gazettal declaration to stop parcels (subject to cadastral survey) of the unformed legal roads and vest the estate in fee simple by way of amalgamation into the adjoining land owners Record of Title, pursuant to Sections 116(1) and 117(1) and 120(3) of the Public Works Act 1981.**
- c) **Approves the sale of the estate in fee simple (freehold) title on stopping of affected roads by way of vesting and amalgamation in the adjoining registered owners Record of Title by Declaration Notice under the Public Works Act 1981.**

### **STRATEGY AND OPERATIONS COMMITTEE RECOMMENDATION**

2. The Strategy and Operations Committee endorsed the officer’s recommendation.

### **TE HUINGA TAUMATUA RECOMMENDATION**

3. Due to the changing situation surrounding COVID-19 (Corona Virus) and the subsequent Government announcement regarding Alert Level 4 lockdown, Te Huinga Taumatua did not meet to consider this report and therefore, was unable to make a recommendation on this matter.

**KAITAKE COMMUNITY BOARD RECOMMENDATION**

4. Referring to the COVID-19 Alert Level 4 lockdown situation in paragraph 3 of this report, the Kaitake Community Board did not meet to consider this report, and was therefore unable to make a recommendation on this matter.

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <p>1. <b>Recommended:</b> Stop unformed White Street, Moore Street, Patten Road, Lett Street, Heath Road and part of Walsh Street pursuant to the Public Works Act 1981 and sell the land to the adjoining owners (the Applicants).</p> <p>2a. <b>Not Recommended:</b> Decline to stop the roads.</p> <p>2b. <b>Not Recommended:</b> Grant a Road Encroachment Licence</p>
Affected persons	The persons who are affected by or interested in this matter are the adjoining land owners (Green School Farm Limited) whose property is bisected by White Street, Moore Street, Patten Road, Lett Street, Heath Road and part Walsh Street and the local hapū.
Recommendation	This report recommends option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	No
Significant Policy and Plan Inconsistencies	No

**EXECUTIVE SUMMARY**

5. Green School Farm Limited has applied to the Council to purchase the adjoining parcels of ***unformed White Street, Moore Street, Patten Road, Lett Street, Heath Road and part Walsh Street*** that bisects the company's private land. The company requires the land to be able to complete its development of the Green School which is partially constructed.

## **BACKGROUND**

### *Application by Green School Farm Limited for the stopping and purchase of the Land*

6. Green School Farm Limited currently occupies unfenced Moore Street, Patten Road, White Street, Lett Street, Heath Road and Walsh Street along with all the land abutting these unformed legal roads. The complex arrangement of these paper roads reflects the previous plans of the layout by the Crown in 1911 for the proposed Township settlement of Koru.
7. The stopping of the affected roads is integral to the development of the education facility.

### *Green School Development*

8. The Green School development on the 48.5 hectare site between New Plymouth and the seaside town of Oakura involves four large classroom "pods" (three are finished), the conversion of a barn into a café, a car park and meditation deck.
9. This will be the first Green School development in New Zealand and only the second globally. The School will operate on the ideals of sharing and caring for the environment through hands on learning. The school will eventually cater for 500 pupils from pre-schoolers up to year 13. The school opened in February 2020 and currently has about 55 students. Eight teaching positions have been filled with an initial teacher student ratio of about one to five.
10. Some 50,000 trees are being planted on the 48.5 hectare site and the classrooms "pods" have been built by Cleland's Construction.
11. The Green School development will promote a new alternative education provider option to support the community. The education facility has a heavy focus on ecological and sustainability principles and Green School Farm Limited seeks to create a school sympathetic and reflective of the surrounding natural environment. Green School Farm Limited are in the process of enhancing the natural environment but are currently restricted by the alignment of these paper roads that bisects its private freehold.



Fig 1. The learning pods have been designed to give children a safe and comfortable environment close to nature.



Fig 2. Environmentally certified timber has been used for the Green School build.

*Stopping and Disposal*

12. The stopping and disposal of the affected unformed legal roads will remove the superfluous 1911 Koru settlement road layout as originally surveyed for settlement by the Crown. The land bisected by the unformed legal roads is freehold and owned by Green School Farm Limited.

- 
13. New Plymouth District Council have no plans to form any of the roads which are proposed to be stopped.

*Description of the unformed road to be stopped and sold*

14. The land proposed to be stopped and sold is shown below highlighted in yellow in **figure 3**, and is known **as White Street, Moore Street, Patten Road, Lett Street, Heath Road and part Walsh Street**, situated at Oakura. The total area is approximately **4.0508 hectares** and the unformed roads run through and adjacent to formed Koru Road.

*Land Status and Ownership of Affected Road*

15. **Crown Grant Public Road**

The affected road proposed for stopping and sale originally comprised Crown Grant public road provided as part of the Crown settlement for the Township of Koru surveyed in 1911 as depicted on SO Plan 2941. Prior to 1 January 1973, Crown Grant Roads were vested in the Crown as defined in Section 110 of the repealed Public Works Act 1928.

**a) Subsequent Vesting under the Counties Amendment Act 1972**

Effective 1 January 1973, with the enactment of the Counties Amendment Act 1972. Section 191A of that Act provided "*All roads (whether created before or after the commencement of this section) and the soil thereof and all materials of which they are composed shall vest in fee simple in the Corporation. There shall also vest in the Corporation all materials placed or laid in any road in order to be used for the purpose thereof*". "*All roads shall be under the control of the Council*".

**b) Current Local Government Act 1974**

Current legislation under Section 316(1) of the Local Government Act 1974, provides "*that (with exceptions) the property in all roads are vested in an estate in fee simple in the Council of the district in which they are situated*".

*Section 317(1) provides that (with exceptions) that all roads in the district shall be under the control of the Council*".

*Title Amalgamation*

16. The land proposed to be stopped will be amalgamated with the Green School Farm Ltd existing titles (Freehold Record of Title 592363, TN134/167, TN134/198, TN262/66, TNB2/1157, TN195/30, and TN144/186).

Diagrams



Fig 3: Diagram showing the Roads to be stopped and sold highlighted in yellow.

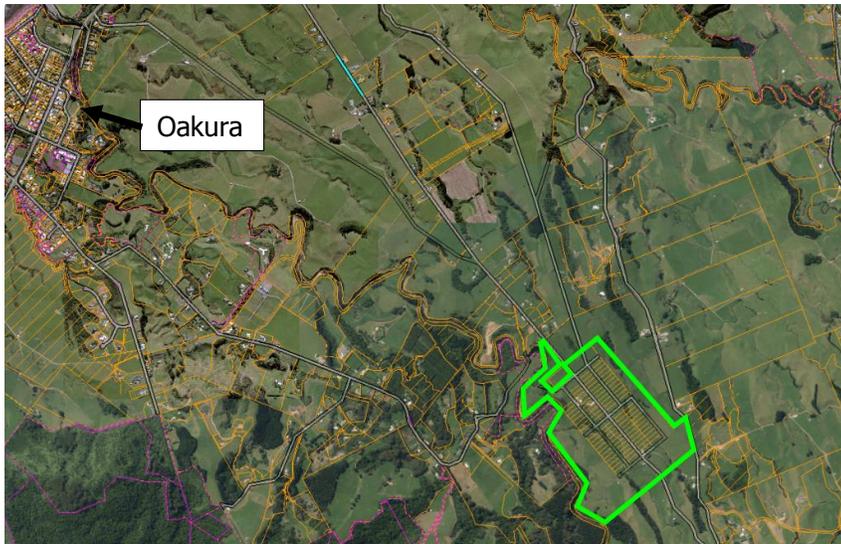


Fig 4: General location map showing the land (highlighted in green) owned by Green School Farm Ltd.

*Independent Valuation of the unformed roads to be stopped and sold*

17. Council has obtained an independent valuation and the market value for the unformed roads has been assessed at \$165,000 plus GST (if any).

*Statutory Provisions*

18. **White Street, Moore Street, Patten Road, Lett Street, Heath Road and Walsh Street** comprises of local legal roads vested in Council ownership pursuant to Section 316(1) of the Local Government Act 1974. The Minister for Land Information NZ delegate has statutory power under Section 116(1) of the Public Works Act 1981 to declare road stopped (ceases to be road) by declaration notice in the NZ Gazette and the Council has under Section 117 (1) power to deal with the stopped road under the Local Government Act 1974. Section 116(2) (b) provides that the Minister's may declare road stopped provided adequate road access to the land adjoining is left or provided or the owners of the land adjoining the road consent in writing to the stopping.
19. The stopping and sale of the roads in this case does not affect other property owner access.
20. Section 120 of the Public Works Act 1981 provides for the Gazettal Declaration to vest the land in the registered owners and amalgamated with existing land titles and for the Registrar General of Land to record title without fee.

*Applicants Conditional Agreement to Purchase*

21. Green School Farm Ltd has agreed to purchase the stopped roads at the independently assessed total market value of \$165,000 and to pay for the associated costs including valuation, survey, LINZ accredited agents costs and legal costs. The applicant has signed a Memorandum of Agreement which includes the condition of costs payable. The Agreement is subject to Council approval to the stopping and disposal. The land can only be disposed of to the adjoining owner. The provisions of an offer back under Section 40 of the Public Works Act 1981 does not apply.

*Alternative – Issue of a Road Encroachment Licence – Not Recommended*

22. This option is not recommended in the circumstances as the applicant, Green School Farm Ltd requires permanent tenure. The roads are surplus to any future road requirement so the stopping and sale is considered the best option.

## **NEXT STEPS**

23. Following approval by Council, the Property Team will register a Compensation Certificate, undertake Survey/Survey Office Plan, appoint a LINZ accredited agent to undertake the work required to obtain the Minister for Land Information's consent to the road stoppings and vesting of the estate in fee simple/amalgamated title by Declaration Gazettal under the Public Works Act. The Gazette Notice will be registered to facilitate title amalgamation.

## **SIGNIFICANCE AND ENGAGEMENT**

24. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance because there is little impact on the district and community.
25. Stopping and selling the roads to the Green School Farm Ltd has been identified as the most practicable solution to enable the Applicants to "occupy" the land. The land can only be disposed of to the adjoining land owner. The purchase of the land by Green School Farm Ltd is an integral part of the overall school development.
26. The proposal does not impact on the Council's statutory purpose or obligations and has no impact on levels of service.
27. As indicated the only parties who are able to purchase the unformed road parcels are the adjoining owners, Green School Farm Ltd, there are no other owners adjoining these roads who use the roads for access.
28. Council officers have consulted with Ngā Māhanga a Tairi hapū. The hapū has advised in writing that they are happy for the stopping of the roads to proceed as there are no known wahi tapu sites, and they have not raised any concerns.

## **OPTIONS**

- Option 1    Recommended: Stop unformed White Street, Moore Street, Patten Road, Lett Street, Heath Road and part of Walsh Street pursuant to the Public Works Act 1981 and sell the land to the adjoining owners (the Applicants).**

### *Financial and Resourcing Implications*

29. There are no financial implications for the Council with this option. The stopping and sale of the unformed roads is based on an independent total market valuation of \$165,000 (plus GST if any) with the applicant meeting all costs associated with the process, estimated at a further \$10,000.

*Risk Analysis*

30. No risks have been identified with this option.

*Promotion or Achievement of Community Outcomes*

31. This option meets the community outcome of People and Prosperity by providing Green School Farm Limited certainty of tenure and legal occupation of the unformed roads that intersect their property. Green School Farm Limited are in the process of enhancing the natural environment but are currently restricted with the alignment of these paper roads.

*Statutory Responsibilities*

32. The road stoppings will be undertaken in accordance with the statutory provisions of the Public Works Act 1981.
33. The section of stopped roads is to be amalgamated with the land in Computer Freehold Record of Title 592363, TN134/167, TN134/198, TN262/66, TNB2/1157, TN195/30, and TN144/186.

*Consistency with Policies and Plans*

34. This option is consistent with the Blueprint Key Direction of Growth – Direct a cohesive growth strategy that strengthens the city and township. It has identified land not required for its original infrastructure purpose.

*Participation by Māori*

35. Council officers have consulted with Ngā Māhanga a Tairi hapū. The hapū has advised in writing that they are happy for the stopping of the roads to proceed as there are no known wahi tapu sites, and they have not raised any issues or concerns.

*Community Views and Preferences*

36. The stopping and sale of land has not been discussed with the wider community. The property owner, Green School Farm Ltd whose properties adjoin the unformed roads have requested the opportunity to purchase the land for amalgamation with their existing titles.

*Advantages and Disadvantages*

37. The advantages of this option, are that it;
- a) Provides revenue to be applied towards debt reduction.
  - b) Enables the Council to dispose of unformed legal roads that need not be retained for future road purposes and that is occupied and used by the adjoining owner.
  - c) Does not affect the status quo of the remainder of Walsh Street.
  - d) Has no financial implication to the Council because the applicant is required to meet all costs associated with the road stoppings and disposal.
38. No disadvantages have been identified.

**Option 2a. Not Recommended: Decline the road stopping application.**

**Option 2b. Not Recommended: Issue a Road Encroachment Licence.**

**Both options 2a and 2b have been assessed together as follows;**

*Financial and Resourcing Implications*

39. The Council will forgo the receipt of potential land proceeds.

*Risk Analysis*

40. No risk to the Council has been identified with this option. However, it could affect the future development of the school.

*Promotion or Achievement of Community Outcomes*

41. This option does not promote any community outcomes.

*Statutory Responsibilities*

42. There are no statutory responsibilities relating to this option.

*Consistency with Policies and Plans*

43. This option is not consistent with any Policies or Plans.
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*Participation by Māori*

44. There has been no participation with Māori in relation to this option as it maintains the status quo.

*Community Views and Preferences*

45. It is expected that the adjoining owner, Green School Farm Limited would not support this option as they wish to purchase the unformed roads. However, community views and preferences have not been sought on this option as it maintains the status quo

*Advantages and Disadvantages*

46. No advantages have been identified with this option.
47. The disadvantages identified with this option are that it:
- a) Forgoes revenue that could be applied towards debt reduction.
  - b) Stops the Council from disposing of unformed legal road that need not be retained for future road purposes

**Recommended Option**

This report recommends option one to stop and dispose of the affected roads for addressing the matter.

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**Report Details**

Prepared By: Dee Jury (Property Services Officer)  
Team: Property Team  
Approved By: Ian Baker (Property Manager)  
Ward/Community: Kaitake  
Date: 23 January 2020  
File Reference: ECM 8239633

-----*End of Report*-----

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## **ROAD STOPPING AND DISPOSAL TO ADJOINING OWNER – UNFORMED LEGAL ROAD RESERVE – NGAPAPA STREET, URENUI**

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### **MATTER**

1. The matter for the consideration by Council is a recommendation to stop a section of unformed legal road vested in Council ownership (part Ngapapa Street) under Section 316(1) of the Local Government Act 1974, pursuant to the provisions of the Public Works Act 1981

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report, the Council:**

- a) **Approves stopping of the unformed section of part Ngapapa Street, Urenui, of approximately 166m<sup>2</sup> (subject to survey), pursuant to the Public Works Act 1981.**
- b) **Authorises the Chief Executive to request the consent of the Minister of Land Information's delegate to undertake the necessary gazettal declaration to stop the parcel (subject to cadastral survey) of unformed legal road and vest the estate in fee simple by way of amalgamation into adjoining land owners Record of Title, pursuant to Sections 116(1) and 117(1) and 120(3) of the Public Works Act 1981.**
- c) **Approves the sale of the estate in fee simple (freehold) title of the stopped road by way of vesting and amalgamation in the adjoining registered owners Record of Title by Declaration Notice under the Public Works Act 1981.**

### **STRATEGY AND OPERATIONS COMMITTEE RECOMMENDATION**

2. The Strategy and Operations Committee endorsed the officer's recommendation.

### **TE HUINGA TAUMATUA RECOMMENDATION**

3. Due to the changing situation surrounding COVID-19 (Corona Virus) and the subsequent Government announcement regarding Alert Level 4 lockdown, Te Huinga Taumatua did not meet to consider this report and therefore, was unable to make a recommendation on this matter.

**CLIFTON COMMUNITY BOARD RECOMMENDATION**

4. The Clifton Community Board endorsed the officer’s recommendation.

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. <b>Recommended:</b> Stop part of unformed Ngapapa Street pursuant to the Public Works Act 1981 and sell the land parcel to the adjoining owner (the Applicants).</li> <li>2. <b>Not Recommended:</b> Decline the road stopping application.</li> </ol>
Affected persons	The persons who are affected by or interested in this matter are the adjoining owners of Ngapapa Street and the local hapū.
Recommendation	This report recommends option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	No
Significant Policy and Plan Inconsistencies	No

**EXECUTIVE SUMMARY**

5. An application has been made to the Council by Adrian van’t Hof and Bronwyn Joy van’t Hof (the applicants) to purchase a parcel of unformed road reserve adjoining their property at 34 Ngapapa Street, Urenui. The applicants require the land to obtain vehicle access to their property.
6. The road reserve is a steep bank which will require earthworks to enable the vehicle access to be constructed.

## **BACKGROUND**

### *Request for road-stopping by the Applicants*

7. The applicants own 34 Ngapapa Street, a vacant section, which they intend to construct a new dwelling on. Currently there is no suitable driveway access to their property due to the topography of the road reserve. The property has frontage to Ngapapa Street, however the adjoining section of road reserve is steep and some work, including retaining and earthworks, is required to offer a suitable vehicle entrance. Figure Four shows the proposed retaining wall, access design and longsection and shows the contour of the land.
8. NPDC are supportive of the stopping and sale of the portion of road reserve. The construction of a retaining wall means an encroachment licence is not appropriate as there is risk to Council by having privately owned structures on road reserve which Council potentially then have to maintain.
9. The Council does not require the land for road purposes and suitable access has been retained for the neighbouring Council Reserve (Lot 5 DP 17842). No significant risks have been identified with this approach.
10. Council Officers met with the applicant on site and reviewed the plans of the proposed driveway. There is a NPDC water main within the road reserve. Officers are happy with the location of the water main in relation to the road stopping proposal. It has been recommended that the Transportation Team tag the vehicle crossing to include investigation /protection of the water main. The applicant is happy to work with NPDC to ensure the water main is either protected or replaced at the driveway crossing.
11. The applicant's property and the road reserve are adjacent to a Ngāti Mutunga Waahi Tapu (Kumara Kaiamo – Site NPDC 406 – Pā Site, shown in Figure Five). Council Officers have consulted with Ngāti Mutunga Iwi. Ngāti Mutunga are not opposed to the stopping of the road in principal, however they are concerned about the potential use of the land once it is amalgamated with the adjoining land.
12. Rule R8 of the Proposed District Plan - Sites and Areas of Significance to Māori (SASM) applies to all zones where earthworks on or within 50m of a scheduled site or area of significance to Māori, including earthworks associated with the clearance of trees and the erection of new structures, but excluding land disturbance provided for by SASM-R1 and earthworks associated with the maintenance and repair or upgrading of a network utility provided for by SASM-R4. In this instance the earthworks and the building of a retaining wall associated with the construction of the driveway will require a resource consent.

