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8 December 2023

Record No: 23257838
File Ref: D050-001-02
Ask For: Mike Porter

Notice of Council Meeting – Thursday, 14 December 2023

Notice of the Council Meeting to be held in the Council Chambers, 15 Seymour Street, Blenheim on Thursday, 14 December 2023 to commence at 2.00 pm.

BUSINESS

As per Order Paper attached.

**MARK WHEELER
CHIEF EXECUTIVE**



**Order Paper for the
COUNCIL MEETING
to be held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY, 14 DECEMBER 2023 commencing at 2.00 pm**

Open Meeting

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Marlborough District Council

Order Paper for the
COUNCIL MEETING
to be held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY, 14 DECEMBER 2023 commencing at 2.00 pm

1. Karakia

Tēnā koutou, tēnā koutou, tēnā koutou katoa
E te Atua tō mātou Kai-hanga,
ka tiāho te maramatanga me te ora, i āu kupu kōrero,
ka tīmata āu mahi, ka mau te tika me te aroha;
meatia kia ū tonu ki a mātou
tōu aroha i roto i tēnei huihuinga.
Whakakī a matou whakaaro ā mātou mahi katoa,
e tōu Wairua Tapu.
Āmine.

God our Creator,
when you speak there is light and life,
when you act there is justice and love;
grant that your love may be present in our meeting.
So that what we say and what we do may be filled with your Holy Spirit.
Amen.

2. Apologies

3. Declaration of Interests

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

4. Minutes

- 4.1 Confirmation of the Minutes of the Council Meeting held on 2 November 2023
(Minute Nos. Cncl-1123-137 to Cncl-1123-154)

**Minutes of a Meeting of the
Marlborough District Council
held in the Council Chambers, 15 Seymour Street, Blenheim
on THURSDAY 2 NOVEMBER 2023 commencing at 9.00 am**

Present

The Mayor N P Taylor (in the Chair), Cllrs S R W Adams, S J Arbuckle, A R Burgess, J D N Croad, D A Dalliessi, B G Dawson, B A Fauls, M R K Flight, G A Hope, R J Innes, B J Minehan, J C Rosene (to 10.21 am) and T P Sowman.

Present via Teams

Clr J A Arbuckle (to 10.21 am).

In Attendance

Mr M S Wheeler (Chief Executive), Mr H R Versteegh (Environmental Science & Policy Group Manager), Mr D G Heiford (Manager Economic, Community and Support Services Department), Mr R Foitzik (General Counsel), Mr M F Fletcher (Manager Strategic Finance), (Ms L Randall (People & Capability Partner) and M J Porter (Democratic Services Manager).

Karakia

The meeting opened with a karakia from Clr Burgess.

Cncl-1123-137 Declaration of Interests -

Members were reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

A number of declarations were noted in the agenda:

- The various interests as declared under Minute Nos. Cncl-0923-89;
- The interest as declared under Minute No. E&P-1023-105 (Minute No. A&S-1023-115); and
- The interest as declared under Minute No. EFC-1023-124 (Minute No. EFC-1023-126).

Cncl-1123-138 Introduction of Additional Items -

The Mayor/Clr Innes:

That the following additional items be considered for reason of the urgent nature of the business and insufficient time being available to include the items on the original Agenda and Meeting Notice.

In Open Meeting:

- **Reorganisation of Committees' Chairs and Membership.**
- **Delegation of Aspects of the Recruitment Process (but not the final appointment) for the Replacement Chief Executive.**

Carried

Cncl-1123-139 Confirmation of Minutes -

The Mayor/Clr Croad:

That the Minutes of the Council Meeting held on 21 September 2023 (Minute Nos. Cncl-0923-89 to Cncl-0923-95) be taken as read and confirmed.

Carried

Cncl-1123-140 Confirmation of Minutes -

The Mayor/Clr Croad:

That the Minutes of the Council Meeting held on 10 October 2023 (Minute Nos. Cncl-1023-122 to Cncl-1023-123) be taken as read and confirmed.

Carried

Committee Reports

Cncl-1123-141 Assets & Services Committee -

Clrs Croad/Rosene:

That the Committee report contained within Minute Nos. A&S-1023-96 and A&S-1023-98 to A&S-1023-104 (noting that Minute No. A&S-1023-97 was adopted at the Extraordinary Council Meeting on 10 October 2023) be received and the recommendations adopted.

Carried

Cncl-1123-142 Environment & Planning Committee -

Clrs Hope/Fauls:

That the Committee report contained within Minute Nos. E&P-1023-105 to E&P-1023-121 be received and the recommendations adopted.

Carried

Cncl-1123-143 Economic, Finance & Community Committee -

Clrs Dawson/J Arbuckle:

That the Committee report contained within Minute Nos. EFC-1023-124 to EFC-1023-136 be received and the recommendations adopted.

Carried

Cncl-1123-144 Reorganisation of Committees' Chairs and Membership D050-003-04

The Mayor reported that the purpose of the report was to advise the committee chairs and membership following a reorganisation prompted by the resignation from of Clr Jamie Arthur Arbuckle from all Chairpersonships, Committees, Sub-Committees and Working Groups/Forums, except that of member of the Economic, Finance & Community Committee.

Section 41A of the Local Government Act 2002 (the Act) states that the Mayor has the power to appoint the chairperson of each committee and that this may be made before the other members of the committee are determined, and may appoint themselves.

It was noted that in terms of schedule 7 Clause 30 of the Local Government Act 2002 Council may at any time and from time to time appoint or discharge any member of a Committee with the right existing for a Committee at any time to appoint or discharge any member of a Sub-Committee appointed by that Committee.

The Mayor/Clr Croad:

1. That the resignation of Clr Jamie Arthur Arbuckle from all Chairpersonships, Committees, Sub-Committees and Working Groups/Forums, except that of member of the Economic, Finance & Community Committee, be accepted with effect from 2 November 2023.

2. That the proposed reorganisation of committee chairs and membership and portfolios as set out hereunder be noted and adopted with effect from 3 November 2023.

ASSETS AND SERVICES COMMITTEE

Chair: Brian Dawson
Deputy: Jonathan Rosene
Members: Scott Adams
David Croad
Deborah Dalliessi
Matt Flight
Mayor Nadine Taylor
Iwi representative

Civil Defence Emergency Management Group
(Statutory Committee)
Same membership as the Assets and Services Committee.