13. The property is within 50m of a Pā Site and Ngāti Mutunga are concerned about the extent of the earthworks required for the construction of the driveway. This is discussed further in the report. The verified extent of the Pā Site is shown in Figure Five.
14. The applicants would like to proceed with Council approval for the road stopping so that there is certainty they will be able to buy the road reserve if the Resource Consent is granted, before they submit and pay for a Resource Consent. A condition of the Memorandum of Agreement between NPDC and the applicants for the sale of stopped road will be *'should the **Owner** not be able to obtain resource consent for the construction of the driveway, this Agreement will come to an end, but not without releasing the **Owner** of their obligation to meet the agreed costs incurred by Council in seeking all of the necessary approvals and consents required up until the termination of the Agreement'*. A reasonable timeframe to obtain the resource consent will be negotiated.

*Description of the unformed road to be stopped and sold*

15. The land proposed for stopping and is shown below highlighted in Green in Figure One, and is known as part of Ngapapa Street, situated at Urenui. The total area is approximately 166m<sup>2</sup> (subject to final survey). Figure Three provides a map of the wider location.
16. The applicants own the land outlined in blue below in Figure One and Two.



Figure one: Land to be stopped highlighted in Green.



Figure Two: Applicants property adjoining road reserve outlined in Blue.



Figure Three: General location map



Figure Four – Proposed Retaining Wall, Access design and Longsection



Figure Five: Site 406 – extent of verified site shown in red and white – 34 Ngapapa Street shown in blue.

*Independent valuation of the unformed road to be stopped and sold*

17. Council has obtained an independent valuation and the market value for the unformed road has been assessed at \$10,000 plus GST (if any). Appendix One sets out the compensation principles regarding the valuation.
18. In relation to 34 Ngapapa Street, Telfer Young have provided the following property specific considerations:

*"The amalgamation of 166m<sup>2</sup> to form a 1,234m<sup>2</sup> site would be considered of benefit to the hypothetical purchase. The increase in parcel size of 166m<sup>2</sup> is almost 13.5%, however in our view adds only marginally to the residential amenity of the site overall. Although the 166m<sup>2</sup> is site frontage, it falls steeply from the road creating no significant building platform improvement in our view."*

*Applicants Agreement to Purchase*

19. The landowners have agreed to purchase the piece of stopped road at the assessed market value of \$10,000 plus GST (if any) and pay for the associated costs including valuation, survey, LINZ accredited agents costs and legal costs.

*Title Amalgamation*

20. The land proposed to be stopped will be amalgamated with the applicants existing titles (Freehold Record of Title TND3/1073).

*Statutory Provisions*

21. Ngapapa Street comprises a local legal road vested in Council ownership pursuant to Section 316(1) of the Local Government Act 1974. The Minister for Land Information NZ has statutory power under Section 116 of the Public Works Act 1981 to declare road stopped (ceases to be road) by declaration notice in the NZ Gazette and the Council has under Section 117 (1) power to deal with the stopped road under the Local Government Act 1974.
22. Section 120 of the Public Works Act 1981 provides for the Gazettal Declaration to vest the land in the registered owners and amalgamated with existing land titles and for the Registrar General of Land to record title without fee.

## **NEXT STEPS**

23. Subject to approval of this report by Council, the applicant will apply for a Resource Consent.
24. If the Resource Consent is granted the Property team will register a Compensation Certificate, undertake survey/Survey Office Plan, appoint a LINZ accredited agent to undertake the work required to obtain the Minister for Land Information's consent to the road stopping and vesting of the estate in fee simple/amalgamated title by Declaration Gazettal under the Public Works Act. The Gazette Notice will be registered to facilitate title amalgamation.

## **SIGNIFICANCE AND ENGAGEMENT**

25. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance because there is little impact on the district and community.
26. Stopping and selling the road to the adjoining neighbours has been identified as the most practicable solution to enable the Applicants to "occupy" the land.
27. The proposal does not impact on the Council's statutory purpose or obligations and has no impact on levels of service.
28. The only parties who are able to purchase the unformed road parcel are the adjoining owners, there are no other adjoining owners to this piece of unformed road.
29. Council Officers have consulted with Ngāti Mutunga Iwi. Ngāti Mutunga have advised in writing that they are happy to support the stopping and sale of the road reserve but reserve the right to oppose the Resource Consent, this is discussed further within the report.

## **OPTIONS**

### **Option 1**

**Recommended: Stop part of unformed Ngapapa Street, Urenui pursuant to the Public Works Act 1981 and sell the land to the adjoining owner (the Applicants).**

#### *Financial and Resourcing Implications*

30. There are no financial implications for the Council with this option. The stopping and sale of the unformed road is based on an independent market valuation of \$10,000 (plus GST if any) with the applicant meeting all costs associated with the process, estimated at a further \$10,000.

*Risk Analysis*

31. No risks have been identified with this option. The Memorandum of Agreement provides for the Agreement to come to an end if a Resource Consent is not granted, but not without releasing the applicant of their obligations to pay costs incurred by Council up to the termination of the Agreement.

*Promotion or Achievement of Community Outcomes*

32. This option meets the Community outcome of People and Prosperity by providing the adjoining landowners of 34 Ngapapa Street, Urenui certainty of tenure and legal occupation of the unformed road that currently adjoins their property.

*Statutory Responsibilities*

33. The road stopping will be undertaken in accordance with the statutory provisions of the Public Works Act 1981.
34. The section of stopped road is to be amalgamated with the land in Computer Freehold Record of Title TND3/1073.
35. "Offer back" provisions do not apply to this piece of Road Reserve as disposal to a third party would land lock the property at 34 Ngapapa Street.

*Consistency with Policies and Plans*

36. This option is consistent with the Blueprint Key Directions of Growth – Direct a cohesive growth strategy that strengthens the city and township. It has identified land not required for its original infrastructure purpose.

*Participation by Māori*

37. Council Officers have consulted with Ngāti Mutunga Iwi. The road reserve is adjacent to a Ngāti Mutunga Waahi Tapu (Kumara Kaiamo – Site NPDC 406).
38. Email confirmation has been received from Ngāti Mutunga, they are happy to support the stopping of the road, provided that this is not seen as an indication that they will support a Resource Consent when an application is submitted to Council. They have raised concerns about the extent of the earthworks which are not certain at this time.

*Community Views and Preferences*

39. The stopping and sale of land has not been discussed with the wider community. The property owner adjoining the unformed road has requested the opportunity to purchase the land for amalgamation with their existing title. The land can only be sold to the adjoining owners. There are no other adjoining owners to this piece of road reserve.

*Advantages and Disadvantages*

40. The advantages of this option, are that it;
- a) Provides revenue to be applied towards debt reduction (in accordance with clause 5.3 of the Treasury Management Policy).
  - b) Enables the Council to dispose of unformed legal road that need not be retained for future road purposes and that is occupied and used by the adjoining owners.
  - c) Does not affect the status quo of the remainder of Ngapapa Street.
  - d) Has no financial implication to the Council because the applicants are required to meet all costs associated with the road stopping and disposal.
41. No disadvantages have been identified.

**Option 2**

**Not Recommended: Decline the road stopping application.**

*Financial and Resourcing Implications*

42. The Council will forgo the receipt of potential land proceeds.

*Risk Analysis*

43. No risk to the Council has been identified with this option. However the owner of 34 Ngapapa Street, will need to seek an alternative solution in order to access their property.

*Promotion or Achievement of Community Outcomes*

44. This option does not promote any community outcomes.

*Statutory Responsibilities*

45. There are no statutory responsibilities relating to this option.
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*Consistency with Policies and Plans*

46. This option is not consistent with any Policies or Plans.

*Participation by Māori*

47. There has been no participation with Māori in relation to this option as it maintains the status quo.

*Community Views and Preferences*

48. It is expected that the adjoining owner, would not support this option as they wish to purchase the unformed road. However, community views and preferences have not been sought on this option as it maintains the status quo

*Advantages and Disadvantages*

49. No advantages have been identified with this option
50. The disadvantages identified with this option are that it:
- a) Forgoes revenue that could be applied towards debt reduction.
  - b) Stops the Council from disposing of unformed legal road that need not be retained for future road purposes

**Recommended Option**

This report recommends option 1 for addressing the matter.

**APPENDICES**

Appendix One: Compensation Principles

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**Report Details**

Prepared By: Dee Jury (Property Services Officer)  
Team: Property  
Approved By: Ian Baker (Property Manager)  
Ward/Community: North Ward/Clifton  
Date: 18 February 2020  
File Reference: ECM 8242840

-----*End of Report*-----

## COMPENSATION PRINCIPLES

The preferred way of valuing property interest is by comparison to open market sales negotiated between willing buyers and willing sellers. However, transactions of smaller parcels or partial interest in land to be acquired or sold are usually between two captive parties and the sale price/compensation agreed does not usually meet the test of being an arms length or open market transaction. There is a paucity of this type of evidence because it does not usually become public information and, even when the price paid is known, the sale price/compensation paid tends to differ in each situation, dependent upon the motives of the respective parties.

The requirement to value smaller parcels of land can occur when a local or government body wish to acquire property for a public purpose such as a road widening or partial interests such as easements for services. Often the land is of a size and shape where it would not readily sell on a stand alone basis. Compensation is still due and case law has evolved that deals with how the valuation of this type of land should be treated.

The underlying principles associated with valuation assessments include:

- The value is to be assessed on the basis of a willing buyer (motivated but not compelled to buy) and a willing seller (motivated to sell at market terms for the best price attainable in the open market after property marketing), whatever that price may be, but is neither over eager nor a forced seller in an open market.
- Properties are to be valued in accordance with the highest and best use.
- In instances where only part of the land is acquired or sold, and that land is not of a size, shape or nature for which there is a general market demand, then compensation may be assessed by determining the market value of the whole of the owner's land before acquisition/sale and deducting from it the market value of the residue of the owner's land after acquisition/sale and completion of the proposed work. This is commonly referred to as the 'before and after' valuation approach.
- Under the principle of equivalence, compensation paid to the owners would be equivalent to the loss or gain, being the objective monetary diminution in value of the asset at the time of acquisition. Compensation should place the owner in a position as near as possible to that in which the owner was prior to notification or taking for the public work.

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**APPLICATION BY GREYMOUTH PETROLEUM TURANGI LIMITED  
FOR A DEED OF GRANT TO LAY PIPELINES WITHIN LEGAL ROAD  
RESERVE – TURANGI ROAD UPPER, MOTUNUI**

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**MATTER**

1. The matter for consideration by the Council is an application by Greymouth Petroleum Turangi Limited to install eight pipelines (five pipelines and three associated utility lines) within Turangi Road Upper. If approved, the installation would be secured by the issue of a Deed of Grant, pursuant to the provisions of Section 338(1) of the Local Government Act 1974.

**RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report the Council:**

- a) **Approves the application by Greymouth Petroleum Turangi Limited to install the following pipelines/utilities within Road Reserve on Turangi Road Upper;**

- **2 x 100mm dia pipelines multiphase gas, water and condensate (from Turangi D Wellsite to Turangi A Production Station)**
- **2 x 100mm dia pipelines multiphase gas, water and condensate (future spare)**
- **1 x 200mm dia pipelines multiphase gas, water and condensate (future spare)**
- **1 x 50mm dia fibre optic communications cable conduit**
- **1 x 50mm dia pipe for potable water supply to Turangi A Production Station**
- **1 x 100mm dia conduit for electrical power cable**

**The road crossing will be a distance of approximately 22m long and 6m wide. The application is to be secured by the issue of a Deed of Grant pursuant to the provisions of Section 338(1) of the Local Government Act 1974, for a twenty year term with a renewal option for a further twenty year period.**

- b) **Delegates authority to the Property Manager to finalise the conditions of the Deed of Grant.**

**STRATEGY AND OPERATIONS COMMITTEE RECOMMENDATION**

- 2. The Strategy and Operations Committee endorsed the officer’s recommendation.

**TE HUINGA TAUMATUA RECOMMENDATION**

- 3. Due to the changing situation surrounding COVID-19 (Corona Virus) and the subsequent Government announcement regarding Alert Level 4 lockdown, Te Huinga Taumatua did not meet to consider this report and therefore, was unable to make a recommendation on this matter.

**INGLEWOOD COMMUNITY BOARD RECOMMENDATION**

- 4. Referring to the COVID-19 Alert Level 4 lockdown situation in paragraph 3 of this report, the Kaitake Community Board did not meet to consider this report, and was therefore unable to make a recommendation on this matter.

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. <b>Recommended:</b> Approve the application for a Deed of Grant for Greymouth Petroleum Turangi Limited to install pipelines within road reserve on Turangi Road Upper.</li> <li>2. <b>Not Recommended:</b> Decline the application for a Deed of Grant for Greymouth Petroleum Turangi Limited to install pipelines within road reserve on Turangi Road Upper.</li> </ol>
Affected persons	The persons who are affected by or interested in this matter are the New Plymouth District Council and Greymouth Petroleum Turangi Limited. There are no impacts on the public. The applicant has consulted with Ngati Rahiri hapū and Ngati Mutunga Iwi.
Recommendation	This report recommends option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	There are no cost implications on either the LTP or Annual Plan.
Significant Policy and Plan Inconsistencies	No

## **EXECUTIVE SUMMARY**

5. This report recommends that the Council grant a right to Greymouth Petroleum Turangi Limited to lay five pipelines for the conveyance of petroleum products and three associated utility lines within road reserve on Turangi Road Upper, a distance of approximately 22 metres long and 6m wide. This recommendation is consistent with similar applications previously approved by the Council.

## **BACKGROUND**

6. Turangi Road Upper is local road vested and under control of the New Plymouth District Council, as defined in the local Government Act 1974.
7. Greymouth Petroleum Turangi Limited (GPTL) own and operate the Turangi A Production Station (Tur-PS) on Turangi Road Upper and are currently constructing the Turangi D wellsite located at 180 Waiau Road, Urenui. The New Plymouth District Council granted consent for the Turangi D wellsite, and part of the consent proposal was to connect the Turangi D Wellsite to the Turangi A Production Station via a pipeline. Plans of the proposed pipeline route are shown at Figure 3.
8. To connect their two sites, it is GPTL's intention to lay five pipelines for the conveyance of petroleum products and three associated utility lines within road reserve on Turangi Road Upper, a distance of approximately 22 metres.
9. Connecting the Turangi D Wellsite to the Turangi A Production Station allows petroleum products to be transported to the Turangi A Production Station via an underground pipeline negating the need to truck any product off site for processing. The proposal also reduces the need to establish any production facilities onsite at Turangi D. This is the best environmental outcome for the site as it reduces the environmental footprint and minimises vehicle movements on the roading network.
10. GPTL have been granted access rights via an easement instrument to run the pipelines through privately owned property at 121 Turangi Road Upper, Motunui. For the pipelines to extend from the south west corner of this property and connect to the Turangi A Production Station, the crossing of Turangi Road Upper is required.
11. Contract works to install the pipelines will be undertaken in accordance with an approved Traffic Management Plan and will be subject to obtaining all necessary consents.

12. Officers have no issues with the road crossing on the condition that the existing Council 63mm water main is potholed to establish its position and depth before GPTL start excavating to install their pipes. GPTL have advised in writing that the pothole works proposed is part of their standard scope of works.

*Location*



Fig one: Pipeline length within road reserve shown in blue, existing pipelines are shown in green and are discussed within this report.



Fig two: Pipeline width within road reserve shown in blue, existing pipelines are shown in green and are discussed further within this report.

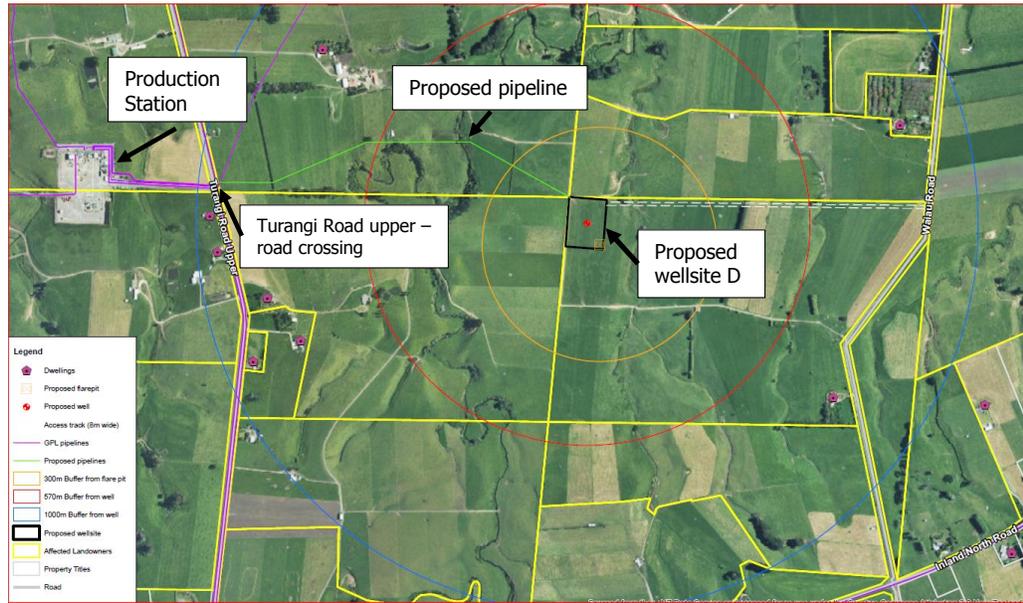


Fig Three: Proposed Pipeline in green

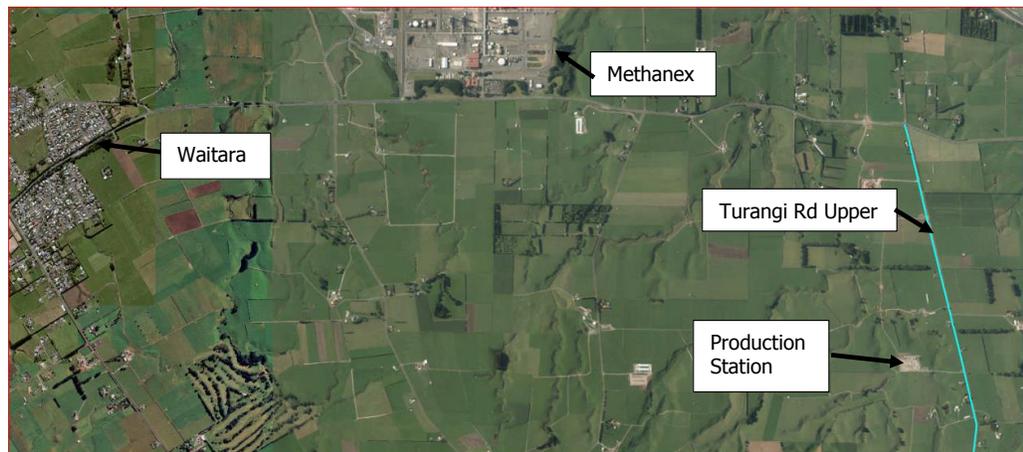


Fig Four; General Location Map

### **NEXT STEPS**

13. Following Council approval the final terms of the Deed of Grant will be negotiated subject, but not limited, to the following conditions:

Greymouth Petroleum Turangi Limited

- a) Making a one off consideration in advance. The payment will be based on current valuation methodology.
- b) If the renewal option is sought, the rental review for the next 20 years will be assessed similar to those in (a) above.
- c) Obtaining all necessary consents prior to starting works.
- d) Reinstating disturbed road substrate and surface to the satisfaction of the New Plymouth District Council Transportation Team.
- e) Providing as-built plans as required by the Transportation Team.
- f) Preparing and submitting a traffic management plan to the satisfaction of the New Plymouth District Council Transportation Team.
- g) Undertaking to meet all costs in relation to this matter, including the costs of the preparation of a Deed of Grant outlining the aforementioned conditions.

### **SIGNIFICANCE AND ENGAGEMENT**

- 14. In accordance with Council's Significance and Engagement Policy, this matter has been assessed as being of some importance.
- 15. The proposal can be seen to promote the wider interest of the district and is compatible with the Long Term Plan to meet levels of service and promoting efficient and effective support to businesses. The applicant has consulted with Ngāti Rahiri hapū and Ngati Mutunga Iwi as part of the consultation process discussed later in this report.
- 16. The proposal does not impact on the public use of Turangi Road Upper or Council assets, and there is no need for wider public consultation.

## **OPTIONS**

### **Option 1**

#### **Approve the application for a Deed of Grant for Greymouth Petroleum Turangi Limited to install pipelines that cross over Turangi Road Reserve (Recommended)**

##### *Financial and Resourcing Implications*

17. The applicant has paid the application fee. GPTL are to meet the cost of installation, the one off purchase cost for the Deed of Grant and the cost of preparing the Deed of Grant.

##### *Risk Analysis*

18. There are no known risks related to this option. Any disturbed road substrate and surface will be reinstated at the expense of GPTL to the satisfaction of the New Plymouth District Council Transportation Team.
19. GPTL will ensure the appointed contractor submits a Corridor Access Request and a Traffic Management Plan for the works to the satisfaction of the New Plymouth District Council Transportation Team.
20. GPTL intend to excavate, place line and backfill. They propose to complete the works overnight to minimise disruption.

##### *Promotion or Achievement of Community Outcomes*

21. The project ensures that GPTL as a company makes a significant contribution to the District's economy. This option promotes community outcomes.

##### *Statutory Responsibilities*

22. Section 338 of the Local Government Act 1974 authorises the Council to grant a right for a period not exceeding 50 years on such terms and conditions as the Council thinks fit, to allow any person to lay conduit pipes on roads for petroleum or for any other purpose within the District. The grant of any such right is subject to the payment of rent and the observance of conditions as to the size of the pipe, construction, and repair of the road.

23. Section 338 of the Local Government Act 1974 is subject to Section 357 of that Act. The relevant part, in this instance, being Section 357(2) – 'The Council shall not authorise or suffer any encroachment on a road if the encroachment would or might interfere with or in any way obstruct the right of the Crown, or of any person so authorised by any Act, to construct, place, maintain, alter, remove, or otherwise deal with any electric wires, telephone wires, telegraph wires, pneumatic tubes, or gas pipes on, over, or under the road, except with the prior written consent of the Minister of the Crown, the person, or principal administrative officer of the body, who or which is responsible for any such services or utilities'.
24. The only identified services in the section of affected road are existing Greymouth Petroleum Pipelines, a NPDC Water Main and a Telecom cable. As discussed earlier, the Council have no issues provided that GPTL pothole the 63mm water main to establish its position and depth before they start excavating to install their pipes. GPTL have advised this is part of their scope of works. GPTL's Engineering Team have contacted Chorus, the owner of the Telecom Cable. Chorus have confirmed the area does encompass a copper cable. GPTL have agreed to locate all existing services prior to commencing works, and the works will be logged with Dial Beforeudig. Chorus are happy for excavation to occur once the cable is located. No further issues have been raised.
25. Due to the term of the licence Council Officers do not have delegated authority and therefore this application requires Council approval

*Consistency with Policies and Plans*

26. There is no specific Council policy relating to laying of privately owned pipelines within road reserve. This application to Council, as with others of a similar nature, is treated on its merits within the provisions of the Local Government Act 1974.

*Participation by Māori*

27. The applicant, GPTL, consulted with Ngāti Rahiri hapū and Ngati Mutunga Iwi.
  28. GPTL and Ngāti Rahiri hapū met onsite on 6 November 2019. GPTL have provided Council Officers with meeting notes outlining a number of concerns and issues that were discussed and resolved at this meeting. Ngāti Rahiri hapū will monitor the topsoil stripping of the access track, site and pipeline route. Council Officers have followed up with Ngāti Rahiri hapū and received written confirmation that they are happy with the proposed project and will have cultural monitor's onsite when earthworks are undertaken.
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29. GPTL have provided Council Officers with meeting notes from a meeting held between GPTL and Ngāti Mutunga Iwi on 13 November 2019. Ngāti Mutunga raise no concerns and agreed that they are happy for Ngāti Rahiri hapū to monitor the topsoil stripping of the access track, site and pipeline route. Council officers have followed up with Ngāti Mutunga and have email confirmation that they are happy with the proposed project.

*Community Views and Preferences*

30. GPTL have been liaising with both Ngāti Rahiri hapū and Ngati Mutunga Iwi regarding the project and have agreed to have cultural monitor's onsite during earthworks No further issues have been raised.
31. GPTL intends to complete the road crossing overnight to minimise disruption. GPTL will prepare and submit a traffic management plan to the satisfaction of the New Plymouth District Council Transportation Team prior to works commencing.

*Advantages and Disadvantages*

32. Advantages
- Enables GPTL to provide for future production of natural gas.
  - Will negate the need to truck any product off site for processing, minimising vehicle movements on the New Plymouth roading network.
  - Reduces the need to establish any production facilities onsite at Turangi D.
  - Provides revenue to Council in the form of rental.
33. Disadvantages
- Could restrain future installations within the section of road corridor, which could include the installation of other infrastructure needed to be placed within the road in future.

**Option 2**

**Decline the application for a Deed of Grant for Greymouth Petroleum Turangi Limited to install pipelines that cross over Turangi Road Reserve (Not Recommended)**

*Financial and Resourcing Implications*

34. There are no financial or resourcing implications other than the fact that Council would not receive a Licence fee.

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*Risk Analysis*

35. There is a risk that the positive relationship between NPDC and GPTL would be compromised if the application is declined.

*Promotion or Achievement of Community Outcomes*

36. Declining the application does not promote or achieve any community outcomes.

*Statutory Responsibilities*

37. There is no statutory requirement for granting a Deed of Grant to lay pipelines within road reserve, but the Council does have an obligation to promote the social, economic, environmental and cultural well-being of communities in the present and for the future.

*Consistency with Policies and Plans*

38. To decline the application is inconsistent with the Blueprint objective of promoting growth and industry.

*Advantages and Disadvantages*

39. There are no advantages to this option. This option restricts the ability of GPTL to provide for future production of petroleum products.

**Recommended Option**

This report recommends option 1 for addressing the matter.

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**Report Details**

Prepared By: Dee Jury (Property Services Officer)  
Team: Property  
Approved By: Ian Baker (Property Manager)  
Ward/Community: North Ward/Clifton Community  
Date: 4 February 2020  
File Reference: ECM 8240027

-----*End of Report*-----

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## **PROPOSED CEMETERIES AND CREMATORIA BYLAW 2020 AND HANDBOOK – DELIBERATIONS AND ADOPTION**

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### **MATTER**

1. The matter for consideration by the Council is the adoption of the proposed Cemeteries and Crematoria Bylaw 2020 and accompanying Cemeteries and Crematoria Handbook following consultation with the community.

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report, the Council:**

- a) **Notes the submissions received on the proposed Cemeteries and Crematoria Bylaw and Handbook.**
- b) **Notes that no changes to the Cemeteries and Crematoria Bylaw and Handbook are proposed in light of the submissions received.**
- c) **Notes the minor updates to the Cemeteries and Crematoria Bylaw and Handbook.**
- d) **Determines that it has followed the required special consultative procedure as set out in the Local Government Act 2002.**
- e) **Determines that the Cemeteries and Crematoria Bylaw 2020 does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- f) **Adopts the Cemeteries and Crematoria Bylaw 2020 and Cemeteries and Crematoria Handbook 2020.**
- g) **Approves the commencement date of 1 May 2020 for the Cemeteries and Crematoria Bylaw and Handbook, noting that public notice on the making of the Bylaw and Handbook will be given prior to this date.**
- h) **Revokes the following:**
  - i) **New Plymouth District Bylaw 2008 Part 3 & 3A Cemeteries and Crematoria**
  - ii) **P10-006 Cemetery Sales Policy**
  - iii) **Natural Burial Guidelines.**

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being of some importance.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. Adopt the Cemeteries and Crematoria Bylaw and Handbook.</li> <li>2. Adopt the Cemeteries and Crematoria Bylaw and Handbook with amendments.</li> </ol>
Affected persons	<p>The persons who are affected by or interested in this matter are:</p> <ul style="list-style-type: none"> <li>• Funeral directors and other cemetery/crematoria stakeholders</li> <li>• Cemetery and Crematorium Liaison Group members</li> <li>• Members of the public who use Council's cemeteries and crematoria facilities.</li> </ul>
Recommendation	This report recommends option one <b>adopt the Cemeteries and Crematoria Bylaw and Handbook</b> for addressing the matter.
Long-Term Plan / Annual Plan Implications	No.
Significant Policy and Plan Inconsistencies	No.

**EXECUTIVE SUMMARY**

2. Council officers recommend that Council adopt the Cemeteries and Crematoria Bylaw 2020 (the Bylaw) and accompanying Cemeteries and Crematoria Handbook (the Handbook) in order to ensure that the Bylaw and Handbook are in operation before 1 July 2020 when the existing New Plymouth District Bylaw 2008 Part 3 & 3A Cemeteries and Crematoria would lapse. Taking this approach will provide a clear framework as to the management and regulation of cemeteries and crematoria in the district.
3. There are no risks associated with the adoption of the Bylaw and Handbook.
4. The next steps are to give public notice of the making of the Bylaw stating the date on which the Bylaw will come into operation. The Bylaw and Handbook will also be updated on all relevant Council information portals. Submitters will be informed of the Council decisions regarding their submissions.

## **BACKGROUND**

### *What prompted the bylaw review*

5. The New Plymouth District Bylaw 2008 Part 3 & 3A Cemeteries and Crematoria must be reviewed before 1 July 2020 otherwise it will be revoked under section 160A Local Government Act 2002 (LGA).

### *Bylaw review proposed a streamlined bylaw and a new user friendly handbook for public consultation*

6. On 10 September 2019, the Planning Committee adopted the Cemeteries and Crematoria Bylaw Statement of Proposal (SOP) for public consultation. The SOP included a proposed streamlined bylaw and a new user friendly handbook.
7. The streamlined bylaw does not propose many substantive changes by way of content; but changes the form of the bylaw to a more user friendly format, so users such as bereaved families are able to easily access the information they need.
8. Throughout the review of the bylaw, Council officers reviewed bylaws from several other councils which have been made since the Council's 2010 bylaw. Many district councils now use a cemeteries handbook to communicate the rules and procedures for using the cemetery service. The proposed handbook was considered to be easier to interpret and is easier for Council to review rather than incorporating this information into the bylaw.
9. The Draft Bylaw now includes only the necessary clauses. The Handbook contains the remainder of information (eg how the Handbook must be made, what it can contain, how it can be amended and how it can be enforced). The Bylaw also contains those provisions and definitions which previously sat in the Introductory Bylaw to enable the Bylaw to separate from the consolidated Council Bylaw.

### *Two submissions received during public consultation*

10. Public consultation on the Bylaw and Handbook closed on 23 October 2019. Including the general public consultation processes, key stakeholders including the Cemetery and Crematorium Liaison Group (who were involved in pre-consultation to develop the Bylaw and Handbook) were informed of the consultation.
11. Two submissions were received as part of the public consultation process. Both submissions are attached in Appendix 1. The submissions are discussed below.

*Submission one – Donald Herbert Simons*

12. This submission referred to an area of the Te Henui cemetery and the inability to adorn the graves with flowers and other tributes due to the design and set up of the gravesites being embedded and flush with the ground. The submission compared the ability to memorialise graves at the Te Henui Cemetery with the Awanui Cemetery stating that the latter is a *'delight, colourful, and people enjoying the experience while dwelling on family memories'*.
13. The area of the Te Henui Cemetery mentioned in the submission is designated as true lawn which is designed for easy access mowing/maintenance and as such has no provision to set out tributes because they would interfere with the mowing/maintenance of the area.
14. No changes to the Bylaw or Handbook are recommended in response to this submission.

*Submission two – Brian Darth (Brian Darth Funeral Services)*

15. This submission considered it unreasonable of the Council to expect payment of burial plot fees and cremation fees prior to the burial or cremation taking place. The submitter stated that they had been told by the Council that funeral directors were now to pay the fees on behalf of the families but that the submitter had never signed an agreement with the Council agreeing to this approach. The submitter stated that *'to expect funeral homes to carry such a cost prior to us invoicing our clients is unreasonable and unfair'*. The submission suggests that *'all fees are paid AFTER the service takes place. If funeral homes are required to pay for the services they receive a discount if paid on time each month'*. The submitter considered that such a discount would encourage payment on time and would help reduce the financial pressure the Council are putting on all funeral homes.
16. Section 3.4 of the Handbook covers the requirement to pay burial plot and cremation fees, stating that these need to be paid prior to any burial or cremation taking place. This reflects an updated process decision made by the Council in 2018.
17. On 1 October 2018, following engagement with Funeral Directors, the Council changed the invoicing process for burial and cremation fees to Funeral Directors rather than to individual customers following burial and cremations being carried out. The change in process aligns the district with general practice in New Zealand and seeks to ensure an easier process for customers during a stressful time. There had been many occasions when customers were surprised to receive a separate bill from the Council, believing they have paid for the entire funeral process through the Funeral Director. The new process seeks to ensure customers have no unexpected bills down the line.

18. As a part of the new process, to ensure Funeral Directors have time to collect payment from their customers, the Council set a 90 day terms of payment by Funeral Directors for the payment of the accounts. This term of payment allows Funeral Directors 90 days to pay fees from receipt of invoice which the Council sends after the service has taken place. In addition, in response to concerns raised about the possible increase of bad debts for Funeral Directors from 1 October 2018, the Council agreed that a credit note in relation to Council charges would be issued where a Funeral Director had written off an account. These were considered a suitable approach to address the financial burden on Funeral Directors. As such no further discount for early payment is recommended.
19. No changes to the Bylaw or Handbook or associated fees and charges processes are recommended in response to this submission.

*Minor updates to the bylaw and handbook since consultation*

20. In addition to grammatical and formatting changes including capitalising and bolding definition words, a couple of minor updates have been made to the Bylaw and Handbook. These minor updates are highlighted as underlined and strikethrough text in the proposed Bylaw and Handbook attached in Appendix 2 and 3. The updates do not change the intent of the Bylaw and Handbook and as such are not considered significant. The updates are as follows:
  - a) Removal of definition of *authorised officer* from the Bylaw and Handbook. This definition has been replaced with a general reference to the Council throughout both documents. This is mainly regarding approval processes for the requirements of the Bylaw and Handbook (for example, *No animals other than dogs are allowed into a cemetery or crematorium unless they have received written permission from an ~~authorised officer~~ the Council*). The use of *the Council* in this regard is to align with the general approach taken by the Council on this matter.
  - b) Update definition of *memorial* in the Handbook to ensure consistency between the Handbook and the Bylaw.
  - c) Inclusion of the *day after New Year's Day* in the definition of *Public holiday* in the Handbook.
  - d) Inclusion of *glass* in section 12.5 of the Handbook as items prohibited from cremation. The addition of this item to the non-exhaustive list of prohibited items in 12.5 provides improved clarity to the public on this matter.
21. The Bylaw and Handbook recommended for adoption are included in Appendix 2 and 3.

*Revoking documents to ensure tidy transition to the new bylaw*

22. The following documents are recommended to be revoked:
- a) New Plymouth District Council Bylaw 2008 Parts 3 and 3a Cemeteries and Crematoria. This is because the Bylaw replaces these two existing bylaws.
  - b) P10-006 Cemetery Sales Policy (attached in Appendix 4). This policy is no longer required as the information is now covered by the requirements and information included in the Bylaw and Handbook.
  - c) Natural Burial Guidelines (attached in Appendix 5). These were adopted by the Council in 2010 as a set of rules made under clause 15.1 of New Plymouth District Council Bylaw 2008 Parts 3. The information in these guidelines is now covered in the Bylaw and Handbook.

**NEXT STEPS**

23. Once the Bylaw and Handbook are adopted the next step is to give public notice of the making of the Bylaw stating the date on which the Bylaw will come into operation. The Bylaw and Handbook will also be updated on all relevant council information portals. Submitters will be informed of the council decisions regarding their submissions.

**SIGNIFICANCE AND ENGAGEMENT**

24. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance because:
- a) Without completing the review of Parts 3 and 3a Cemeteries and Crematoria, this part of the New Plymouth District Bylaw 2008 will be revoked under section 160A of the LGA on 1 July 2020.
  - b) The Bylaw and Handbook provides a tool for Council to manage, regulate, and protect from damage, misuse or loss infrastructure associated with its cemeteries and crematoria.
  - c) This decision can impact on the present and future interests of the district and community by not having a clear framework as to the management and regulation of cemeteries and crematoria.

## **OPTIONS**

### **Option 1**

#### **Adopt the Cemeteries and Crematoria Bylaw and Handbook**

##### *Financial and Resourcing Implications*

25. There are no financial or resourcing implications associated with the adoption of the Bylaw and Handbook.

##### *Risk Analysis*

26. There are no risks associated with the adoption of the Bylaw and Handbook.

##### *Promotion or Achievement of Community Outcomes*

27. The Bylaw and Handbook primarily helps promote and achieve the People 'Putting people first' and Place 'Caring for our place' Community Outcomes.

##### *Statutory Responsibilities*

28. If adopted, the Council must give public notice of the making of the Bylaw and the date of which it will come into operation.

##### *Consistency with Policies and Plans*

29. This option is not inconsistent with any Council policy or plan.

##### *Participation by Māori*

30. Iwi and hapū were directly notified of the opportunity to provide submissions on the draft Bylaw and Handbook.

##### *Community Views and Preferences*

31. Two submissions were received as part of the public consultation process.

##### *Advantages and Disadvantages*

32. The advantage of adopting the Bylaw and Handbook is that they will be in operation prior to 1 July 2020 when the existing bylaws would lapse. Another advantage is that the Bylaw and Handbook will provide a clear framework as to the management and regulation of cemeteries and crematoria.