Regional Transport Committee
(Statutory Committee)

Chair: Scott Adams
Members: David Croad
Brian Dawson
Jonathan Rosene
New Zealand Transport Agency representative (Emma Speight)

ROAD NAMING SUB-COMMITTEE

Chair: Deborah Dalliessi
Members: Brian Dawson
Matt Flight
Iwi Representative

Assets and Services Committee Portfolios:

Parking	Brian Dawson
A&S Finance	Brian Dawson
3-Waters	Mayor Nadine Taylor
Bike-Walk and Public Transport	Jonathan Rosene
Refuse, Recycling and Resource Recovery	Deborah Dalliessi
Sporting and Community Facilities	Matt Flight
Reserves – Parks, Open Spaces and Cemeteries	Brian Dawson
Footpaths and Public Conveniences	Matt Flight
Property and Development	David Croad
Roading and Road Stopping	Scott Adams
Rivers and Drainage	Scott Adams

ECONOMIC, FINANCE AND COMMUNITY COMMITTEE

Chair: David Croad
Deputy: Scott Adams
Members: Jamie Arbuckle
Sally Arbuckle
Allanah Burgess
Deborah Dalliessi
Brian Dawson
Barbara Faulls
Matt Flight
Gerald Hope
Raylene Innes
Ben Minehan
Jonathan Rosene
Thelma Sowman
Mayor Nadine Taylor
Iwi representative

**District Licencing Committee
(Statutory Committee)**

Chair: John Leggett (Independent Commissioner)

Members: Two members appointed by the Independent Commissioner from the following:

Mayor Nadine Taylor (Deputy Chair)

Hamish Beard

David Croad

Barbara Faulls

Jonathan Rosene

**Marlborough Regional Forestry
(Joint Committee of MDC and Kaikōura DC)**

Chair: Gerald Hope

Members: Scott Adams

Kaikoura District Council representative

Forestry representative (Megan McKendry)

Conduct Review Committee

Chair: Independent Member – to be appointed

Members: Mayor Nadine Taylor

David Croad

Gerald Hope

Thelma Sowman

AUDIT AND RISK SUB-COMMITTEE

Chair: Ian Marshall (Independent External Member)

Members: Mayor Nadine Taylor

Scott Adams

David Croad

Brian Dawson

Jonathan Rosene

CBD & PARKING SUB-COMMITTEE

Chair: Mayor Nadine Taylor

Members: David Croad

Deborah Dalliessi

Brian Dawson

Jonathan Rosene

COMMERCIAL EVENTS FUND SUB-COMMITTEE

Chair: Raylene Innes

Members: Deborah Dalliessi

Brian Dawson

Barbara Faulls

Matt Flight

GRANTS SUB-COMMITTEE

Chair: Thelma Sowman

Members: Sally Arbuckle

Allanah Burgess

Sports Trust appointee

Arts Sector appointee

Community representatives (4)

Iwi representatives (2)

HOUSING FOR SENIORS SUB-COMMITTEE

Chair: David Croad

Members: Deborah Dalliessi

Brian Dawson

Matt Flight

Raylene Innes

Community Representative

MDC HOLDINGS and MARLBOROUGH AIRPORT LIMITED

Members: Mayor Nadine Taylor
David Croad

SISTER CITY SUB-COMMITTEE

Chair: Jonathan Rosene
Members: Sally Arbuckle
Deborah Dalliessi
Community representatives (5+)

SMALL TOWNSHIPS PROGRAMME SUB-COMMITTEE

Chair: Barbara Faulls
Members: Scott Adams
Sally Arbuckle
Ben Minehan

YOUTH SUB-COMMITTEE

Chair: Mayor Nadine Taylor
Members: Allanah Burgess
Jonathan Rosene

The following Forums/Working Groups will have representation from the above Standing Committee:

LTP Working Group

Chair: David Croad
Members: Scott Adams
Deborah Dalliessi
Brian Dawson
Barbara Faulls
Gerald Hope
Raylene Innes
Mayor Nadine Taylor

Marlborough Housing Group

Chair: David Croad

Older Persons Forum

Chair: Thelma Sowman
Member: Jonathan Rosene

Picton Regional Forum

Members: Barbara Faulls
Raylene Innes
Ben Minehan

Economic, Finance and Community Committee Portfolios:

Financial Reporting, Funding, Policy, Investments and Debt Management	Mayor Nadine Taylor/ David Croad
Economic Development	David Croad
Libraries	Sally Arbuckle
Community	Deborah Dalliessi
Arts, Culture and Heritage	Mayor Nadine Taylor
Community Events	Jonathan Rosene

ENVIRONMENT AND PLANNING COMMITTEE

Chair: Gerald Hope
Deputy: Barbara Faulls
Members: Sally Arbuckle
Allanah Burgess
Raylene Innes
Ben Minehan
Thelma Sowman

Mayor Nadine Taylor
Rural representative
Iwi representative

ANIMAL CONTROL SUB-COMMITTEE

Chair: Barbara Faulls
Members: Ben Minehan
Thelma Sowman

CLIMATE CHANGE SUB-COMMITTEE

Chair: Gerald Hope
Members: Allanah Burgess
Raylene Innes

HEARING COMMITTEE

Chair: Barbara Faulls
Members: Sally Arbuckle
Allanah Burgess
Raylene Innes
Ben Minehan
Thelma Sowman

WORKING FOR NATURE GRANTS SUB-COMMITTEE

Chair: Ben Minehan
Members: Allanah Burgess
Gerald Hope

The following Forums/Working Groups will have representation from the above Standing Committee:

Sounds Advisory Group

Members: Allanah Burgess
Raylene Innes
Ben Minehan

Environment and Planning Committee Portfolios:

Nautical and Coastal	Raylene Innes
Implementing Essential Freshwater	Allanah Burgess
Environmental Protection and Compliance	Ben Minehan
Science and Monitoring	Allanah Burgess
Biosecurity and Biodiversity	Barbara Faulls
Environmental Health	Thelma Sowman
Building Control	Raylene Innes
Animal Control	Barbara Faulls
Resource Consents	Barbara Faulls
MEP	Gerald Hope
Environmental Policy	Gerald Hope
Grovetown Lagoon	Ben Minehan

Note: The Mayor is a member of each Committee of Council (s41A(5) of the Local Government Act 2002)

Carried

Cncl-1123-145 Delegation of Aspects of the Recruitment Process (but not the final appointment) for the Replacement Chief Executive

The Mayor reported that the purpose of the report was to seek approval to delegate to a Councillor Panel the recruitment steps prior to a final interview of a selected shortlist, by Full Council. Council will then select the preferred candidate and determine the final process.