33. There are no known disadvantages with adopting the Bylaw and Handbook.
-

**Option 2**  
**Adopt the Cemeteries and Crematoria Bylaw and Handbook with amendments**

*Financial and Resourcing Implications*

34. The financial and resourcing implications of any amendments would need to be considered.

*Risk Analysis*

35. Amendments would have to be assessed for any risks. Any significant amendments should only be made in light of the submissions received.

*Promotion or Achievement of Community Outcomes*

36. Any amendments would have to be assessed for their promotion of the Community Outcomes.

*Statutory Responsibilities*

37. Any amendments would need to be assessed for their significance and their justification against the submissions received. If any significant amendments are proposed that do not relate to the submissions then further consultation may be required.

*Consistency with Policies and Plans*

38. Any amendments would have to be assessed for their consistency with policies and plans.

*Participation by Māori*

39. Any amendments would have to be assessed for their significance to Māori.

*Community Views and Preferences*

40. Community views and preferences may not be known on any amendments.

*Advantages and Disadvantages*

41. The disadvantage of this option is that any amendments would require further assessment. This could take additional resources and would impact on timeframes.
-

**Recommended Option**

This report recommends option one **adopt the Cemeteries and Crematoria Bylaw and Handbook** for addressing the matter.

**APPENDICES**

Appendix 1 Copy of submissions (ECM8169499 & 8150740)

Appendix 2 Draft Cemeteries and Crematoria Bylaw 2020 with track changes (ECM8001629)

Appendix 3 Draft Cemeteries and Crematoria Handbook 2020 with track changes (ECM8075139)

Appendix 4 Cemetery Sales Policy (ECM 1254582)

Appendix 5 Natural Burial Guidelines (ECM 1350977)

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**Report Details**

Prepared By: Richard Mowforth (Senior Policy Adviser)  
Team: Policy Development  
Reviewed By: Mitchell Dyer (Policy Development Lead), Stuart Robertson (Manager Parks and Open Spaces), Stuart Scarle (Cemetery and Crematorium Officer)  
Approved By: Liam Hodgetts (Group Manager Strategy)  
Ward/Community: District wide  
Date: 18 February 2020  
File Reference: ECM8240950

-----*End of Report*-----



## New Plymouth District Council Submission October 2019

**Submission from:** Brian DARTH of Brian DARTH Funeral Services  
**Submission regarding:** Cemeteries and Crematoria Bylaw 2019 Proposal

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3.4 states: ***Fees and forms***  
*All forms can be found on the New Plymouth District Council website:  
<http://www.newplymouthnz.com/en/Residents/Facilities-and-Services/Cemeteriesand-Crematorium/Burial-Procedures>*

*Cemetery fees are set by the Council each year and are available on the website or by contacting the Council's Customer Service Centre. Fees relate to **plot** purchase, cremation, burial and **memorial** work. Burial **plot** fees and cremation fees must be paid prior to any burial or cremation taking place.*

*Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on the costs involved:  
<http://www.newplymouthnz.com/en/Residents/Facilities-and-Services/Cemeteriesand-Crematorium/Cemeteries-and-Crematorium-Fees-and-Charges>*

**Submission:** It is unreasonable of the New Plymouth District Council (NPDC) to expect payment of services prior to the service taking place.

Funeral Directors have already been told by NPDC that we are now to pay for these fees on behalf of the families. This was not with good faith consultation. I have never signed an agreement with the NPDC to say that I would pay for these and the families sign all applications, therefore making this their invoice to pay.

I have been told that the NPDC are not doing this due to a debt recovery problem, so, I do not see why the NPDC have now changed the way business has always been done.

To expect funeral homes to carry such a cost prior to us invoicing our clients is unreasonable and unfair.

**Suggestion:** All fees are paid AFTER the service takes place. If funeral homes are required to pay for the services they receive a discount if paid on time each month. This will not only encourage funeral homes to pay on time every time but will help alleviate the substantial financial pressure the NPDC are now putting on all funeral homes.

# Cemeteries and Crematoria Bylaw 2019 Submission Form

Save time by filling in your submission online at [newplymouthnz.com/HaveYourSay](http://newplymouthnz.com/HaveYourSay)

Full Name: SIMONS, Donald Herbert  
Organisation: Retired  
Address: 12 Eton Place, Spotswood, N.P.  
Email: \_\_\_\_\_  
Phone (Day): (06) 751 5579

**Help us improve how we communicate with our community by filling in these questions: (please tick)**

- Age**
- 15 years or under
  - 16-25 years
  - 26-35 years
  - 36-45 years
  - 46-55 years
  - 56-65 years
  - 66 years or older

**Speaking to your submission**  
Do you want to speak to NPDC in support of your submission?  
 Yes  No  
If one of the boxes is not ticked, we'll assume you don't want to be heard.

- Gender**
- Female
  - Male
  - Prefer not to specify

**My submission** refers to Physical Works  
Family members of mine are buried at the Te Henui cemetery, on the hillside area adjacent to the "Whitey" memorial.

- Ethnicity**
- New Zealand European
  - Māori
  - Samoan
  - Cook Island Māori
  - Tongan
  - Niuean
  - Chinese
  - Indian
  - Japanese
  - Other \_\_\_\_\_

Here the gravesites are concreted over, and any memorial stone is embedded, flat, into it, all flush at the surrounding ground level.

There is no way of adorning the graves with flowers or other tributes.

**How did you hear about the consultation on the Draft Bylaw 2019?**

- News story
- Advertisement
- Social media
- Word of mouth
- Other \_\_\_\_\_

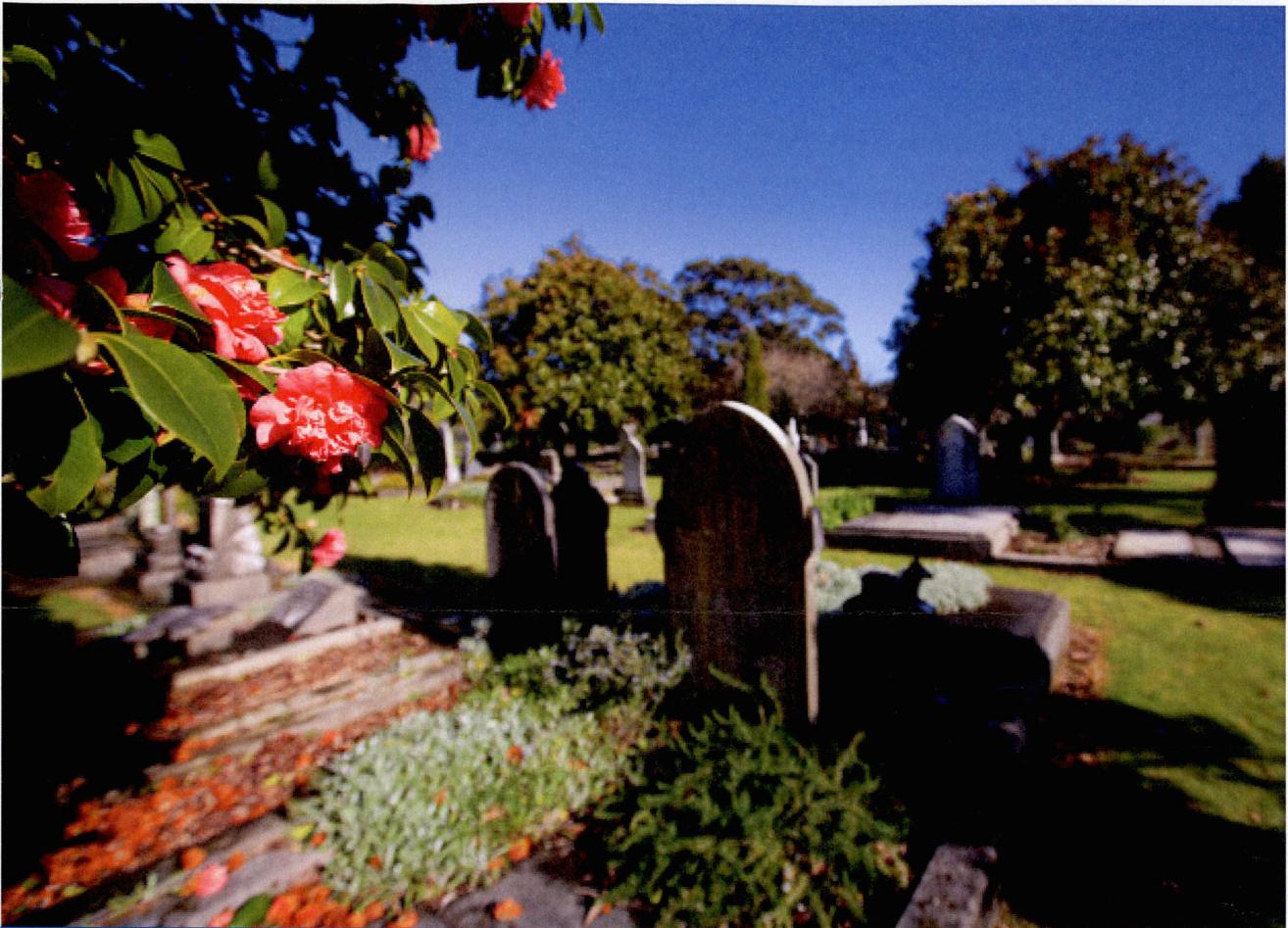


A very dismal and depressing place to visit!

By comparison, to visit Avonui cemetery is a delight, colourful, and people enjoying the experience while dwelling on family memories.

**Thank you for your submission!**  
As required by legislation, your submission, including your personal information, will be available to the public and media as part of NPDC's decision-making process

*Handwritten signature*



## Have your say!

The Draft Cemeteries and Crematoria Bylaw 2019 and Handbook is now open for public consultation. This is your chance to let the Council hear your views and preferences about the proposals, so please take the time to get involved and have your say.

There are several ways you can have your say. A submission form is provided with this document or you can fill in your submission online.

To get your submission to us, either:

Do it online: [newplymouthnz.com/HaveYourSay](http://newplymouthnz.com/HaveYourSay)

Email it to: [submissions@npdc.govt.nz](mailto:submissions@npdc.govt.nz)

Post it to: NPDC Cemeteries & Crematoria Submissions, Reply Paid DX, DX Box NX10026, New Plymouth 4342

Deliver it to: Civic Centre, Liardet Street, New Plymouth or to a library and service centre in Bell Block, Inglewood or Waitara

**Be sure to get your submission to the Council by 5pm on Wednesday 23 October 2019**

**Late submissions will not be accepted**

New Plymouth District Council

# Cemeteries and Crematoria Bylaw 2020

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Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**

**DOCUMENT HISTORY**

<b>Meeting</b>	<b>Date</b>	<b>Decision</b>	<b>Next Review</b>

# Cemeteries and Crematoria Bylaw 2020

## New Plymouth District Council

The purpose of this bylaw is to facilitate the orderly, safe, and efficient management of cemeteries and crematoria under the control of the Council; and minimise the potential for offensive behaviour in cemeteries and crematoria under the control of the Council.

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### 1. Title and commencement

- 1.1. This bylaw is the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020.
- 1.2. This bylaw comes into force on [to be determined].

### 2. Authority

- 2.1. This bylaw is made under:
  - a) Sections 145 and 146(b)(v) of the Local Government Act 2002; and
  - b) Sections 16 and 40 of the Burial and Cremation Act 1964

### 3. Purpose

- 3.1. The purpose of this bylaw is to:
  - a) Facilitate the orderly, safe, and efficient management of cemeteries and crematoria controlled by the Council; and
  - b) Minimise the potential for offensive behaviour in cemeteries and crematoria controlled by the Council.

*Note: Please refer to the Burial and Cremation Act 1964 and Cremation Regulations 1973 for general rules and procedures relating to burial and cremation.*

### 4. Application of this bylaw

- 4.1. This bylaw applies to all cemeteries and crematoria controlled by the Council.
- 4.2. This bylaw does not apply to urupa or any other cemetery, crematorium or burial ground that is not controlled by the Council.
- 4.3. Nothing in this bylaw shall derogate from any provision of or compliance with the:
  - a) Burial and Cremation Act 1964;
  - b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
  - c) Cremation Regulations 1973; or
  - d) Health (Burial) Regulations 1946.

- 4.4. A reference to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the enactment, standard or document repealed.

## 5. Interpretation

### Definitions

- 5.1. In this bylaw, unless the context otherwise requires:

**Act** means the Burial and Cremation Act 1964.

**Approved Person** means a person who is approved by ~~an authorised officer~~ the Council to carry out works or undertake activities in any cemetery or crematorium and shall include any funeral director.

**Assignee** means the person or persons to whom an exclusive right of burial is transferred to on the death of the holder of the exclusive right of burial.

~~**Authorised Officer** means an officer or other person appointed by the Council to perform duties required under this bylaw, irrespective of the designation given to that officer or person.~~

**Body** has the same meaning as defined in the Act.

**Bylaw** means the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020.

**Council** means the New Plymouth District Council.

**Designated natural burial area** means an area in a cemetery designated by the Council to be a natural burial area.

**Exclusive Right of Burial** means the right of burial in a surveyed plot within a Council cemetery record, sold by the Council under section 10 of the Act.

**Memorial** means any tombstone, headstone, memorial, monument, tablet, plaque, kerbing or other memorial or erection.

**Physical works** means the installation, modification, maintenance, repair, or removal of any plot or memorial.

**Plot** means a lot in a cemetery that is surveyed for the purposes of interment and shown on the official cemetery plan deposited in the cemetery office.

**Purchaser** means a purchaser of the Exclusive Right of Burial in a plot, and owner of such exclusive right, and may include their executors, administrators and assignees.

## **6. The Council may make rules relating to cemeteries and cremation**

- 6.1. The Council may make, amend or revoke a cemeteries and crematoria handbook that provides rules for the use of cemeteries and crematoria controlled by the Council. The handbook may include rules relating to the following non-exhaustive list of matters:
- a) Days and hours of operation for cemeteries and crematoria;
  - b) The process for purchasing a plot, including the notification period required before a burial may be made at a cemetery or a cremation at a crematorium;
  - c) Burial warrants;
  - d) Behaviour in cemeteries, including rules relating to appropriate behaviour, trade, vehicles, animals, and photography or filming;
  - e) Interment and disinterment;
  - f) Undertaking physical works in a cemetery;
  - g) The placement, maintenance and removal of tributes, decorations, trees and shrubs, including donated plants;
  - h) Cremation; and
  - i) Natural burial.
- 6.2. The council must, before making, amending or revoking a handbook in clause 6.1:
- a) comply with the relevant requirements under Subpart 1 of Part 6 of the Local Government Act 2002;
  - b) be satisfied that the rules ensure that the purpose of the bylaw will be met;
  - c) have regard to:
    - i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
    - ii) any other matters considered relevant by the council.
- 6.3. A cemeteries and crematoria handbook made, amended or revoked under clause 6.1 must be made publicly available.

## **7. Conditions of burial**

### **Exclusive Rights of Burial and burial warrants**

- 7.1. Any body may be buried in a plot provided that:
- a) Either:
    - i) The Exclusive Right of Burial has been purchased for that plot; or
    - ii) The consent of the purchaser of that Exclusive Right of Burial or their assignee for that plot has been obtained; and
  - b) A burial application has been received by the Council, in addition to any other notification required under rules made by the Council under this bylaw; and
  - c) The burial complies with any rules made by the Council under this bylaw; and

- d) All applicable fees have been paid or arrangements for the fees to be paid have been made with the Council.

*Note: Section 10 of the Act applies to the sale of the exclusive right of burial in any part of a cemetery.*

## **8. Disinterment of bodies or remains**

### **Licence required**

- 8.1. Before a body or the remains of a body may be removed from its burial place in a cemetery a licence must be obtained from the Minister of Health under section 51 of the Act. A copy of that licence shall be provided to the Council.
- 8.2. Prior written approval of the Council must be obtained before the disinterment.

### **Disinterment procedure**

- 8.3. Council may specify a disinterment procedure in the cemeteries and crematoria handbook as per clause 6.1 of this bylaw. Any disinterment must follow this procedure.

## **9. Physical works associated with plots**

- 9.1. Physical works may only be undertaken in a cemetery by an approved person, who has obtained written approval from the Council for the physical works and must be undertaken in accordance with the requirements of this bylaw or the handbook made by Council under clause 6.1 of this bylaw.
- 9.2. If an approved person undertaking physical works fails to comply with any conditions of the approval given under clause 9.1, the Council may revoke that approval and remove any physical works or any part of them that fails to meet any conditions.

### **Council may remove unauthorised works**

- 9.3. The Council may remove any unauthorised physical works, or any other physical works which, in the opinion of ~~the an authorised officer~~ Council, may cause offence or be a safety hazard to visitors to the cemetery.

## **10. Fees**

- 10.1. The Council may, in accordance with the provisions of section 150 of the Local Government Act 2002, set prescribed fees for all services provided for the operation and maintenance of cemeteries controlled by the Council.

## **11. Offences and penalties**

- 11.1. Any person who fails to comply with the requirements of this bylaw or the handbook made by Council under clause 6.1 of this bylaw commits a breach of this bylaw, and is liable to a penalty under the Local Government Act 2002.

New Plymouth District Council

# Cemeteries and Crematoria Handbook

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Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**

**DOCUMENT HISTORY**

<b>Meeting</b>	<b>Date</b>	<b>Decision</b>	<b>Next Review</b>

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## 1. Introduction

*In compiling this Cemeteries and Crematoria Handbook, New Plymouth District Council staff have been very conscious that we are dealing with a deeply important and sensitive matter for our community. How we care for our deceased loved ones is one of the most intimate and personal experiences for each of us.*

As a community, our cemeteries are an expression of the respect we show to those who have gone before. They are to be places of contemplation, of respect for our history and the stories of our people. They are places to come to grieve, to remember and to give thanks.

Cemetery services are delivered by the Council's Parks and Open Spaces Team. All requests for cemetery information or services should be referred to the Cemetery and Crematorium Officer in the first instance.

This handbook contains information relating to the key operational areas of cemeteries and crematoria controlled by the Council, and provides rules to facilitate the orderly, safe and efficient management of these cemeteries and crematoria. It reflects our desire to provide an environment and services that support the needs of the community; and is intended as a ready reference for funeral directors, the public and other customers.

This handbook has been made in accordance with clause 6 of the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020 ('the bylaw'). This handbook should be read in conjunction with the bylaw, regulations, and legislation relevant to the management of cemeteries and crematoria, including:

- The Burial and Cremation Act 1964;
- The Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- Cremation Regulations 1973;
- New Zealand Standard: Headstones and Cemetery Monuments (NZS 4242:2018);
- The Local Government Act 2002;
- Health and Safety at Work Act 2015;
- Radiation Protection Act 1965;
- Veteran's Affairs New Zealand memorials handbook;
- Taranaki Regional Council Resource Consents relating to New Plymouth District Council owned cemeteries and crematoria; and
- New Plymouth District Council Dog Control Bylaw.

This handbook does not apply to urupa or any other cemetery, crematorium or burial ground that are not controlled by the Council.