Members noted that under s42(1) of the Local Government Act a local authority must, in accordance with clauses 33 and 34 of Schedule 7, appoint a Chief Executive. The appointment decision cannot be delegated. However, the completion of the process steps to be used can be delegated.

Following discussion on the recommendation of the Mayor to have a panel comprising of the Mayor, the Deputy Mayor and the Chair Assets & Services to be given that process step delegation, it was agreed to add the Deputy Chair of the Environment & Planning Committee and the Marlborough Māori Ward member.

The Mayor/Clr Dalliessi:

That a panel comprising the Mayor, Deputy Mayor, Chair Assets and Services, the Deputy Chair of the Environment & Planning Committee and the Marlborough Māori Ward member be delegated authority to undertake the Chief Executive appointment process to the point where a shortlist for final interview and selection is submitted to Full Council.

Carried

Cncl-1123-146 Draft Marlborough Navigation Safety Bylaw

H100-001-01

Members noted that the purpose of the report was to provide an update on the submissions received on the draft Navigation Safety Bylaw and to receive all submissions including the one received after the closing of submissions on 1 October 2023.

Staff reported that Council notified a draft Navigation Safety bylaw on 15 June 2023. The period for receiving submissions closed at 5pm on 1 October 2023. Council received six submissions. One submission (from the Queen Charlotte Yacht Club) was received on the morning of 2 October 2023.

Staff recommended that a hearing panel comprising of Councillor Innes, Councillor Minehan and Councillor Faulls be appointed to hear the views of the two submitters who wish to speak. Following the hearing, the panel will deliberate and make their recommendations to Council. It was agreed that Clr Croad be added to that group, with only three of the four actually hearing and deliberating.

Clrs Innes/Minehan:

- 1. That the late submission from Queen Charlotte Yacht Club be accepted.**
- 2. That the Sub-Committee to hear and deliberate on the submissions be made up of three members from Councillors Innes, Minehan, Faulls and Croad.**

Carried

Cncl-1123-147 Services and Operations Delivery – Levels of Service and 2024-2025 Budget

F230-L24-09-03

Members noted that the purpose of the report was to share team information and update Councillors on emerging issues relevant to the Services and Operations Delivery Team. A presentation was shown (filed in CM: Record No. 23252571).

Staff reported that the purpose of the team was to ensure the effective operation of Council through efficient management of buildings, vehicles and supporting services, ensure employees, Councillors and visitors have a comfortable and safe environment to work and the right resources to enable them to carry out their role effectively, provide secretarial and administration service across Council teams and supporting services for committees, community and internal meetings, and provide services for Marlborough residents, businesses and visitors, via the Customer Service Centre, responding to emails, phone calls and face to face enquires at

the Seymour Street offices. The aim is to provide timely, high quality, accurate information on all Council related services. There was no request to increase budgets.

Clr Dalliessi requested that a running total of approvals be made available, the Manager Strategic Finance is to action.

The Mayor/Clr Dalliessi:

That Council receive the information contained in this paper and approve the 2024-25 financial year budget for operating expenditure of \$3.111 million for Councils' Services and Operations Delivery function.

Carried

ATTENDANCE: The meeting adjourned at 10.21 am and resumed at 11.00 am

Cncl-1123-148 People & Capability – Levels of Service and 2024-2025 Budget F230-L24-09-03

Members noted that the purpose of the report was to request approval for additional funding for the 2024-25 People & Capability Operating budget and an additional 1.0 FTE position – Health, Safety & Wellbeing Coordinator from 1 July 2024. A presentation was shown (filed in CM: Record No. 23252572).

Ms Randall reported that Council is facing challenges with attraction and retention of staff. Resourcing the upcoming RMA reforms, ensuring the retention of Three Waters staff and competing for talent in the current market mean we need to invest in recruitment, attraction and retention strategies. Council FTE has increased by 22.7% since 2017 (from 253.1 to 310.6), however the resourcing in the People & Capability team, in particular in the Health, Safety and Wellbeing space has remained constant, making it challenging to resource the increasing demands and compliance requirements in the HS&W space. The additional staff numbers as well as increasing focus on employee mental health and wellbeing, mean our basic HS&W training requirements are increasing. Supplier costs, in particular insurance, are increasing across the board.

Clrs Croad/Sowman:

- 1. That Council receive the information contained in this paper and approve the 2024-25 financial year budget for operating expenditure of \$1.729 million for the People and Capability function.**
- 2. That Council approves additional funding of \$45,000 for the 2024-25 operating budget.**
- 3. That Council approves an additional 1.0 FTE position and associated budget increase of \$72,000 for a Health, Safety & Wellbeing Coordinator from 1 July 2024.**

Carried

Cncl-1123-149 Information Management – Levels of Service and 2024-2025 Budget I135-002-001-01

Members noted that the purpose of the report was to provide an overview of Information Management's (IM) current Level of Service (LoS) to Council and the budget associated with delivering this LoS, to seek approval for the recommendations presented at the 31 October 2023 LoS Presentation, to seek approval to increase IM's operating expenses, and to seek approval to implement the proposed recommendations for budget savings.

Staff reported that Council is facing challenging times with Software as a Service (SaaS) transitioning into budgets as an operating expense instead of a capital expense. Other challenges being faced include the effect of Central Government legislation implementations on all Council departments. These implementations often require complex changes to the ways in which we operate, deliver services, and manage our digital systems and technology infrastructure. Council's new *Strategic Blueprint for Marlborough's Digital and Data Transformation* (Strategic Blueprint) has been developed to align with Council's Four Wellbeing's and Smart and Connected Vision. This is a ten-year plan that will provide supporting strategies and roadmaps moving forward. The current state review undertaken as part of the Strategic Blueprint has provided depth and insight into our activities and how these can effectively address our ongoing increase in costs moving forward and

consolidate assets. This is the transition period until a business case is provided and prioritisation of work is undertaken.