## 2. Definitions

In this handbook, **Council** means the New Plymouth District Council, and **Cemetery** and **Crematorium** means any cemetery or crematorium controlled by the Council.

The key terms defined below are marked in **bold** throughout the handbook.

<b>Approved Person</b>	means a person who is approved by <del>an authorised officer</del> <u>the Council</u> to carry out works or undertake activities in any cemetery or crematorium and shall include any <b>Funeral Director</b> .
<b>Authorised Officer</b>	<del>means an officer or other person appointed by the Council to perform duties required under this the bylaw, irrespective of the designation given to that officer or person.</del>
<b>Ashes</b>	mean the cremated remains of a deceased person.
<b>Assignee</b>	means the person or persons to whom an <b>Exclusive Right of Burial</b> is transferred to on the death of the holder of the <b>Exclusive Right of Burial</b> .
<b>Bylaw</b>	means the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020.
<b>Cremation area</b>	means a part of any cemetery surveyed by the Council consisting of memorials of a specified size to commemorate any person whose <b>ashes</b> are buried.
<b>Decorate</b> or <b>Decoration</b>	means place or attach any flowers, vase, figurine, ornament or adornment.
<b>Designated natural burial area</b>	means an area in a cemetery designated by the Council to be a <b>natural burial</b> area.
<b>Exclusive Right of Burial</b>	means the right of burial in a surveyed <b>plot</b> within a Council cemetery record, sold by the Council under section 10 of the Act.
<b>Funeral Director</b>	means a person, who in the course of their business, carries out burials and related matters.
<b>Limited lawn</b>	means a part of any cemetery lawn where <b>memorials</b> are restricted to the specifications to be placed on the <b>memorial strip</b> area provided.
<b>Memorial</b>	means any tombstone, headstone, <b>memorial</b> , monument, tablet, plaque <u>kerbing</u> or other <b>memorial or erection</b> .
<b>Memorial strip</b>	means the concreted ground area surveyed by the Council in numbered order for placement of <b>memorials</b> .
<b>Natural burial or eco burials</b>	means the burial of a body with the following characteristics: a) a shallow grave is used; and b) the body is not embalmed and is contained in a biodegradable casket; and c) the grave is over planted; and d) no memorial is erected at the grave site.
<b>Open memorial area</b>	means a part of any cemetery where <b>memorials</b> of dimensions and materials approved by the Council are permitted.
<b>Physical works</b>	means the installation, modification, maintenance, repair, or removal of any <b>plot</b> or <b>memorial</b> .

<b>Plot</b>	means a lot in a cemetery that is surveyed for the purposes of interment and shown on the official cemetery plan deposited in the cemetery office.
<b>Public holiday</b>	means Christmas Day, Boxing Day, New Year's Day, <a href="#">the day after New Year's Day</a> Good Friday, Easter Monday, Anzac Day, Labour Day, the birthday of the reigning Sovereign, Waitangi Day and Taranaki Anniversary Day.
<b>Purchaser</b>	means a purchaser of the <b>Exclusive Right of Burial</b> in a <b>plot</b> , and owner of such <b>exclusive right</b> , and may include their executors, administrators and <b>assignees</b> .
<b>Returned Services Cemetery</b>	means all portions of a cemetery set aside for service personnel and their partners and in which no kerbing, fences or <b>memorials</b> other than headstones provided by Veterans' Affairs New Zealand may be constructed.
<b>Working day</b>	has the same meaning as section 29 of the Interpretation Act 1999, and generally means Monday to Friday excluding <b>public holidays</b> .

### 3. General information

#### 3.1 Cemeteries and crematoria

The Council controls the Taranaki Crematorium and 11 cemeteries throughout the district, being:

**Mangapouri Cemetery** | Plantation Road, New Plymouth

Mangapouri is New Plymouth's new cemetery. The cemetery is to be developed in stages.

**Te Henui Cemetery** | Junction of Watson and Lemon streets, New Plymouth

Te Henui opened in 1861 and is the original New Plymouth public cemetery. Set in an attractive park environment, it serves as a heritage cemetery rich in local history and monuments.

**Awanui Cemetery** | Awanui Street, New Plymouth

Awanui is a lawn cemetery and is the main public cemetery for New Plymouth. It is located in the city within a rural setting.

**Waitara Cemetery** | Bayly Street,

Waitara

Opened in 1885, Waitara Cemetery offers an historic monumental area complemented by a more modern lawn cemetery.

**Inglewood Cemetery** | Rata Street,

Inglewood

Inglewood Cemetery has served the local community since 1879 and has an historic monumental area linking to local heritage.

**Locating graves**

The Council holds all historical records for Council-controlled cemeteries. Information is available on request but depending on the volume of information a fee may be required.

The cemeteries database can be viewed online at:

<http://www.newplymouthnz.com/Residents/Facilities-and-Services/Cemeteries-and-Crematorium/Cemetery-Search>

**Oakura Cemetery |** Butlers Lane, Oakura

Oakura Cemetery is tucked away behind Butlers Tavern on the main highway and has served this settlement since the first recorded burial in 1888.

**Okato Cemetery |** SH45, Okato

Okato Cemetery is on the left if you are heading into Okato from New Plymouth. It is clearly sign-posted from SH45.

**Urenui Cemetery |** Junction of Totara and Ngapapa streets

Urenui Cemetery is situated a few kilometres north of Waitara and has served as a final resting place for many early families since 1882. This cemetery remains a strong focal point for the local community's heritage.

**Rural cemeteries**

There are three Council-administered cemeteries that provide a range of burial options for the rural communities they serve. They are Purangi, Waireka and Tarata.

**Taranaki Crematorium |** 629 Junction Road, SH3, New Plymouth

The crematorium offers cremation services, a chapel capacity of up to 200 people and the Gardens of Remembrance for the interment of **ashes** (**memorial** placement is not possible in the garden area). The crematorium also has a Book of Remembrance that provides a long-lasting **memorial**. All names are automatically entered, and the book is available for viewing by arrangement.

3.2 **Cemetery office**

Our cemetery office organises bookings and provides information about cemeteries and requirements.

**Open:** 8am-5pm Monday to Friday.

**Phone:** 06-759 6060

3.3 **Notification period**

An application for an intended burial or cremation must be given to **an authorised officer** ~~the Council~~ at least one clear **working day** prior to the time set for the funeral, the cremation, or the burial.

3.4 **Fees and forms**

All forms can be found on the New Plymouth District Council website:

<http://www.newplymouthnz.com/en/Residents/Facilities-and-Services/Cemeteries-and-Crematorium/Burial-Procedures>

Cemetery fees are set by the Council each year and are available on the website or by contacting the Council's Customer Service Centre. Fees relate to **plot** purchase, cremation, burial and **memorial** work. Burial **plot** fees and cremation fees must be paid prior to any burial or cremation taking place.

Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on the costs involved:

<http://www.newplymouthnz.com/en/Residents/Facilities-and-Services/Cemeteries-and-Crematorium/Cemeteries-and-Crematorium-Fees-and-Charges>

3.5 **Days and hours for burials and cremations**

Cemeteries controlled by the New Plymouth District Council are open to the public for visitors seven days a week.

Burial services take place between 8am and 4pm, Monday to Friday, and 8am to 1pm on Saturday. Cremation services take place between 9am and 4pm, Monday to Friday, and 8am to 1pm on Saturday. No burials or cremations will be scheduled on **public holidays**.

Burials and cremations outside of the days and hours above may be approved on specific request. An additional fee may be charged to cover extra costs associated with the request.

Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on the costs involved.

#### **4. Purchase or allocation of burial plots**

##### **4.1 Application**

Our cemetery office organises purchase and allocation of burial plots, bookings, and provides information about cemeteries.

Where a person other than a **Funeral Director** or **approved person** is organising a burial, that person will need to contact the cemetery office, complete the required forms and pay all fees prior to the burial taking place, which will include a staff presence cost recovery fee.

A completed Burial Application form for a burial warrant must be received by the Council no fewer than one clear **working day** (at least eight working hours) prior to the time of the interment.

The **Funeral Director**, or person organising the interment must submit the Application form.

When a death occurs on the last day of the working week, the weekend or on a statutory holiday, the burial will need to be held over. The earliest a burial could occur, depending on circumstances, is 2.00pm on the first **working day** of the following week.

Where the services of a **Funeral Director** have not been engaged to coordinate the funeral service and control the activities at the grave site, an **approved person** will be supplied by the Council. The use of an **approved person** requires adherence to conditions of use that pertains to each site and may involve additional costs.

##### **4.2 Exclusive Right of Burial**

An ash or burial **plot** can be secured by way of purchase from the Council of an **Exclusive Right of Burial**. **Exclusive Rights of Burial** are sold subject to terms and conditions decided by the Council. Your **Funeral Director** will organise the purchase the **Exclusive Right of Burial**, or you can contact the cemetery office or look on Council's website for the **Exclusive Right of Burial** application form and for more information.

An **Exclusive Right of Burial** will lapse and revert to the Council if a burial does not take place within 60 years of the purchase date.

An owner of a **plot** may, with the consent of ~~an authorised officer~~ the Council, transfer ownership rights to another person. This will incur a fee.

Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on the costs associated with an **Exclusive Right of Burial**.

#### 4.3 **Allocation of plots**

The Council allocates **plots**. Where there is a request to obtain a **plot** in a particular area, that request will be accommodated if possible, providing there is no conflict with the control and management of the relevant cemetery under the Burial and Cremation Act 1964 and/or Council's consent requirements.

When allocating **plots**, it is Council's policy that no sales of **Exclusive Rights of Burial** will be permitted for **plots** in Council-controlled cemeteries unless there has been a recent bereavement and interment in those cemeteries of a spouse, partner or other close family member, and it is possible to offer an **Exclusive Right of Burial** without significantly compromising the available burial space.

### 5. **Behaviour in cemeteries**

#### 5.1 **Appropriate behaviour**

Our community comes together within our cemeteries for contemplation and reflection, and to memorialise their loved ones. Everyone visiting our cemeteries must maintain appropriate and respectful behaviour.

No person may behave in a manner, or bring an item into a cemetery or crematorium, that does any of the following:

- Is a nuisance or is offensive to another person;
- Damages or interferes with any property, memorial or decoration owned by the Council; or
- Damages the property of another person.

No one may disturb or interrupt a funeral, burial or cremation.

#### 5.2 **Animals**

No animals other than dogs are allowed into a cemetery or crematorium unless they have received written permission from ~~an authorised officer~~ the Council.

*(Note: Currently, Council's Dog Control Bylaw allows dogs to be in specific public places such as cemeteries and crematoria but requires that dogs be leashed and/or under control at all times. Contact the Council for more information; or refer to the Dog Control Bylaw on Council's website for specific rules about dogs in cemeteries and crematoria.)*

#### 5.3 **Vehicles**

No private vehicle is to be left or taken into any cemetery after the cemetery gates are closed.

Except for a hearse or a Council authorised vehicle, vehicles are only permitted on marked roadways or any open area clearly designated for vehicles. The indicated speed

limit and traffic rules are to be observed at all times. If there is no indicated speed limit, a vehicle may not exceed 15km/h.

The drivers of all vehicles must yield right of way to any funeral procession (cortege) in any cemetery. Drivers must comply with any request of ~~an authorised officer~~ the Council.

#### 5.4 **Commercial photography or filming**

Any person using a Council-controlled cemetery or crematorium for the purpose of commercial photography or filming, or photography or filming for a media purpose, must first obtain written approval from ~~an authorised officer~~ the Council and the consent of the family or **Funeral Director**. **Funeral Directors** may only authorise the taking of photographs or film after they have consent from all affected persons.

#### 5.5 **Trading**

Written approval from ~~an authorised officer~~ the Council must be obtained before entering or remaining in a cemetery for the purposes of monetary reward. The Council's approval may be subject to conditions.

### 6. **Interments and Disinterment**

#### 6.1 **Interments**

Only an **approved person**, having obtained written permission from ~~an authorised officer~~ the Council, shall open a grave or open the ground for a burial.

The following persons may close any grave or the ground opened for a burial:

- Any person, including the family or friends of the deceased, under the supervision of ~~an authorised officer~~ the Council or **approved person**; and
- In all other cases, ~~an authorised officer~~ the Council or an **approved person** who has written permission from the Council to do so.

#### 6.2 **Burial plot depth**

**Plot** depths can vary depending on environmental factors, requirements of relevant resource consents, and other factors as relevant to the **plot** location. **Plot** depth is prescribed by the Council when surveying the relevant **plot**.

Unless the survey provides otherwise, **plot** depths are as follows:

- For plots which are able to have two interments, the minimum depth of a grave for a first interment is 1.8 metres.
- For single interment **plots**, the depth of a grave will be 1.2 metres.

#### 6.3 **Subsequent interments**

The Council may permit a second interment in a **plot** provided there is at least 1 metre of soil covering the casket last buried, as measured from the average surface level of the ground. Subsequent interments are not available in a **designated natural burial area**.

#### 6.4 **Ash interments**

The number of ash interments in a burial **plot** is dependent on the depth of the **plot**. However, up to four ash interments can be placed in cremation **plots** where there is at a minimum 600mm of depth from natural ground level.

6.5 **Stillborn babies**

If your baby was stillborn or born before 20 weeks of pregnancy, we can talk you through your options for burial. Contact us to discuss how we can help.

6.6 **Returned service areas**

Burial in a Returned Services area is available for any person who served as a member of Her Majesty's Forces on eligible deployments, or the spouse or partner of someone who has served.

The standard burial or ash burial fee will apply. Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on costs involved.

For more information on rules and eligibility contact the Council or your local Returned Servicemen's Association (RSA), or the New Zealand Veterans' Affairs Office.

6.7 **Disinterment**

Before a body or the remains of a body can be removed, a licence must be obtained from the Minister of Health under section 51 of the Burial and Cremation Act 1964 and copy of this licence must be provided to Council.

The disinterment will only take place in the presence of the relevant **Funeral Director** or **approved person**, necessary staff, the relevant Ministry of Health inspectors, and any other person who has the prior written approval from ~~an authorised officer~~ the Council to be present.

The Council must give written approval before the disinterment takes place and will work with the licence holder to arrange a time for the disinterment to occur. This gives the Council the opportunity to make sure all the information is correct, and that proper health and safety precautions are taken.

If a body or the remains of a body have been removed from a burial **plot**, any subsequent **purchaser** will be told the **plot** has previously been used for a burial.

The person holding the disinterment licence under section 51 of the Burial and Cremation Act 1964 is liable for any cemetery costs associated with the removal of the body or the remains. The Council is not liable to refund any fees for the original burial.

7. **Physical Works and Memorials**

7.1 **Procedure for installing memorials**

The installation of **memorials** can only be done by a person able to install such **memorials** in a manner that complies with New Zealand Headstones and Cemetery Monuments Standard (NZS 4242:2018), and who has completed a site and safety induction before undertaking any physical works. There are many local companies able to install **memorials** to the required standard.

In order to ensure that the **memorial** is placed on the correct **plot**, and that it complies with the bylaw and handbook, a plan and a copy of the design of the

**memorial** must be submitted to the Council and approved by ~~an authorised person~~the Council in writing. The permit is granted to an **approved person** to install the **physical works** on behalf of the holder of the **Exclusive Right of Burial** or their **assignee**. Before granting a permit, the Council will confirm that:

- The correct owners of the **Exclusive Right of Burial** are requesting the work on behalf of all owners,
- The **memorial's** design, type and location on the **plot** meets the Council's requirements, and
- All outstanding fees and charges are paid.

Before commencing any **physical works** associated with the installation of a **memorial**, verbal notice of presence on the cemetery site must be given to the Cemetery Office.

An **approved person** undertaking **physical works**, including the placement of **memorials** associated with any **plot** shall:

- Adequately protect the surrounding **plots, memorials** and cemetery infrastructure;
- Not deposit any tools, debris, or materials on any adjacent **plot**, without prior approval from the holder of the **Exclusive Right of Burial** or their **assignee** to that adjacent **plot**;
- Remove all tools, debris, or materials used for the **physical works** as soon as practicable on the completion of the **physical works**; and
- Not obstruct any footpath or roadway when carrying out **physical works** unless prior written approval has been obtained from ~~an authorised officer~~the Council.

On completion of the **physical works**, photographs of the front and side profiles of the **memorial** must be sent to the Council to confirm the positioning of the **memorial** in relation to the **plot**.

**Physical works** including their foundations must be completed to the satisfaction of the Council and must be compliant with the New Zealand Standard: Headstones and Cemetery Monuments (NZS 4242:2018).

## 8. Permitted physical works

**Memorials** will not be pinned to the **memorial strip** without prior written approval from ~~an authorised officer~~the Council.

The following applies to any **physical works** in a cemetery:

- No **memorials** may be placed within the Gardens of Remembrance;
- Fences, kerbs or vaults may be constructed in an **open memorial area**;
- No fence or enclosure may exceed 1 metre in height;
- No concrete **memorial strips** will protrude above ground level.

In those areas designated as a **Returned Services Cemetery**, all **memorials** shall be constructed in accordance with the requirements of the Veteran's Affairs New Zealand memorials handbook.

In areas designated as **limited lawn**, **memorials** that meet the following requirements are permitted:

- The **memorial** shall be placed on the **memorial strip** provided by the Council.
- The **memorial** base shall not stand higher than 150mm above the highest point of the **memorial strip** or ground level, whichever is the higher, and must not exceed a maximum depth (front to back) of 450mm.
- A space of 150mm clear of the **memorial** foundation base shall be maintained, both back and front.
- **Memorials** shall not exceed one metre above the lowest part of the **memorial strip** or ground level, including the levelling base

In those areas designated as a **cremation area**, **memorials** shall be constructed so as to ensure that the **memorial** fits within the **memorial strip** provided by the Council.

## 9. Decorating plots

### 9.1 Decorations and tributes

**Decorations** or tributes placed on a **plot** or **memorial strip** must not inhibit the maintenance and management of the cemetery.

**Decorations** and/or tributes may only be placed on the **memorial strip** of the concrete berm provided, except for during the five day period following interment, when **decorations**, tributes and other objects may be placed on the **plot**.

The Burial and Cremation Act 1964 gives the holder of an **Exclusive Right of Burial** the right to maintain and decorate the **memorial** and the **plot** so long that the decorations do not impede on the maintenance and management of the cemetery. After the five day period following interment, any **decoration** or tribute (including floral tributes) must be removed, or placed on or within the **memorial strip**, while providing at least 150mm clearance from the front and back edges of the **memorial strip**. This allows space for the Council to mow and maintain the cemetery.

### 9.2 Temporary markers

Temporary markers that do not exceed the **memorial** specifications described in section 6 of this handbook are permitted to remain in place until the permanent **memorial** is erected.

### 9.3 Removal of decorations

The Council may remove any **decorations** that are not on the **memorial strip** or which, in the opinion of the Council, have been neglected. Any unsafe **decorations** may be removed by the Council.

No person may remove any fixed item or plant growing in a cemetery, including kerbs, **memorials** or plants, without the prior written approval of ~~an authorised officer~~ the Council.

The family of the deceased can remove vases, flowers, wreaths and other **decorations** and tributes from their family member's **plot**.