Cirs Dawson/Croad:

1. That Council approves the proposed Information Management 2024-25 operating expenditure budget of \$9,502,000, less the following adjustments:

Item	Amount
Decrease in Hardware Depreciation Rates	To be quantified
Decrease Software Depreciation Rates	To be quantified
Qlik Licences	3,237
Audio Support Contract	28,100
Business Analyst Contracts	27,000
Takanini Site	7,180

2. That Council approves the proposed Information Management 2024-25 capital expenditure budget of \$1,915,000, less the following adjustments:

Item	Amount	Comment
Computers/Laptop	75,000	Move out financial years
Monitoring and Development	395,000	Move out financial years

3. That Council note that LIM, GIS and other Information Management fees are to be reviewed, with application from 1 July 2024.

Carried

Cncl-1123-150 Legal Services – Levels of Service and 2024-2025 Budget

L150-020

Members noted that the purpose of the report was to review the levels of service provided by the Legal Services Department (**Department**) and seek approval of the proposed budget and staffing changes. A presentation was shown (filed in CM: Record No. 23252573).

Mr Foitzik reported that almost all of the Department's activities are driven by demands from other Council Departments for legal advice and assistance. The Department is a new department of Council and has seen a significant increase in legal advice requests over the last two years. This is largely due to staff becoming more aware of (and familiar with) the assistance the Department can offer and the depth of in-house legal expertise being available. Cost savings (no charge for services), ease of accessibility and quick turnaround times have also contributed to the increase in requests. The Department's Contract and Procurement Manager, who also oversees Council's risk portfolio, will reduce his hours to 3 days pw in January 2024 and retire in September 2024. Succession planning was successful and an internal staff member will take over the role in September next year. However, the vacant Risk & Insurance portfolio will be a challenge to fill. The recent recruitment of a junior solicitor has improved the performance of the team significantly. However, workload peaks still cause capacity issues. Long term (2025/2026 budget or later) recruiting a mid-level solicitor (3-5 years PQE) is proposed to complete the team, balance out workload peaks and further reduce reliance on external counsel (thereby also reducing Council's legal spend across the organisation).

Cirs :

1. That Council receive the information contained in this paper.
2. That Council approve the 2024-25 financial year budget for operating expenditure of \$719,000 for the Legal Services Unit.

Carried

**Cncl-1123-151 Finance Department – Levels of Service and
2024-25 Budget M100-01-01, E360-002-002-02**

Members noted that the purpose of the report was to review the levels of service provided by the Finance Department and seek approval of the proposed budget and staffing increases. A presentation was shown (filed in CM: Record No. 23252574).

Mr Fletcher reported that the majority of the Department's activities are driven by either statutory requirements, e.g. including, but not limited to compliance with the Local Government Act 2002, the Local Government Rating Act 2002, the Income Tax Act 2007, the GST Act 1985, the Water Services Entities Act 2022; a number of Regulations, including the Financial Reporting and Prudence Regulations 2014 and Financial Reporting Standards, or the demands made by other Council Departments in the areas of Accounts Payable, Accounts receivable (of which there has been significant growth) and financial reporting and advice. Since the announcement of the Three Waters reforms, because of the uncertainty of future employment, a strategy of not increasing staff numbers has been in place. This has resulted in a situation where staff numbers in the Department are significantly lower than in equivalent Councils and there is limited resilience. The Department has continued to perform to high levels because of the level of experience within the team, but through resourcing constraints has not been able to pursue desired improvement projects.

Cllrs Croad/S Arbuckle:

- 1. That Council receive the information contained in this paper on Councils' Finance function.**
- 2. That Council agree to the Finance Department's proposed expenditure budget totalling \$2.853M for the 2024-25 financial year plus the estimated \$140,000 cost of the proposed additional staff.**

Carried

**Cncl-1123-152 Combined Sewerage Scheme Rates for the
2023-24 F270-2306**

Members noted that the purpose of the report was to correct a small anomaly in the 2023-24 Rates setting process.

Mr Fletcher reported that a small anomaly has been identified in Council's Combined Sewerage Scheme rates for the 2023-24 rating year. This paper identifies a number of options to address this and draws heavily on advice received from Simpson Grierson.

The Mayor/Cllr Hope:

That Council amends the Rates Resolution in reliance on section 46 of the Legislation Act 2019, and in accordance with the requirements of the Council's Standing Orders to read,

"Combined Sewerage Scheme Charge

Pursuant to Section 16 of the Local Government (Rating) Act 2002 the following Rates are to meet expenditure of the combined sewerage scheme other than capital and debt servicing costs:

- A Sewerage User Charge to be set on the basis of a fixed amount of \$482 on every separately used or inhabited part of a serviced rating unit connected to the Combined Sewerage Scheme.***
- A Sewerage Non-User Charge to be set on the basis of a fixed amount of \$241 on every separately used or inhabited part of a serviceable rating unit within the Combined Sewerage Rating Area."***

Carried

Cncl-1123-153 2024 Council Meeting Schedule

D050-001-01

Attached to the Agenda for consideration was the draft schedule of meetings for 2024.

The Mayor/Clr Croad:

That the meeting schedule for 2024 be approved.

Carried

Cncl-1123-154 Decision to Conduct Business with the Public Excluded

The Mayor/Clr Adams:

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Confirmation of Public Excluded Minutes
- Committee Reports (Public Excluded Sections)
- Maintenance Works
- Property

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Maintenance Works Property	To enable the Council, as holder of the information, to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) provided for under Section 7(2)(i)	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed with a karakia at 12.44 pm.

Confirmed this 14th day of December 2023

N P TAYLOR
MAYOR

Record No. 25252575

4. Minutes

- 4.2 Confirmation of the Minutes of the Extraordinary Council Meeting held on 4 December 2023
(Minute Nos. Cncl-1223-202 to Cncl-1223-203)

**Minutes of the
EXTRAORDINARY MEETING of the MARLBOROUGH DISTRICT COUNCIL
held in the Council Chambers and via Teams, 15 Seymour Street, Blenheim
on MONDAY 4 DECEMBER 2023 commencing at 8.30 am**

Present

The Mayor N P Taylor (in the Chair), Cllrs S R W Adams, J A Arbuckle, S J Arbuckle, A R Burgess, J D N Croad, D A Dalliessi, B G Dawson, B A Faulls, M R K Flight, B J Minehan, J C Rosene and T P Sowman

Present via Teams

Clr R J Innes (to 9.04 am)

In Attendance

Messrs M S Wheeler (Chief Executive) and M J Porter (Democratic Services Manager)

Karakia

The meeting opened with a karakia.

Apologies

The Mayor/Clr J Arbuckle:

That the apology for absence from Clr G A Hope be received and sustained.

Carried

Cncl-1223-202 Declaration of Interests -

Members were reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

No declarations of interest were declared.

Cncl-1223-203 Together Te Taiuhu – Partnership Agreement

P150-T02

Members noted that the purpose of the report was to consider the Together Te Taiuhu Partnership Agreement for approval. It was noted that a signing ceremony is to be held at Wakatū (Nelson) on 12 December 2023.

Mr Wheeler reported that the Te Taiuhu Iwi Chairs and Mayors Forum supported the creation of a working group made up of iwi General Managers and Council Chief Executives to develop a joint agreement. Council Kaihautū and several iwi General Managers had been approved to work with consultant Johny O'Donnell (OD & Co) to facilitate hui and deliver this agreement. The agreement has been informally agreed by both iwi and councils as a foundation for the aspiration to work more effectively together. Each year an annual operational action plan will be developed to prioritise joint projects to be worked on.

Mr Wheeler also reported that a common aim is that there needed to be a far more efficient and streamlined model for working together across councils and iwi. This is a top priority especially for resource stretched iwi and moving forward with the agreement provides a pathway for achieving this, by establishing a solid foundation and common language between partners to refer back to. The agreement is underpinned by the aspirations of Te Taiuhu Intergenerational Strategy which Council endorsed several years ago. It does not preclude individual approaches to issues by either iwi or Council but does encourage a joint approach.

Mr Wheeler further reported that Council will continue to develop its relationships with Ngāi Tahu and Ngāti Kuri in a similar spirit to that provided by this agreement. The agreement does not prevent that. Ngāi Tahu will not participate in this agreement – they wish to remain self-reliant. This agreement does not preclude others being negotiated.

Members noted that this agreement is not a contractual (binding) agreement.

Clr J Arbuckle moved (with Clr Sowman seconding) a motion to decline signing the agreement and that a review be undertaken in 12 months' time, citing that Councillors had never been involved in any face to face discussions and therefore had been prepared at arms-length of them, the different world views, the inflexibility of the agreement, the language, and amalgamation and identity issues. Members discussed the motion and the views surrounding it. Following discussion, the motion was put to the meeting.

Clrs J Arbuckle/Sowman:

1. That Council decline to sign the Together Te Taiuhu Partnership Agreement (attached to the Agenda as Attachment 4.1).
2. That the decision to decline to sign the Together Te Taiuhu Partnership Agreement be reviewed in 12 months' time.

Lost on a show of hands 4 to 9

NB: Clrs Adams, J Arbuckle, S Arbuckle and Sowman requested that their vote for the motion be recorded.

A second motion (being the original recommendation as per the agenda) was then put to the meeting:

The Mayor/Clr Croad:

1. **That the Together Te Taiuhu Partnership Agreement (attached to the Agenda as Attachment 4.1) be approved.**
2. **That the Mayor and Chief Executive be delegated authority to approve or decline any further minor amendments to the attached agreement proposed by other parties to the agreement.**
3. **That the Mayor be given approval to formally sign the final agreement.**

Carried on a show of hands 9 to 4

NB: Clrs Adams, J Arbuckle, S Arbuckle and Sowman requested that their vote against the motion be recorded.

The meeting closed at 9.07 am.

Confirmed this 14th day of December 2023

N P TAYLOR
MAYOR

Record No. 23256949

5. Committee Reports

5.1 Assets & Services Committee

Assets & Services Committee Meeting held on 14 November 2023
(Minute Nos. A&S-1123-155 to A&S-1123-165)



**Report and Minutes of a Meeting of the
ASSETS & SERVICES COMMITTEE
held in the Council Chambers and via Teams, 15 Seymour Street, Blenheim
on TUESDAY 14 NOVEMBER 2023 commencing at 9.00 am**

Present

Cirs B G Dawson (Chairperson), J C Rosene (Deputy), J D N Croad, S R W Adams, D A Dalliessi, M R L Flight and Mayor N P Taylor

Also Present

Cirs S J Arbuckle, A R Burgess, G A Hope, R J Innes, B J Minehan and T P Sowman

Also Present via Teams

Cirs J A Arbuckle and R J Innes

In Attendance

Mr Richard Coningham (Manager – Assets & Services Department), Jamie Lyall (Manager – Property and Community Facilities) and Nicole Chauval (Committee Secretary)

Apologies

Cirs Dawson/Croad:

That the apology for non-attendance from Clr B A Faulls be noted.

Carried

A&S-1123-155 Declaration of Interests -

Clr Dawson declared in interest in Item 6 – Proposed Abbeyfield Marlborough Development – Murphys Creek Reserve

Clr Croad declared an interest in Item 11 – Out of District Water and Wastewater Easement in Esplanade Reserve, Horton Street.

ATTENDANCE: Mathew Kerr (Chairperson) and Samantha Forrest (Treasurer) of the Marlborough Stadium Trust were present for the following item.

A&S-1123-156 Marlborough Stadium Trust – Annual Report

R300-001-04

Mathew Kerr and Samantha Forrest presented the Marlborough Stadium Trust's audited annual accounts and reported on its activities for the past financial year with a powerpoint presentation (presentation filed in CM Rec. No. 23244499)

Members noted that the [Annual Report](#) was available Council's website.

At the conclusion of the presentation Mayor Taylor and the Chair, Clr Dawson, presented a certificate to retiring Trustee Simon Halliday acknowledging his 24 years of service to the Marlborough Stadium Trust.

Members congratulated the Trust on the report and acknowledged the work that the Trust has done and is doing to continue to provide Marlborough with a world class facility.

Cirs Flight/Croad

That the Marlborough Stadium Trust's Annual Report and Financial Accounts for the year ended 30 June 2023 be received.

Carried

ATTENDANCE: Cllr Hope joined the meeting at 9.43 am during the following item.

ATTENDANCE: Ms Linda Craighead, Council's Parks & Open Spaces Planner, was present for the following three items.