#### 9.4 **Donated plants**

Any person may provide or donate (subject to the written approval of ~~an authorised officer~~the Council), **memorial** plants, shrubs, trees or flowers, for placing in a cemetery or garden of remembrance. The placement of these will be restricted to designated areas.

For safety reasons and in order to ensure that maintenance can occur, the Council may be required to trim, remove or cut back vegetation (including donated plants, shrubs, trees or flowers) placed in a cemetery or garden of remembrance.

### 10. **Maintenance of plots, graves and memorials**

#### 10.1 **Maintenance**

**Memorials** must be kept in good repair. The Council does not take any responsibility for damage or vandalism to any **memorial**.

The holder(s) of the **Exclusive Right of Burial** to a **plot** (or their **assignee**) is responsible for regularly maintaining every **decoration, memorial** and other **physical works** associated with that **plot**. This includes appropriately securing all **decorations** and ensuring that the **decorations** do not prevent the proper maintenance of the cemetery. The **plot** must be appropriately maintained so that it does not fall into a state of disrepair or create a health and safety risk to any person visiting the cemetery.

Where a **memorial** has fallen into a state of disrepair and the Council determines that it is a health and safety risk, the Council may give the person responsible (the owner or their agent) three month's written notice to repair or remove the item. Failure to comply with a notice, or if the repairs have not been carried out to the Council's satisfaction within the period stated in that notice, will result in the Council undertaking any **physical works** necessary to maintain or repair the **memorial**, and recovering the cost of doing so from the owner of the **Exclusive Right of Burial** or their **assignee**.

The Council may also carry out works or remove any **memorial** that is considered dangerous to those frequenting and working within a cemetery.

#### 10.2 **Removal of memorials**

No person may remove any **memorial strip** from any **plot** or grave unless they have permission from ~~an authorised officer~~the Council.

The Council may remove any unauthorised **memorials**, or any **memorials** that have fallen into a state of disrepair and create a health and safety risk to visitors to the cemetery. Where the Council removes any unsafe **memorial**, or **memorials**, no responsibility will be taken for any damage sustained during that removal.

The removal of **memorials** must be undertaken in compliance with the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.

## **14.11. Natural Burial**

### **14.11.1 Designated natural burial areas**

The Council offers **natural burials** in **designated natural burial areas**. A key goal for **natural burials** is that the burial process is environmentally friendly. This is achieved by not introducing anything synthetic to the ground, by not preventing or slowing natural decomposition processes, and by restoring the surface to a natural flora and fauna environment (a native bush reserve or park).

### **14.211.2 Natural burial applications**

In addition to the requirements for burials set out above, **natural burial** applications must include:

- A death certificate or other documentation relating to the release of the body;
- Relevant information where a person died of a communicable disease; and
- Written confirmation by the applicant that the requirements have been met.

### **14.311.3 Plot allocation**

Each new **natural burial** will be adjacent to the most recent burial. Prior to planting, sites, **plots** and graves will be maintained in long grass. The Council does not offer the option of reserving or selecting **plots**, or adjacent **plots**, in **designated natural burial areas**, or the purchase of an **Exclusive Right of Burial** for an adjacent **plot** at a time of recent bereavement and interment.

### **14.411.4 Natural burial interment**

Only one interment of a casket or shroud is allowed in each **plot** in a **designated natural burial area**. There must be a minimum of 750mm depth of soil between the top of the casket or shroud and the natural ground level. Natural burial **plot** dimensions are to be 2.5m long by 1.8m wide.

To ensure **natural burials** are environmentally friendly and safe for people handling bodies, caskets or shrouds for **natural burial** must meet the following standards:

- Caskets and shrouds must be made from untreated or natural materials with no synthetic finishes, including attachments such as handles and linings. Natural oil finishes are acceptable.
- Shrouds must have a solid base, such as untreated timber, and must be fixed to the shroud, so it remains stable during the burial.
- Caskets or shrouds that are leaking fluids or have an unpleasant odour will not be accepted.
- The use of embalming fluids is not permitted with **natural burials**.
- Only non-synthetic and compostable materials should be placed within or on a **plot**.

Applications for additional ash interments in a natural burial plot may be approved by an ~~authorised officer~~ the Council. All ash interments in natural burial plots are to be

contained in a biodegradable urn. Applications may be approved depending on the progressive establishment of natural vegetation after burials and maintenance considerations.

#### 14.511.5 **Decorations and memorials**

In a **designated natural burial area**, no person may place any **memorial** or **decorate** any **plot** apart from the planting on the completion of each row or within five years. A temporary wooden grave marker made of untreated timber will be maintained for a maximum period of one year from the date of burial; and will not be replaced when it deteriorates.

#### 14.611.6 **Planting**

A tree or shrub will be planted at the **natural burial** site. The planting will occur at a time when each cemetery row is occupied with burials or within five years from the date of the first burial, whichever comes first. The plant is to be selected by the family from a list of suitable plants specific to each **designated natural burial area**.

The choice of plants will vary along the boundary of the **designated natural burial area** where lower growing plants will be used. Council staff will supply and plant the tree or shrub, the cost of purchase and maintenance is included in the **plot** purchase fee. Over time, new trees and shrubs will be planted around and over sections of used **plots** to promote revegetation.

Provision for a combined **memorial** that lists those buried near the entrance of the **designated natural burial area** will be assessed depending on demand. The inscription of names onto the **memorial** would be optional, and at a cost to those choosing the option.

#### 14.711.7 **Maintenance of designated natural burial areas**

The Council will maintain the **designated natural burial area**. When the **plots** are planted with trees, the area will be maintained as a bush revegetation site. Care and maintenance of the trees will be required until sufficiently developed and minimal maintenance is needed. Maintenance involves controlling vegetative growth around the planted tree seedlings, until they dominate the grasses and weed species. Ongoing control of plant pests such as old man's beard and gorse may be necessary. Any tree pruning from the area will be mulched and applied to the site.

The Council will attend to planting and maintenance. If a tree or shrub does not survive, the decision to replace the plant is left to the Council staff. This discretion will be dependent on whether surrounding plants are sufficiently occupying the ground, so that a replacement is either required or unnecessary. Plant selection considers those that benefit native bird species. Planting will not be undertaken from late autumn to early winter.

### 15.12 **Crematorium**

#### 15.12.1 **Application**

Our cemetery office organises bookings and provides information about cemeteries, how to arrange cremations and use of the chapel.

**Open:** 8am-5pm Monday to Friday.

**Phone:** 06-759 6060

A Cremation Application form and all necessary certificates required by the Cremation Regulations 1973 must be completed and received by the Council no less than one **working day** prior to the time of the cremation.

Please refer to the Cemetery and Crematorium Fees on Council's website for specific information on the costs associated with a cremation. A cremation may only take place if all applicable fees have been paid, or arrangements for these fees to be paid have been made with the Council.

#### 15.212.2 **The cremation**

If there is no **Funeral Director** present during a chapel service, two Council staff members are required to be present at the applicant's cost.

Subject to written approval from ~~an authorised officer~~ the Council, representatives of the deceased person may see the casket placed in the charging hall, but no inspection of the actual process of the cremation is permitted.

#### 15.312.3 **Casket for cremation**

The following criteria must be met to ensure the safe handling of your loved one.

A casket for cremation must be constructed so that it will not distort or collapse whilst being handled during the normal course of events leading up to a cremation.

The casket must:

- Be constructed from materials free of PVC and contaminants that will cause excessive smoke when combusted and will not exceed the Crematorium's Taranaki Regional Council Air discharge permit or any subsequent amendment of the discharge permit.
- Have a flat bottom and not exceed 220cm long x 80cm wide (including handles) x 68cm deep
- Be constructed of robust material so it will not distort or collapse whilst being handled in the events leading up to the cremation.
- Be lined internally with impervious material that is at least 100 mm thick to prevent any leakage from the casket.
- Have a name plate, label or inscription stating the family name and at least one other name of the deceased whose remains are to be cremated in the casket.

Materials that are unsuitable for combustion in the course of a cremation may be used on the exterior of a casket if they can be removed easily prior to cremation.

The Council may require casket furnishings to be removed prior to cremation. If you wish to have any items returned to you, please request this in writing prior to the cremation.

#### 15.412.4 **Medical enquiries required**

Because of the responsibilities under The Health and Safety at Work Act 2015, the Council requires that before a body will be accepted for cremation, a certificate must be produced confirming that enquiries have been made of the family or medical practitioner in relation to whether the deceased has been treated with strontium-89

(for bone metastases), or iodine-125 (for prostate cancer). If this is the case, the safety of cremation must be confirmed with a medical practitioner licensed under The Radiation Protection Act 1965 who prescribed the treatment before the cremation is permitted to proceed.

#### 15.512.5 **Items prohibited for cremation**

To ensure the cremator is kept in good operational order, to prevent breakdowns, ensure we can retrieve your loved one's **ashes**, and minimise our impact on the environment, there are a number of items which are prohibited from entering the cremation chamber.

The non-exhaustive list below covers examples of items that cannot be placed in the coffin. Talk to your **Funeral Director** or contact the Council for further guidance on items which are prohibited for cremation:

- Alcohol.
- Ammunition or explosive material.
- Batteries.
- Computers.
- Crash helmets/hardhats.
- Die cast metals/aluminium/copper (large items only).
- Footwear made of PVC/rubber.
- Garden spades, forks etc.
- Glass.
- Lighters.
- Mattresses (usually external).
- Mobile phones.
- Motorcycle leathers.
- Pacemakers.
- Prosthesis limbs.
- PVC in all forms.
- Soft toys – over 300mm long.
- Wet suits and surfboards.
- Products containing polystyrene foams.
- Products that are volatile (may explode, burn fiercely or be hazardous to the environment and crematorium operators).

When you are preparing a loved one for cremation, please make sure none of the above items are included or inform your **Funeral Director** so that they can be easily removed by them or the family before cremation.

Your **Funeral Director** will need to provide a declaration to the Council that the casket contains none of the items prohibited for cremation as listed above.

**15.612.6 Remembrance garden**

The fee for cremation in Council's crematorium includes **ashes** placement in the Garden of Remembrance. Placement of **ashes** from cremations conducted elsewhere will incur a fee. No **memorials** are permitted within the remembrance garden.

**16.13. Further information**

Our cemetery office can answer any further questions you may have relating to the management of Council-controlled cemeteries and crematorium. The office is open from 8am until 5pm, Monday to Friday, excluding **public holidays**.

Contact us on 06-759 6060 or [enquiries@npdc.govt.nz](mailto:enquiries@npdc.govt.nz), or visit our website at <https://www.newplymouthnz.com/Residents/Facilities-and-Services/Cemeteries-and-Crematorium>

**P10-006 Cemetery Sales Policy**

CAG - Parks

Review 2013

**(A) POLICY PURPOSE**

To limit the purchase of the exclusive right of burial in a plot to the time of a bereavement.

To prevent any reservation of a natural burial plot.

**(B) POLICY OBJECTIVES**

- i) To reduce the number of unused plots.
- ii) To support the long term usability of natural burial plots.

**(C) POLICY SCOPE**

The policy covers:

The activity of burials in New Plymouth District Council's cemeteries with the addition of natural burial that involve a shallow grave, no embalming, biodegradable casket, over planting of the grave and no headstone.

**(D) POLICY STATEMENTS**

- 1. No sales of exclusive rights of burial will be permitted for plots in Council managed cemeteries unless there has been a recent bereavement and interment in those cemeteries of a spouse or other close family member and it is possible to offer an exclusive right without significantly compromising the available burial space.
- 2. There is no option for reserving plots in designated natural burials areas including the purchase of right of use of an adjacent plot at a time of recent bereavement and interment.

**(E) BURIAL APPLICATIONS**

Applications for burial from the New Plymouth District Council shall be on the approved form and include:

- a) A death certificate or other documentation relating to the release of the body.
- b) Relevant information where a person died of a communicable disease.
- c) Written confirmation by the applicant that the requirements have been met.

**(F) APPLICATION FEES**

Application fees for the exclusive right of use of a plot may be set by New Plymouth District Council from time to time, pursuant to Section 150 of the Local Government Act 2002, and shall include consideration of:

- i) The actual cost of processing the application.
- ii) The actual cost of purchasing the exclusive right of use of a burial plot.
- iii) The actual cost of the burial.

**(G) POLICY CONTACT**

The policy holder is Parks.

**(H) POLICY REVIEW**

This policy shall be reviewed prior to each triennial anniversary of the date on which it takes effect.

Notes: Okato, Purangi Te Henui and the new district cemetery have been added into clause D(1) of the revised policy for completeness.

Purchase involves the 'right of use' to be buried in a plot. Once a burial takes place, use is considered perpetual, otherwise a 60 year term applies.



Te Kaunihera-a-Rohe o Ngāmotu

NEW PLYMOUTH DISTRICT COUNCIL

newplymouthnz.com

## Natural Burial Guidelines

### Introduction

The following guidelines outline New Plymouth District Council's (NPDC) approach to natural burials at Council administered cemeteries designated for natural burials.

A natural burial is characterised by:

- 1) No embalming.
- 2) A shallow burial.
- 3) The use of a rapid bio-degradable non-pollutant casket.
- 4) Over planting of the grave with a native tree or shrub.
- 5) No headstone is installed.
- 6) Site identification is through marking each burial site and both ends of each row containing burial sites with a labelled concrete marker.

A key goal for natural burials is that the burial process is environmentally friendly. This is achieved by not introducing anything synthetic to the ground, by not preventing or slowing natural decomposition processes, and by restoring the surface to a natural flora and fauna environment (a native bush reserve/park).

The following guidelines are designed to assist the public, funeral directors and staff who are involved in the management of a natural burial.

### Objectives

- To set guidelines so that staff and funeral directors are informed of procedures for natural burials.
- To inform the public of appropriate procedures at NPDC natural burial grounds.

### Development plan for each natural burial area

A development plan will be devised for each natural burial area and will include:

- A site plan with reference points that records plot layout and indicates the start point for burials.
- The provision of access ways through the site.
- A bush restoration plan.
- A list of approved trees and shrubs that are local plants, native to the area and able to provide shelter for later native trees that are added around and over plots.

## PROCEDURES

### Notification to Cemetery Officer

The Cemetery Officer is to be contacted and provided with a 'burial application' at least eight working hours (Monday to Friday) prior to a burial. When a death occurs on the last day of the working week, the weekend or on a statutory holiday, the burial will need to be held over. The earliest a burial could occur depending on circumstances, is 2.00pm on the first working day of the following week. The application must include:

- a) A death certificate or other documentation relating to the release of the body.
- b) Relevant information where a person died of a communicable disease.
- c) Written confirmation by the applicant that the requirements have been met.

Where the services of a funeral director have not been engaged to coordinate the funeral service and control the activities at the grave site, the use of a Council ‘Approved Person’ under the provisions of Part 3 of the New Plymouth District Council Bylaw 2008, is required. The use of an approved person requires adherence to conditions of use that pertains to each site and may involve additional costs.

## **REQUIREMENTS**

### **1. Embalming**

The use of embalming fluids is **not** permitted with natural burials.

### **2. Biodegradable casket, shroud and urns**

The deceased must be presented in an authorised container or shroud. This will be quick to biodegrade and will not emit toxins into the soil. Criteria to meet acceptable standard are listed in 2a. Presentation of caskets for burial at Council designated natural burial areas requires a signed declaration from the applicant that the casket is an eco casket as defined in 2a.

#### **2a. Caskets**

Caskets are to be made from untreated natural materials with no synthetic finishes - natural oil finishes are accepted. Casket attachments, such as handles are to be made of natural materials and casket linings are to be of bio-degradable material such as cotton.

The following materials are not to be used on caskets: plastics, vinyl, metal fittings (except fastenings), varnish and paint treatments on the timber, and glues or plastic inside the casket.

#### **2b. Shrouds**

Natural fibre shrouds such as cotton or wool on a solid base such as untreated timber, are acceptable<sup>1</sup>.

Caskets or shrouds that are leaking fluids or have an obnoxious smell will not be accepted at NPDC cemeteries.

#### **2c. Urns**

The same requirements as for 2a Caskets. Urns are only accepted into an existing grave and where burial can be practically achieved.

### **3. Plot dimensions, placement and depth of burial**

The grave is to be dug with a minimum coverage of 750mm from the top of the casket to the natural soil level<sup>2</sup>. The plot dimensions are 2.5m long x 1.8m wide.

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<sup>1</sup> The solid base is required as support for lowering into the grave and must be affixed to the shroud so that it is stable during the burial procedure.

<sup>2</sup> This requires a alteration to the existing NPDC Bylaw 2008: Part 3; Cemeteries & Crematoria – Section 9 (2)

Each new burial will be adjacent to the most recent burial, as set out in the development plan. Prior to planting, sites plots and graves will be maintained in long grass. Selection of plots and the reservation of adjacent plots is not permitted. There will only be one body burial per plot. Additional ash burials may be permitted into an existing grave when practical and are to be contained in a biodegradable urn. This requirement is due to the progressive establishment of natural vegetation after burials and for maintenance considerations.

#### **4. Burial process**

Graves are to be dug by approved Council staff only. Family or friends may backfill a grave if they desire, otherwise this will be undertaken by Council staff.

#### **5. Memorial**

A wooden grave marker may be installed at the head of the plot, at the time of burial. The wooden grave marker is to be a temporary marker – maintained for a maximum period of one year from the date of burial and will not be replaced when it deteriorates. No permanent or synthetic memorials and commemorative artefacts are to be installed at a burial site.

A tree or shrub will be planted at the burial site. The planting will occur at a time when each cemetery row is occupied with burials or within five years from the date of the first burial, whichever comes first. The plant is to be selected by the family from a list of suitable plants specific to each natural burial area. The choice of plants will vary along the boundary of the natural burial area where lower growing plants will be used. Council staff will supply and plant the tree, the cost of purchase and maintenance is included in the plot purchase fee. Over time, new trees will be planted around and over sections of used plots to fill out the regenerating forest. For information on tree maintenance, refer to (7) Maintenance.

Provision for a combined memorial that lists those buried near the entrance of the natural burial area will be assessed depending on demand. The inscription of names onto the memorial would be optional, and at a cost to those choosing the option.

#### **6. Plant selection**

A list of plants approved for the burial site is to be included in the development plan. The plant selection varies for each cemetery. Gravesites on the perimeter of the burial area would use a subset of the plant list, such as lower growing plants.

The area will be developed as natural bush revegetation as opposed to an arboretum.

#### **7. Maintenance**

Maintenance of the natural burial area will be determined with consideration of site attributes with a programme outlined in the development plan for each natural burial site. When the plots are planted with trees the area will be maintained as a bush revegetation site. Care and maintenance of the trees will be required until sufficiently developed and minimal maintenance is needed. Maintenance involves controlling vegetative growth around the planted tree seedlings, until they dominate the grasses and weed species. Ongoing control of plant pests such as old man's beard and gorse

may be necessary. Any tree pruning from the area will be mulched and applied to the site.

NPDC staff will attend to planting and maintenance. If a tree or shrub does not survive, the decision to replace the plant is left to the Council staff. This discretion will be dependent on whether surrounding plants are sufficiently occupying the ground, so that a replacement is either required or unnecessary. Plant selection considers those that benefit native bird species and planting will not be undertaken during January to April.

### **FEES**

The plot purchase and burial charge at the natural burial area will be the same as for a traditional plot. The natural burial site has higher costs due to its larger area, however this is offset by lower long term maintenance costs.

No burial is to take place unless all applicable fees have been paid or written arrangements for payment have been made with the Council, in compliance with the Clause 6.1(d) of Part 3 of the New Plymouth District Council Bylaw 2008. A schedule of current fees for natural burial plots and services can be obtained from the cemetery office or a funeral director.

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## **INITIAL COUNCIL RESPONSE TO COVID-19 PANDEMIC – RATES RELIEF SCHEMES FOR IMMEDIATE ADOPTION**

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### **MATTER**

1. The matter for consideration by the Council is adoption of three rates relief schemes for those ratepayers (in all rating differential categories) in hardship as a result of the Covid-19 pandemic in order to support cash flow movements in the New Plymouth economy.

### **RECOMMENDATION FOR CONSIDERATION**

**That having considered all matters raised in the report, the Council:**

- a) **Note that Covid-19 pandemic is producing significant economic impacts on top of the health crisis, and that this is placing notable economic pressure on some ratepayers**
- b) **Note that the current rates remission and postponement policies do not provide sufficient flexibility to provide adequate support to affected ratepayers during this extraordinary period**
- c) **Note that these revised temporary policies may require the Council to increase its borrowing limit by approximately \$8 million over the next 12 months and this will be refined and addressed in the Annual Plan report**
- d) **Note that the postponed and deferred rates will be paid back over time**
- e) **Note that management will ensure that sufficient budget and resources are available to process applications under these new policies**
- f) **Note that this does not apply to rates the Council collects on behalf of the Taranaki Regional Council**
- g) **Adopt the attached *Rates Remission and Postponement for Covid-19 Pandemic Response Temporary Policies***

<b>COMPLIANCE</b>	
Significance	This matter is assessed as being significant
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> <li>1. Adopt the attached policies</li> <li>2. Do not adopt the attached policies</li> </ol>
Affected persons	The persons who are affected by or interested in this matter are ratepayers of New Plymouth district, particularly those impacted by the Covid-19 pandemic
Recommendation	This report recommends option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	Yes
Significant Policy and Plan Inconsistencies	No

**EXECUTIVE SUMMARY**

2. This report recommends that the Council adopt three new rates remission and postponement policies to provide rates relief to ratepayers (in all differential categories residential, commercial / industrial, small holdings, and farmlands) facing hardship and difficulty as a result of the Covid-19 pandemic. This is the first component of the Council’s local Covid-19 response and community relief plan.
3. These policies enable ratepayers to apply to the Council to:
  - a) Remove late payment penalties for the next 12 months (with a blanket approach for the fourth quarter 2019/20 rates invoice)
  - b) Defer paying rates for six months (with a very low interest rate)
  - c) Postpone paying one year of rates for up to three years (with a low interest rate).
4. Ratepayers must provide evidence to support any application for relief. For the deferment and postponement the evidence required is set as being a 30 per cent decrease in revenue or income. The penalty waiver policy has a lower threshold.

5. These policies are designed to provide focused rates relief to those who need it in the face of a state of national emergency and economic downturn.
6. The policies delay the timing for paying rates and remove the late payment penalties rather than lowering the amount of rates to be paid or remove the requirement for the rates to be paid in full.
7. There are some financial cash flow risks given the Council may need to increase its borrowing by approximately \$8 million. This will be further refined as part of the Annual Plan process. The borrowing taken out will be repaid over time by the ratepayers who require that support.
8. These new policies do not apply to the Taranaki Regional Council portion of rates bills issued.

## **BACKGROUND**

### ***The Council is working on a Covid-19 response programme***

9. The Covid-19 pandemic has created unprecedented economic and social circumstances, particularly during the lockdown period. The country is in a national state of emergency, most businesses are closed or have significant limitations on operations. Many people are working reduced hours and/or being supported by the Government wage subsidy scheme.
  10. The current understanding of the Covid-19 pandemic is a significant economic downturn, with economic analysis from Infometrics (the Council's economic and demographic forecasting service provider), at this stage, indicating potentially around an eight to ten per cent reduction to Gross Domestic Product (GDP). Unemployment will likely increase to around ten per cent. The impact will not be even across the board with some sectors (such as tourism and retail) impact more than others (such as the food sector). The economic recovery may take several years. The community's well-being is therefore being tested.
  11. [At the 25 March 2020 emergency Council meeting](#), in response to the Covid-19 pandemic, the Council established a \$1.413 million Economic Development and Covid-19 Reserve to meet the needs of the district not supported by the range of government initiatives. Officers are currently in discussions with Venture Taranaki to understand whether they require additional funding and support from this reserve, to provide additional support to local businesses in these challenging times.
  12. This report addresses the first of the short-term Covid-19 response initiatives to consider. This is being presented earlier than the other response initiatives as adopting the policies now will ensure they are in place before issuing fourth quarter rates instalment notices and will assist with an immediate need to provide relief and assurance to the community.
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13. The Council is also working on potential changes to the Annual Plan 2020/21 agreed to on 10 March 2020. These changes aim to reduce the rates increase and to provide a short-term response and community relief package as part of the Annual Plan. The focus of the Council will then move to the longer term requirements for the community, with a particular focus on the social and economic impacts of the Covid-19 pandemic for the preparation of the Long-Term Plan 2021-31.
14. The Council is monitoring the ongoing impact of Covid-19 pandemic on the economic outlook. These include monitoring [Treasury forecasts](#) showing the different scenarios that may take place and the impacts of each of these scenarios, as well as receiving updated information from Infometrics and other information sources on a regular basis.

***This report recommends three new rates relief schemes***

15. By the end of March, staff had fielded around 100 calls and requests for rates relief following the lockdown. Approximately 5 additional requests are coming in per day. This is expected to increase significantly after the fourth quarter rates instalment notices are issued in late April as more ratepayers face paying their rates bills in the face of the economic impacts of Covid-19.
16. The Local Government Act 2002 and Local Government (Rating) Act 2002 only enable two forms of rates relief – remissions and postponement. A remission is effectively a reduction or waiver, while a postponement is a delay (often with interest and an administration fee). Penalties are set by the Council as part of its rates resolution, and are subject to the same rating rules (as they effectively become a rate themselves). A deferment is a hybrid of a remission of penalties and a postponement.
17. Remissions result in reduced income for the Council, and this is then 'picked-up' from other ratepayers. Providing a remission simply shifts the burden of rates. A postponement, in contrast, means the Council borrows funds to cover the rates postponed, and then the Council repays the borrowing once the ratepayer pays the postponed rates. This means that other ratepayers do not pay increased rates, although there may be an impact if, combined, postponements impact on the Council's balance sheet too heavily. Remitting penalties also has fewer implications as penalties are not budgeted for, although can offset any temporary borrowing needed to cover any shortfall.
18. Sections 85 and 87 of the Local Government (Rating) Act 2002 only allows rates remissions or postponements in accordance with an adopted policy. The current policies (attached) provide for a mixture of remissions and postponement of rates. Staff have reviewed the current rates remission and postponement policies, and consider the policies insufficient to address the Covid-19 pandemic issues because:

- a) Only residential properties can have rates postponed for extreme financial hardship, not commercial / industrial, small holdings and farmlands
  - b) The evidence requirements for a residential property to receive a rates postponement are high and intrusive (limiting uptake)
  - c) Postponements are, in normal circumstances, long-term and often only paid back upon sale of the property by an estate rather than having a time bound repayment obligation
  - d) There is no ability to provide an across-the-board penalty waiver as each case has to be dealt with on its merits. Council officers expect there to be a significant increase in requests, and hence processing requirements, in the short to medium term
  - e) While the current remission of penalties policy is relatively broad, a particular policy designed in response to the Covid-19 pandemic may streamline the process.
19. The Council needs to balance the desire to provide community relief during such an extraordinary event with its financial position. Officers note that the Council cannot afford a general waiver of rates, even in the short term. It is simply unviable for the Council not to levy and collect rates. The fourth quarter rates for the current financial year amount to approximately \$24 million and it would not be viable for the Council to take this on as debt. This would negatively impact on future ratepayers through requiring significant additional debt repayments with little benefit at that time, breaching principles of intergenerational equity (s101 Local Government Act 2002). If the Council's financial position significantly deteriorated then this could place additional financial burden on ratepayers.
20. Officers therefore recommend the Council adopt three new policies for the Covid-19 pandemic that aim to provide a balance and provide fairness to all ratepayers. These are attached. The three policies are:
- a) A streamlined policy for remitting penalties, made up of two components:
    - i) a generic waiver of all penalties on the fourth quarter instalment of 2019/20 to provide a short-term extension to help businesses and households with immediate cash flow following the lockdown period (with penalties then applied from July although still subject to remission on application with payment of outstanding rates), and
    - ii) a streamlined policy for applications for waiving penalties with a low threshold due in 2020/21
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- b) A streamlined policy for deferring rate payments for six months for ratepayers with temporary cash flow issues (with an interest rate set at 1 per cent less than the Council's average rate of borrowing – this reduction keeps this as a more attractive policy than the next policy), and
  - c) A rates postponement policy for up to one years of rates any ratepayer (in any rating differential category) who can demonstrate significant financial hardship as a result of the Covid-19 pandemic, with a requirement to repay within three years of application or upon sale of the property (with an interest rate set at the Council's average rate of borrowing).
- 21. The Council also has the opportunity to consider how it applies the penalty regime (if any), for the 2020/21 rates instalments as part of the Annual Plan 2020/21 process. This could include delaying when penalties are applied compared to instalment dates or lowering the amount of the penalty being applied from the current 10 per cent.
  - 22. These policies are effectively a series of cascading options depending on the financial circumstances of each ratepayer. A case management approach will be applied to arrive at the most appropriate level of relief for each affected ratepayer as part of this process. Ratepayers will need to demonstrate evidence of financial need to meet the requirements of the policy to obtain this relief. This evidence is based on a 30 per cent decrease in revenue or income for a deferment or postponement, with a lower threshold for a waiver of penalties.
  - 23. The extension of rates postponement to more properties is likely to increase the Council's borrowings, as will the effective extension of rates being due for the fourth quarter of this financial year. This could be approximately \$8 million in additional debt by the end of 2020/21 financial year. However, this is based on a range of assumptions. This will be finalised as part of the Annual Plan 2020/21 re-consideration process. The Annual Plan will seek an increase to the borrowing level to factor this in, as well as other debt impacts.
  - 24. It should be noted that this is a short-term increase in debt. This money will be recovered in coming years. Where a ratepayer fails to pay the rates despite having a deferment or a postponement (such as if a business fails) then normal rates collection methods apply. This includes when a commercial tenant fails to pay, rates then become the liability of the building owner. By around 2024/25 there should no longer be a significant amount of debt relating to this scheme.
  - 25. These policies only apply in 2019/20 and 2020/21. Any further need for additional or extended rates relief can be considered as part of the development of the 2021-31 Long-Term Plan.
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26. These new policies only apply to the New Plymouth District Council portion of rates bills issued. They do not apply to the Taranaki Regional Council portion of rates bills issued.

### **NEXT STEPS**

27. If approved, Council officers will begin applying the new rates policies immediately. Officers will also communicate this decision with the fourth quarter rates notice as well as through other communication channels (as appropriate given the alert levels and social distancing restrictions).

### **SIGNIFICANCE AND ENGAGEMENT**

28. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being significant because of the impact on ratepayers and the potential impact on the Council finances.
29. Given the extraordinary circumstances and the requirements for rates relief policies to be in place as soon as possible (with the fourth quarter instalment notices due to be issued in early May), no consultation is proposed. Clause 9 of the Significance and Engagement Policy provides that the Council may not consult when the matter is urgent and there is insufficient time to engage the community.

### **OPTIONS**

#### **Option 1 Adopt the attached policies**

30. A sub-option of this is to amend the attached policies before adopting them. This needs to be carefully considered and officers can provide advice on any proposed amendments.

#### *Financial and Resourcing Implications*

31. The financial implications of the proposed policies are estimated as follows:
- a) The short-term waiver of all penalties for quarter four is likely to be cost neutral or have a small loss. While penalties are not budgeted for, the temporary additional borrowing to cover the cash flow timing difference this generates could be up to \$6 million extra (assuming one-quarter of fourth quarter rates are paid late). There may be interest that accumulates on this additional borrowing of around \$50,000, however if ten per cent of these rates are still not paid by July then the further 10 per cent penalty applied would equate to around \$60,000 thus offsetting the borrowing costs.

- b) Having a more liberal policy for remitting penalties for the next financial year and a six-month deferral policy may also create cash flow issues that result in a requirement for extra short-term borrowing. The Council may have a higher interest cost. Assuming approximately 10 per cent of rates are late at any one time could up to \$3 million may need to be borrowed across the year, interest could be up to approximately \$100,000 over the financial year. Much of this interest will be charged to the ratepayer receiving the deferment.
  - c) A dedicated postponement policy that charges interest at the Council's average cost of borrowing is cost neutral. However, if this becomes a significant proportion of rates then the Council's borrowing costs may increase in the medium-term. Staff estimate that up to 5 per cent of ratepayers may seek a postponement, adding approximately \$5 million for the Council to borrow.
32. Combined, the Council's borrowing may need to increase by approximately \$8 million to deal with the late rates and postponements in 2020/21. However, this is based on a range of assumptions and is still being refined. This will be addressed through the Annual Plan adoption process. The longer-term borrowing cap can be revised as part of Long-Term Plan 2021-31.
33. The short-term blanket waiver of all quarter four penalties will likely reduce short-term resourcing requirements. However, the addition of the new postponement, deferment and remission policies will require additional resources to deal with queries and applications. Management will reprioritise budgets and resources to ensure adequate resources are available.
34. The debt entered into by the Council will be repaid within coming years. There is no long-term implication for the Council's debt profile.

*Risk Analysis*

35. There is a risk that these policies are over-used and place the Council under increasing financial strain, or the Council comes under financial strain due to other implications of the pandemic. If this appears to be the case then the policies enable officers to suspend the one or both of the policies. This will then trigger a report to the Council for further consideration.
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36. Section 102(4) of the Local Government Act 2002 requires the Council to consult the community when adopting rates remissions and postponement policies. Officers argue that the requirements for additional rates relief are such that such consultation is not possible before the fourth rates instalment notice is issued (clause 9 of the Significance and Engagement Policy provides that the Council may not consult when the matter is urgent and there is insufficient time to engage the community). If the Council decision-making process was challenged, then any Court would take into account the extraordinary nature of the pandemic and economic impacts in making its judgement. Further, the policies are only temporary – applying only for the remainder of this financial year and for 2020/21 – and any extension would be consulted on.

*Promotion or Achievement of Community Outcomes*

37. This option helps achieve the People and Prosperity community outcomes.

*Statutory Responsibilities*

38. Sections 109 and 110 of the Local Government Act 2002 set out the parameters of rates remission and postponement policies. These provisions outline the requirements for rates remission policies (s109) and postponement policies (s110). Sections 85 and 87 of the Local Government (Rating) Act 2002 set out the operational aspects of remitting and postponing rates (respectively), including that doing so must only be done in accordance with an adopted remission or postponement policy.

*Consistency with Policies and Plans*

39. This option is likely to require additional borrowing than what is set out in the Long-Term Plan 2018-28.

*Participation by Māori*

40. Given the need to act quickly, no participation by Māori has occurred to date.

*Community Views and Preferences*

41. There has been an increase in calls to the Council about rates already. There is often community concern about Council taking on debt, but, as noted, this is only temporary debt.

*Advantages and Disadvantages*

42. This option enables the Council to proactively help ratepayers having difficulties paying their rates as a result of the Covid-19 pandemic. It is likely to have resourcing and financial implications for the Council, and does create some financial risk as well. The proposed policies aim to provide a balance between being helpful to individual ratepayers whilst not putting the Council (and therefore all ratepayers) at financial risk.

**Option 2 Do not adopt the attached policies**

*Financial and Resourcing Implications*

43. There would likely be an increase in default or late payments on rates regardless necessitating the initiation of debt collection on behalf of all ratepayers. The additional penalties may provide additional income to the Council, but these may have to offset additional resourcing required for debt collection.
44. The existing policy for postponing rates for residential ratepayers would continue, as would the existing policy for remitting rates.

*Risk Analysis*

45. There is still a risk that the Council may have to undertake short-term borrowing to address cash flow issues if there is significant non-payment or late payment of rates.

*Promotion or Achievement of Community Outcomes*

46. This option is not considered to promote any community outcomes.

*Statutory Responsibilities*

47. There is no legal obligation to remit or postpone any rates.

*Consistency with Policies and Plans*

48. No inconsistencies have been identified.

*Participation by Māori*

49. No participation by Māori has occurred.

*Community Views and Preferences*

50. By the end of March there were approximately 100 calls to the Council about rates relief already.
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*Advantages and Disadvantages*

51. This option keeps the Council's cash flow more secure through imposing penalties per the standard approach. It therefore minimises the financial risk to the Council and community. However, in doing so it increases the likelihood of ratepayers struggling due to Covid-19 pandemic.

**Recommended Option**

This report recommends option 1 Adopt the attached policies for consultation for addressing the matter.

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**APPENDICES**

Appendix 1 Proposed policies for adoption (ECM 8275965)

Appendix 2 The Council's current Rates Remission and Postponement Policies (ECM7751413)

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**Report Details**

Prepared By: Greg Stephens (Senior Policy Adviser)  
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Ward/Community: District Wide  
Date: 16 April 2020  
File Reference: ECM 8722752

-----*End of Report*-----

## **APPENDIX 1: PROPOSED POLICIES FOR ADOPTION**

### **RATES REMISSION AND POSTPONEMENT FOR COVID-19 PANDEMIC RESPONSE TEMPORARY POLICIES**

#### **Special policy 1: Remission of penalties on rates for ratepayers who can demonstrate financial hardship as a result of the Covid-19 pandemic**

Section 85 of the Local Government (Rating) Act 2002

#### **Objectives of the policy**

The objective of this policy is to enable the reduction or waiver of penalties on rates for ratepayers in difficulty or hardship as a result of the Covid-19 pandemic. This policy applies for the remainder of 2019/20 and 2020/21.

#### **Conditions and criteria**

Definitions:

- Instalment penalties. These are the penalties applied approximately three to four weeks after the quarterly instalment is due.
- Annual penalties. These are the penalties applied on rates overdue from the previous financial year.

The Council will waive instalment penalties on unpaid rates from the fourth instalment for 2019/20 that would have been applied on 27 May 2020.

For rates due in 2020/21, the Council will waive instalment penalties for any ratepayer who either:

- before the date penalties are applied to rates, provides evidence to the Council that they cannot pay rates on time due to difficulties arising from the Covid-19 pandemic, or
- after the date penalties are applied to rates, provides evidence that satisfies the Council that the ratepayer was unable to pay rates on the due date because of difficulties arising from the Covid-19 pandemic.