A&S-1123-157 Provision of Specialist Change Facilities Policy

R510-014-001-04

Ms Craighead advised that the purpose of the report was to inform Councillors of feedback received on the specialist change facilities policy and to seek approval of the Provision of Specialist Change Facilities Policy with minor amendments.

Six submissions were received to the notified Policy. Matthew May, a submitter on the Policy, was present in Chambers and spoke to his submission.

Mr May advised there is a facility at the Queen Charlotte College that they are able to access during school hours, but it is difficult to use and doesn't meet the needs of the users.

It was noted there was good support for the Policy and submitters were appreciative of the facilities that had been provided by the Council. There were concerns around need and extent of use being factors in whether there should be further facilities provided and that facilities should always be open 24/7 and that more facilities were needed.

Members noted their support for the policy and in particular 4.5 of the policy which covers the aspirations of the submitters and provides direction for what Council wants to achieve in Picton, while keeping in mind development opportunities where such a facility could be included.

In response to a query on whether the budget set aside for a facility at Pollard Park was still available. Members were advised that the budget has been put towards a new facility in Te Kahu o Waipuna. It was noted that the Annual Plan submitter on the specialist change facility at the Park was happy with the budget being diverted to a facility in Te Kahu o Waipuna. It was noted there has been unexpected delays in its completion, but it is being progressed.

The Mayor/Cllr Flight:

That Council approve the Provision of Specialist Change Facilities Policy. Refer Attachment 1.

Carried

ATTENDANCE: Matthew May withdrew from the meeting at the conclusion of the above item.

A&S-1123-158 Review of Tree Policy

R510-014-019-05

Ms Craighead reported that the purpose of the report was to seek approval to notify a reviewed Marlborough District Council Tree Policy for public feedback in January. The policy was attached to the agenda item for member's information.

Ms Craighead noted that the Council adopted a Tree Policy in June 2020 for land that is actively managed by the Parks and Open Spaces section. The Policy had a 3-year review period and a staff review has now occurred. No significant changes were proposed with changes being more of a refinement of existing processes such as the provisions around the notable tree fund as the fund is fairly limited. Also modified was the inspection regime around Overhanging Vegetation Growth.

Members were advised that the main tree removal policy has not had any significant changes.

Members noted that as a new policy the rework is positive, and it is particularly pleasing to see a bolstered introduction that highlights the value of trees. Also important is having an objection process as it gives the public an ability to input into the process.

It was noted that due to the Christmas / New Year break it is proposed that the policy be publicly notified in late January and would be open for submissions for an approximate six week period.

The Mayor/Clr Croad:

That Council approve for the purposes of public consultation the reviewed Marlborough District Council Tree Policy (dated 1 November 2023).

Carried

ATTENDANCE: Clr Dawson declared a conflict of interest and withdrew for the following item and Clr Rosene assumed the chair.

**A&S-1123-159 Proposed Abbeyfield Marlborough development
– Murphys Creek Reserve R510-009-M13-04**

Ms Craighead reported that the purpose of the report was to provide an update on the proposal of Abbeyfield Marlborough seeking to use part of Murphys Creek Reserve to locate a residential house for senior citizens.

In summary Ms Craighead noted that at the previous meeting a report had been prepared setting out information about the Reserve and the statutory processes required to uplift the reserve status. A check on the status of the land found that the Reserve is derived from Crown land and so the decision as to whether the land could be gifted to Abbeyfield Marlborough would not be the Council's to make.

Members were advised that a discussion with the Department of Conservation, who manage the initial stages of a revocation process, has occurred and the advice is that disposal is subject to the Public Works Act 1981 and the Council would not have a say in how the land is disposed of.

Ms Craighead noted that for any reserve land that has been Crown derived Council would be in the same position.

Members acknowledged the information and noted that as there is no guarantee that Abbeyfield Marlborough could gain access to the land it would result in an unintended consequence of the land being lost for community use for all time.

The Mayor reported that she has met with Abbeyfield Representatives to discuss the findings and noted that Council staff had also been keeping Abbeyfield informed. Abbeyfield understood and accepted the situation and they too didn't want to see the reserve lost as a public space.

The Mayor/Clr Dalliessi:

That the Council do not proceed with the revocation process under the Reserves Act 1977 over part of Murphys Creek Reserve.

Carried

ATTENDANCE: Clr Sowman withdrew from the meeting at 9.57 am at the conclusion of the above item.

ATTENDANCE: Mr Regan Russell, Council's Project Coordinator, was present for the following item.

**A&S-1123-160 Renwick Sports & Events Centre – Replacement
Lift R510-009-R04-01**

Members noted that the purpose of the report was to seek funding approval for the replacement of the passenger lift at the Renwick Sports & Events Centre (Centre).

Mr Russell reported that the Renwick Sports Events Centre had made a submission to the 2023/24 Annual Plan seeking funding for a replacement lift in the Centre's building. The decision from Council was that the submission be referred to the Assets and Services Committee for consideration.

Mr Russell advised that the lift at the Centre has not worked for the last four years despite several attempts to repair it. Advice has now been received from two independent lift companies that the current lift cannot be repaired and that a new lift is required. For a building of this size, the New Zealand building code and the access standard NZS 4121:2001 requires a working lift to service the facility. Currently access cannot be provided for all users of the facility, which places some limitations on events and activities able to be held there.

Members were advised that two quotes have been provided for repair or replacement of the lift. Both companies have advised that replacement of the lift was the only option due to parts associated with this model being obsolete and not supported in New Zealand. Quotes provided were \$107,900 + GST and \$158,784 + GST. The disparity between the quotes is due to one reusing some of the existing parts of the lift. It was proposed that it be funded be through the Forestry and Land Development Reserve.

In response to a query on reuse of parts, it was noted that the only part considered for reuse is the 'car' and surrounds as all internal workings will be replaced.

Members were supportive of the request noting that the facility needs to be accessible to all and a lift is required for that to happen. It was noted that the Centre hadn't sought any other sources of funding.

Cirs Croad/Adams:

That Council approve funding of \$107,900.00 + GST from the Forestry and Land Development Reserve to replace the passenger lift at the Renwick Sports & Events Centre.

Carried

ATTENDANCE: Mr David Craig, Council's Finance & Information Supervisor, was present for the following item.

A&S-1123-161 Financial Report for the year to 30 September 2023

F275-001-02

The Financial Report for the Assets and Services and Property and Community Facilities (including parking) Departments for the year to 30 September 2023 was presented to members.