This may include evidence from a bank or accountant of reduced revenue for commercial / industrial properties or reduced income for residential properties.

In both instances, the instalment penalties will only be waived if the ratepayer and the Council agree to a payment plan via direct debit such that the rates are paid within 12 months.

The Council will waive annual penalties for 2019/20 and 2020/21 if the Council is satisfied that the ratepayer was in financial hardship as a result of the Covid-19

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pandemic, and the ratepayer can immediately pay all outstanding rates or agree to a payment plan for outstanding rates and those due within the next six months via direct debit to the satisfaction of the Council.

Decisions are delegated to Council officers in accordance with the Council's Delegation Register. Decisions of Council officers are final and there are no appeal rights to the Council.

The Chief Executive may suspend the operation of this policy if the Council is under financial pressure. If this occurs, staff must, as soon as reasonably practicable, notify the Council for a determination whether to revoke the policy or resume the policy.

### **Special policy 2: Deferral of rates for six-months for ratepayers who can demonstrate cash-flow issues as a result of the Covid-19 pandemic**

Sections 85 and 87 of the Local Government (Rating) Act 2002

#### **Objectives of the policy**

The objective of this policy is to enable ratepayers to defer paying rates for up to six months as a result of cash-flow issues as a result of the Covid-19 pandemic. This policy applies for the remainder of 2019/20 and 2020/21.

#### **Conditions and criteria**

The ratepayer must provide evidence, to the satisfaction of the Council, that the ratepayer has cash flow issues as a direct or indirect result of the Covid-19 pandemic. This may include evidence from a bank or accountant of reduced revenue for commercial / industrial properties or reduced income for residential properties (by at least 30 per cent for a period of time of at least one month compared to the same period in the previous year.)

The Council will defer payment on rates due within six months of application. All penalties applied during that time shall be remitted.

The ratepayer must agree to a payment plan to pay rates after the six month deferment. The payment plan must seek to repay the rates owed as soon as reasonably practical after the end of the six month deferral ends. All deferments are to be paid within one year of the end of the deferment period.

Interest shall be charged during the six month deferral timeframe. The interest rate shall be set at 1 per cent less than the Council's average rate of borrowing. The interest rate may be waived by the Council in cases where the administrative costs of charging interest outweigh the interest that will be received by the Council.

If the ratepayer fails to meet the arrangements of the payment plan or the payment plan extends for more than 12 months the Council may, at its discretion:

- charge interest, set to reflect the Council's average borrowing rate and/or
- register a rating charge on the certificate of title.

A ratepayer is not eligible for a second deferment. Instead, the ratepayer must apply for a postponement under special policy 3.

Decisions are delegated to Council officers in accordance with the Council's Delegation Register. Decisions of Council officers are final and there are no appeal rights to the Council.

The Chief Executive may suspend the operation of this policy if the Council is under financial pressure. If this occurs, staff must, as soon as reasonably practicable, notify the Council for a determination whether to revoke the policy or resume the policy.

### **Special policy 3: Postponement of rates for ratepayers who can demonstrate significant financial hardship as a result of the Covid-19 pandemic**

Section 87 of the Local Government (Rating) Act 2002

#### **Objective of the policy**

The objective of this policy is to assist ratepayers experiencing significant financial hardship as a result of the Covid-19 pandemic, whether directly through health implications or indirectly through economic issues. This policy applies for the remainder of 2019/20 and 2020/21.

#### **Conditions and criteria**

The ratepayer must provide evidence, to the satisfaction of the Council, of significant financial hardship caused as a direct or indirect result of the Covid-19 pandemic.

- Farmland, commercial / industrial and small holding (used for economic return) properties must provide evidence by a bank or accountant of either:
  - reduced revenue (by at least 30 per cent for a period of at least one month compared to the same period in the previous year), or
  - inability to pay both rates and staff salaries, or
  - inability to pay both rates and other due bills that are essential to ongoing business operations and viability (e.g. input suppliers)
- For residential and small holding (used as a lifestyle block) properties, must provide:
  - evidence of inability to pay both rates and essential necessities (e.g. food, medicine), and

- evidence they have applied for any relevant government support (including unemployment and other benefits) and a mortgage holiday from the bank (if relevant).

Upon approval, all rates outstanding (including those deferred under special policy 3) and the next four quarterly rates instalments (and, if applicable, the next twelve monthly water meter rates) are postponed. Further applications will be required for further postponements.

Interest shall be charged during the postponement, with the interest charge set to reflect the Council's average borrowing rate.

Ratepayers that are not the owner of the property must have the agreement of the property owner to the postponement.

A rating charge will be registered on the certificate of title.

The postponed rates will remain as a charge against the property and must be paid in full either at the end of the three years from receiving the postponement or when the property is sold. At the end of the three year period the ratepayer may apply for a further extension, of no more than three years, and the granting of any extension shall be at the discretion of the Council.

Decisions are delegated to Council officers in accordance with the Council's Delegation Register. Decisions of Council officers are final and there are no appeal rights to the Council.

The Chief Executive may suspend the operation of this policy if the Council is under financial pressure. If this occurs, staff must, as soon as reasonably practicable, notify the Council for a determination whether to revoke the policy or resume the policy.

## **P18-002 REMISSION AND POSTPONEMENT OF RATES POLICIES**

Status: Approved by the Council on 6 June 2018

Decision-making, general conditions and administrative matters related to these Policies

1. All decisions on applications for the remission or postponement of rates shall be determined by the staff provided with the delegated authority by the Council (as recorded in the Delegations Register) for section 85, 87, 114 and 115 (as relevant) of the Local Government (Rating) Act 2002 (being the Business Services Manager and Business Support Lead at the time of adoption).
2. Any appeals against the decisions of staff shall be considered by the relevant Council committee of the day (being the Performance Committee at the time of adoption) for final determination.
3. All applications must be received in writing on an approved application form. However, staff may accept verbal applications or applications not on an approved application form if the circumstances warrant it. No application form is required for automatic remissions provided under Rates Policies 2 or 4.
4. Timing of remissions will be assessed on the following:
  - a. All applications for remissions received and granted under Rates Policies 1, 4, 6 and 7 during a rating year will receive remission from the commencement of the following rating year and no remissions will be backdated.
  - b. All applications for remissions received and granted under Rates Policies 3, 5 and 9 will receive remission from the date of application. An application may be backdated to cover any outstanding balance from the current rating year, but will not be backdated to cover previous rating years.
  - c. Applications for remissions received and granted under Rates Policy 2 will receive remission in relation to the penalties outstanding, and may include remitting penalties for the current rating year and can be backdated to previous rating years.
  - d. Applications for postponement received and granted under Rates Policy 3 will receive postponement from the beginning of the rating year in which the application is received. An application may be backdated to previous rating years to cover any outstanding rates if the circumstances warrant it (however, for the avoidance of doubt, no refund for paid rates will be given).
  - e. All applications for remissions received and granted under Rates Policy 8 will receive remission from the last day of receiving the applicable service.
5. A summary of remissions approved by staff shall be supplied to the Council on an annual basis.
6. No rates will be remitted or postponed for government owned properties (including the Crown, central government agencies or local authorities) other than under Rates Policy 8 (Rates remission of uniform annual refuse charge targeted rate).

## Rates Policy 1

### **Rating of community, sporting and similar organisations**

Section 85 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

The Council reaffirms its commitment to assist, where practicable, community clubs and organisations in recognition of the valuable 'Public Good' contribution made by such organisations to the character and well-being of the district.

#### **Conditions and criteria**

1. The Council may remit all general rates on any rating unit that is owned or occupied by a charitable organisation, and is used exclusively or principally for sporting, recreation, or community purposes.
2. The policy will not apply to organisations operated for private pecuniary profit, or which charge commercial tuition fees.
3. Organisations that are not registered as charitable entities under the Charities Act 2005 must, in making an application, include the following documents in support of their application:
  - a) Statement of objectives.
  - b) Full financial accounts.
  - c) Information on activities and programmes.
  - d) Details of membership or clients.
4. In respect of those rates referred to in sections 16 and 19 of the Local Government (Rating) Act 2002 (i.e. targeted rates), only one uniform annual sewer charge will apply and all other targeted rates will be charged at the applicable rate.

## Rates Policy 2

### **Remission of penalties**

Section 85 of the Local Government (Rating) Act 2002.

### **Objectives of the policy**

The objective of this policy is to enable the Council to act fairly and reasonably in its consideration of rates which have not been received by the Council by the penalty date due to circumstances outside the ratepayer's control; or

In order to ensure the settlement of outstanding rates and the ratepayer has made an arrangement to pay over an extended period.

### **Conditions and criteria**

1. Automatic remission of the penalties will apply to those ratepayers that have an agreed and sufficient (to cover current rates and arrears) automatic payment or direct debit plan in place
2. Automatic remission of the penalties will apply to those ratepayers that pay their rates in full by the second instalment due date.
3. Remission of the penalty will be granted if the ratepayer is able to provide evidence that their payment has gone astray in the post or the late payment has otherwise resulted from matters outside their control.
4. Each application will be considered on its merits and remission will be granted where it is considered just and equitable to do so.
5. The Council may remit small balances due to cash rounding.
6. If an arrangement to pay rates and/or clear outstanding rates is not adhered to, the Council will apply penalties from when the arrangement is breached (noting that remissions cannot be reversed).

### Rates Policy 3

#### **Postponement or remission of rates for financial hardship**

Sections 85 and 87 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

The objective of this policy is to assist ratepayers experiencing extreme financial hardship which affect their ability to pay rates.

#### **A. Postponement – Owner/Ratepayer**

##### *Conditions and criteria*

1. Only rating units used solely for residential purposes (i.e. are in the residential rating differential and are not mixed use properties) will be eligible for consideration for rates postponement for extreme financial hardship.
2. Only the person entered as the ratepayer on the rating information database, or their authorised agent, may make an application for rates postponement for extreme financial hardship on the rating unit which is the subject of the application.
3. The ratepayer must not own any other rating units whether in the district or in another district).
4. When considering whether extreme financial hardship exists, all of the ratepayer's personal circumstances will be relevant including, but not limited to, the following factors: age, physical or mental disability, injury, illness and family circumstances.
5. Before approving an application the Council must be satisfied that the ratepayer is unlikely to have sufficient funds left over, after the payment of rates, for normal health care, proper provision for maintenance of his or her home and chattels at an adequate standard as well as making provision for normal day to day living expenses.
6. The ratepayer must make acceptable arrangements for payment of future rates, for example by setting up a system for regular payments.
7. The Council may add a postponement fee to the postponed rates for the period between the due date and the date they are paid. This fee will not exceed an amount which covers the Council's administration and financial costs.
8. The postponement will continue to apply until:
  - The ratepayer ceases to be the owner or occupier of the rating unit; or
  - The ratepayer ceases to use the property as their residence; or
  - A date specified by the Council;whichever is the sooner.
9. A rating charge will be registered on the certificate of title. The postponed rates will remain as a charge against the property and must be paid either at the end of the postponement term or when the property is sold. Postponed rates may include rate arrears owing from a previous financial year.

**B. Remission - Near Ownership Situations**

*Conditions and criteria*

1. Property Held in Trust

- The amount of the remission will be equal to the Council's Uniform Annual General Charge.
- The applicant may have savings up to a maximum of \$10,000 for the purpose of funeral expenses.
- The applicant's sole income is from a Central Government benefit (including New Zealand superannuation) and earnings on interest from savings for funeral expenses.
- 
- The applicant must be the ratepayer and supply proof from the Trust Deed.
- The applicant must not be a financial beneficiary of the Trust.
- The applicant must not be eligible for a rates rebate.
- The applicant must provide an explanation and proof of hardship.
- The Rating Unit must be rated as Residential.
- The applicant must reside at the property.

2. Habitat for Humanity

- The amount of the remission will be equal to the Council's Uniform Annual General Charge.
- The applicant must provide proof of the long term sale and purchase agreement for the property with Habitat for Humanity.
- The applicant's sole income is from a Central Government benefit or their income is at or below the Central Government equivalent benefit and proof of income is supplied.
- The property must not be eligible for a rates rebate.
- The applicant must provide an explanation and proof of hardship.
- The Rating Unit must be rated as Residential.
- The applicant must reside at the property.

## Rates Policy 4

### **Rates remission on Māori freehold land**

Sections 85 and 114 of the Local Government (Rating) Act 2002 and 108 of the Local Government Act 2002.

The Council only remits rates on Māori freehold land, it does not allow postponements. In determining this policy the Council has considered those matters set out in Schedule 11 of the Local Government Act 2002.

### **Objectives of the policy**

To recognise situations where there is no occupier or no economic or financial benefit being derived from the land.

Where the owners cannot be found, to take into account the statutory limitation of time for the recovery of unpaid rates.

### **Conditions and criteria**

1. The land must be multiple-owned and unoccupied Māori freehold land that does not produce any income.
2. An application for rates remission by the owners must include:
  - a) Details of the land;
  - b) Documentation that shows the ownership of the land; and
  - c) Reasons why remission is sought.
3. Where Council staff after due enquiries cannot find the owners of an unoccupied block, staff may automatically apply a remission without the need for an application.
4. If circumstances change in respect of the land, the Council will review whether this remission policy is still appropriate to the land.

## Rates Policy 5

### **Rates remission in miscellaneous circumstances**

Section 85 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

It is recognised that not all situations in which the Council may wish to remit rates will necessarily be known about in advance and provided for in the Council's specific policies.

#### **Conditions and criteria**

1. The Council may remit part or all rates on a rating unit where The Council considers it just and equitable to do so because:
  - a. There are special circumstances in relation to the rating unit, or the incidence of the rates (or a particular rate) assessed for the rating unit, which mean that the unit's rates are disproportionate to those assessed for comparable rating units, or
  - b. The circumstances of the rating unit or the ratepayer are comparable to those where a remission may be granted under the council's other rates remission policies, but are not actually covered by any of those policies, or
  - c. There are exceptional circumstances that mean the Council believes that it is in the public interest to remit the rates and where granting a remission would not create or set a precedent for other ratepayers to receive similar remissions.

## Rates Policy 6

### **Rates remission for protected natural areas**

Section 85 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

The objective of this policy is to encourage the protection of natural areas by providing rates relief for privately owned land that contains special features protected for ecological value purposes.

#### **Conditions and criteria**

1. The Council may remit rates for properties protected for ecological value that meet the following criteria:
  - a. The land must be protected either by inclusion as a significant natural area in the fully operative District Plan, or by way of a protective covenant, or by other legal mechanism providing similar protection to a protective covenant
  - b. The area of land containing the special features must be readily identified and able to be measured distinctly from the total area of the property
  - c. The special features must cause significant loss of economic use or value of the property sustained in retaining the feature. Significant natural areas in the urban areas will generally not be considered as impacting the use or value of the property.
  - d. Where the property is protected by way of a protective covenant or by other legal mechanism providing similar protection to a protective covenant, the protective covenant or other legal mechanism must meet the requirements of the District Plan for legal protection of the special features
2. The Council will remit the general rate pro-rata to the land value of the area protected to the total area of the property, with the following criteria to assess the amount of remission:
  - a. The general rate of the area pro-rata will be remitted by 50 per cent where the protected area is protected by virtue of inclusion as a significant natural area in the fully operative District Plan
  - b. The general rate of the area pro-rata will be remitted by 100 per cent where the protected area is protected by a protective covenant or other legal mechanism providing similar protection

## Rates Policy 7

### **Remission of uniform annual general charges on rating units which are used for residential purposes and which include a separately inhabited part occupied by a dependent member of the family of the owner of the rating unit**

Section 85 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

The policy is to provide for the possibility of rates remission where more than one uniform annual general charge is assessed on a rating unit because that rating unit comprises more than one separately used or inhabited part and where the rating unit is used for residential purposes and includes a separately inhabited part occupied by a dependent member of the family of the owner of the rating unit.

#### **Conditions and criteria**

The Council may remit the specified rates where the application meets the following criteria:

1. The rating unit must be used as the owner's residence but also contain a minor flat or other residential accommodation unit which is inhabited by a member of the owner's family who is dependent on the owner for financial support and occupies the accommodation on a non-paying basis (e.g. granny flat).
2. The owner(s) of the rating unit must complete and provide to the Council a statutory declaration. Such a declaration will be effective for three years or until the conditions cease to be met, whichever is earlier. A fresh declaration must be completed and provided in order to qualify for consideration for remission beyond the first three year period.

## Rates Policy 8

### **Rates remission of uniform annual refuse charge targeted rate**

Section 85 of the Local Government (Rating) Act 2002.

#### **Objectives of the policy**

To recognise that some properties within the service area may be approved by the Council (in accordance with the relevant bylaw) to not receive some or all of the Council provided refuse collection and disposal service.

#### **Conditions and criteria**

1. Some or all of the uniform targeted rate for refuse collection and disposal will be remitted where the Council has approved the property to not receive some or all of the Council provided refuse collection and disposal service under the relevant Council bylaw relating to solid waste (being Part 9 New Plymouth District Council Bylaw 2008 at the time of adoption).
2. The amount of the uniform targeted rate that is remitted will be determined in accordance with the cost of providing the service or services not received. Where a property is approved to not receive any service then that property shall have 100 per cent of the targeted rate remitted.
3. The imposition of charges on newly occupied residences and any remission of charges under this policy may apply from the month that the service is provided, or ceased respectively.

## Rates Policy 9

### **Rates remission for financial hardship as a result of changes to the rating system**

Section 85 of the Local Government (Rating) Act 2002

#### **Objectives on the policy**

This policy recognises that when the Council alters parts of the rating system to achieve a more equitable distribution of rates, doing so may cause financial hardship for some ratepayers, and thereby provides a remission for affected ratepayers.

#### **Conditions and criteria**

1. This policy only applies where the Council determines to make significant changes to the rating system, including changes to uniform charges, differentials or the number of targeted rates.
2. This policy does not apply to annual changes in rates requirements, including changes to targeted rates as a result of changes to service levels (including the imposition of a targeted rate on a property as a result of receiving a service that was not previously provided or charged to a property) and inflationary adjustment of uniform charges.
3. The applicant must provide evidence of financial hardship as a result of the change. The following grounds can be taken into account:
  - a. The ratepayer's personal circumstances including, but not limited to, age, physical or mental disability, injury, illness and family circumstances;
  - b. Whether the ratepayer is unlikely to have sufficient funds left over, after the payment of rates, for normal health care, proper provision for maintenance of his or her home and chattels at an adequate standard as well as making provision for normal day to day living expenses;
  - c. The ratepayer's sole income is from a Central Government benefit (including New Zealand superannuation).
4. The amount of remission will be set as half of the difference between the property's rates for that year and the property's rate for that year if the change to the rating system for that year had not been applied.
  - a. In determining the property's rate for that year if the changes to the rating system had not been applied, the Council will use the relevant parts of the previous year's rating system (e.g. differentials, uniform charges) but will use the current financial year's rates requirement.