Mr Craig advised that through the combined activities of the two departments, there is an actual operating surplus of \$2.52M, this is unfavourable to budget by \$2.2M. There are revenues of \$36.1M, which are unfavourable to budget by \$7.25M. The main contributors to this are Council's two roading subsidy components, one for operational costs and one for capital costs.

The major variances between year to date actual and budget were noted as Roothing emergency reinstatement costs relating to the July 2021 and August 2022 storm events are below budget by \$4.4M and are offset by reduced operational roading subsidies of \$3.69M.

Roothing subsidy on capital expenditure is below budget by \$5.87M due to a combination of the unexpended capital component of emergency reinstatement works \$4.99M and the normal renewals programme being typically scheduled over the warmer summer months.

Network and Asset Management costs are unfavourable to budget by \$211k. Council budgets for 60% of this cost under its roading renewal activities. An adjustment is made at year end to recognise this. Also, within the Roads and Footpaths activity there is a favourable variance of \$561k for sealed pavement maintenance. For simplicity, all operating expenditure budget carryovers for roading were accumulated to this expenditure category.

Other flood damage repair costs have been incurred within the Flood Protection Activity and are well within budget at this time, with a favourable variance of \$721k. There are also associated savings of \$378k for minor works contracts in that same Activity. Flood event welfare response and recovery costs are captured under the Emergency Management Activity and expenditure to date is \$342k These costs are offset by subsidy of \$284k from Waka Kotahi (NZTA).

Development contributions (\$714k) and Reserve fund contributions (\$191k) are both favourable to budget. Levies for stages 10A and 10B of the Rose Manor development have been paid in advance by the developer, to avoid inflationary adjustments.

Vested assets are unfavourable to budget by \$285k. Accounting entries are pending for stage 9b of the Rose Manor subdivision.

Dump fee revenue is favourable to budget by \$280k.

Grant income is favourable to budget by \$682k due to the Ministry of Education surrender payment for College Park use and contribution towards the hockey turf relocation \$917k; offset by unfavourable Better Off funding payments \$235k.

Project expenditure in Community Facilities is unfavourable to budget by \$1.38M due to construction of the new artificial hockey turf on Ministry of Education land.

Insurances are favourable ytd by \$422k. Further premiums are due to Local Authority Protection Plan (LAPP) later in the year for 3Waters and River assets.

Interest payments are favourable to budget by \$262k

Additional information on variances at an activity level were detailed in the agenda item.

Cirs Croad/Dawson:

That the financial report for the period ended 30 September 2023 be received.

Carried

ATTENDANCE: Mr Steve Murrin, Marlborough Roads Transports Manager, was present for the following item.

A&S-1123-162 Auckland Street Closure – Decision R800-006-002-02

Mr Murrin noted that the purpose of the report was to seek Council's support for the closure of the southern approach to the Auckland Street / Broadway intersection to vehicle traffic in Picton as part of the iReX project.

Members were advised that as part of the iReX project one of the consent conditions was that the section of Broadway between Auckland Street and Market Street be closed. When a safety audit was undertaken on this intersection the audit also recommended that Council consider the closure of Auckland Street south. Diagrams of the proposed closures were contained in the agenda item.

Mr Murrin advised that from a safety point of view Marlborough Roads supports the proposal.

Mr Murrin also noted that there will be costs associated with the proposal and these should sit with KiwiRail / Waka Kotahi. KiwiRail have indicated that they will not fund it but discussions that have been had with Waka Kotahi is that it should be included as part of the revocation of SH1 when Auckland Street becomes a Council road.

It was queried whether the owner of the building beside the bridge has been advised of the proposal. Mr Murrin reported that KiwiRail have been dealing with the surrounding businesses/landowners.

Cirs Rosene/Flight:

That Council endorses the closure to vehicles of the southern approach to the intersection, being Auckland Street South, but the consultation and funding for the closure including any footpath/kerb and channel/gate upgrades needs to be undertaken by Waka Kotahi.

Carried

ATTENDANCE: Mr Geoff Dick, Council's Senior Rivers Technical Engineer, was present for the following item.

**A&S-1123-163 Rangitāne Investments Ltd Stormwater
Easement in Esplanade Reserve, Horton Street
R510-009-R04-01**

Mr Dick advised that the purpose of the report was to seek Council approval for a relocated stormwater easement in favour of Rangitāne Investments Ltd over Local Purpose (Esplanade) Reserve adjacent to the true right bank of the Ōpaoa Loop.

Members were advised that Rangitāne Investments Limited ("Rangitāne") own the property at 16 Horton Street and are developing the site into four separate industrial leasable areas for tenancing and are currently at Stage 2 of the development. Rangitāne applied for a resource consent for the current development which has identified that the stormwater discharge from their site, as they do the development, is not into the stormwater network but directly into the Ōpaoa Loop. Rangitāne need to drain the properties' treated stormwater to the Ōpaoa Loop via the adjoining Council owned Esplanade Reserve land. It was noted that the discharge for the development of the first two lease sites is a permitted activity. Discussions were had with Rangitāne's project manager and engineers and the result of the discussions was an Executive Agreement which the draft was attached to the agenda item for members' information.

Mr Dick advised that an implicit assumption in the Radich Law agreement is that Rangitāne will still only be able to construct one new northern outfall as intended at the time of subdivision of the former Railways land. Effectively a new easement will be granted at the carwash site and existing Easement A will be extinguished.

Mr Dick also noted that the council land is a reserve under the Reserves Act 1977 which has a mechanism to grant or amend easements over reserves. It was reported that the easements are necessary to reflect that the new stormwater outfalls are private services and not Council assets.

It was noted that Council's Rivers Section has assessed the installation of the northern stormwater outfall in the new more southerly location and advise that it will have no additional or new effects on the reserve being a buffer strip to the river with public access and riparian planting.

Members were supportive of the arrangement as it is extinguishing existing easement A but creating a new easement therefore like for like.

NB: Amendment to paragraph 2 address is 16 Horton Street not 14 Horton.

Cirs Adams/Flight:

That Council approves the granting of a new stormwater easement (and extinguishing of existing easement A) pursuant to Section 48(1)(f) of the Reserves Act 1977, in favour of Rangitāne Investments Ltd over Lot 2 DP 11967 being a Local Purpose (Esplanade) Reserve, subject to Rangitāne Investments Ltd meeting all costs incurred by Council in the granting and documenting of the amended stormwater easement location.

Carried

ATTENDANCE: Mr Stephen Rooney, Council's Operations & Maintenance Manager, was present for the following item.

**A&S-1123-164 Out of District Water and Wastewater
Connection applications for Marina Drive,
Waikawa W440-003-004-01, W450-004-006-03,
PN500128#04, PN500101#04, PN500099#04, PN500080#04**

Mr Rooney advised that the purpose of the report was to consider an Out of District Water and Wastewater connection for properties adjacent to the Waikawa Marina extension.

It was reported that Council has received a request for water and wastewater connections for Lot 1 DP 3080, adjacent to the Waikawa Marina extension. The site is situated outside of the Picton Residential Zone. Port Marlborough installed connections to this and three other properties during construction of the marina extension to enable future connection. The site/s is not currently connected to the Council water or wastewater systems.

Members were advised that Council infrastructure has the capacity to serve these properties with wastewater connections but is not able to provide a water supply. The application request also considers approval for future connection to the other three properties.

Mr Rooney reported that he had discussed with the current applicant in regard to the ability to provide a water supply which they understood but wished to continue to progress with the sewer connection so they could do away with their septic tank.

It was noted that there should be an agreement between Port Marlborough and the property owners to acknowledge and ensure their rights of discharge through the Port Marlborough's infrastructure continues.

Mr Rooney noted that the standard development contribution fees will apply and that they will pay Picton sewer rates once connected.

**Cllrs Adams/Flight:
That Council:**

1. **Decline the Out of District Water connection application.**
2. **Approve the Out of District Wastewater connection application subject to the following conditions;**
 - (a) **The approval is for only one dwelling connected on each Lot,**
 - (b) **That a Wastewater Development Contribution be paid for 1.0 Household Equivalent Unit and applied as per the Development Contributions policy for each Lot**
 - (c) **The properties will use Port Marlborough wastewater infrastructure, including a sewer pump station to convey sewage to the Council connection at Marina Drive, opposite #23 Marina Drive**
 - (d) **It is advised property owners should enter into agreements with Port Marlborough for the use of PM infrastructure and to set out the maintenance responsibilities for maintenance including power supply, protecting rights for continued future use of PM wastewater infrastructure.**
 - (e) **That the properties pay Wastewater rates as per Council's Out of District connections rating policy from July 1 following this approval.**

Carried

A&S-1123-165 Information Package

Cllrs Croad/Dawson:

That the Assets and Services Information Package dated 14 November 2023 be received and noted.

Carried

The meeting closed at 10.26 am.

Attachment 1

Provision of Specialist Change Facilities Policy

1. Purpose

The policy provides guidelines for the provision of specialist change facilities being a dedicated area where people with multiple or complex disabilities can be changed or toileted by their caregiver in a safe and clean environment. The facility requires specialist equipment including a change table and a lifting/lowering hoist and therefore has greater requirements than the standard accessible toilet.

2. Scope

The policy applies to specialist change facilities that may be located in Marlborough District Council owned or administered buildings.

3. Objective

The provision of specialist change facilities in appropriate locations to serve the needs of the Marlborough community and visitors to the district.

4. Policies

4.1 Specialist change facilities will generally include the following features:

Equipment

- height-adjustable, adult-sized changing table
- ceiling track hoist system
- wall-mounted handrails
- accessible toilet
- accessible handbasin for wheelchair users
- foldable wall mounted handrails both sides of the toilet for self-transfer either side

Space

- adequate space to move around, for a person in a wheelchair and two caregivers
- space on both sides of the toilet, so two caregivers can assist the user

Safe and clean environment

- non-slip floor
- large waste disposal bin for disposable pads
- secure access system to ensure the room is only being used for its intended purpose

4.2 At least one Council provided specialist change facility will remain open 24 hours daily.

4.3 There will be two specialist change facilities located in Council buildings in Blenheim.

4.4 Where additional facilities are requested in Blenheim, the matters that will be considered include:

- a) the need identified for the additional facilities
- b) the extent to which existing facilities are used or cannot accommodate the additional demand
- c) the location proposed and the numbers of people anticipated to attend or be accommodated at the location
- d) the costs of installing the facility and ongoing maintenance costs

4.5. As funding and space becomes available and based on evidenced needs, consideration will be given to the provision of one specialist change facility in Picton.

Record No. 23247126

5. Committee Reports

5.2 Environment & Planning Committee

Environment & Planning Committee Meeting held on 16 November 2023
(Minute Nos. E&P-1123-166 to E&P-1123-181)

**Minutes of a Meeting of the
ENVIRONMENT & PLANNING COMMITTEE
held in the Council Chambers and via Teams, 15 Seymour Street, Blenheim
on THURSDAY, 16 NOVEMBER 2023 commencing at 9.00 am**

Present

Clrs G A Hope (Chairperson), B A Fauls (Deputy), S A Arbuckle, A R Burgess, R J Innes, B J Minehan, T P Sowman, Mayor N P Taylor and Mr S Harvey (Rural Representative)

Also Present

Clrs S R W Adams and J A Arbuckle

In Attendance

Mr H R Versteegh (Environmental Science and Policy Group Manager) and Nicole Chauval (Committee Secretary)

Apologies

Clr Hope/Mr Harvey:

That the apology for non-attendance from Clr J D N Croad be noted.

Carried

E&P-1123-166 Declaration of Interests -

Mayor N P Taylor declared an interest in Item 9 – Appeals on the PMEP.

NB: The order of the agenda was altered at this point and the following Item 8 was heard ahead of Item 1.

ATTENDANCE: Mr Peter Davidson, Council's Environmental Scientist Groundwater Quantity & Quality was present for the following item and Laura Banasiak (ESR Christchurch) and Murray Close (Retired - ESR Christchurch) were present via Teams for the following item.

**E&P-1123-167 National Pesticide in Groundwater Report –
National Survey of Pesticides, Emerging
Organic Compounds and PFAS in Groundwater
2022** **E345-007-001**

Mr Peter Davidson introduced Laura Banasiak and Murray Close to the meeting via Teams. Mr Davidson acknowledged Murray Close who has run the programme since 1990.

The report [2022 National Pesticide in Groundwater](#) was presented and is available on Council's website.

A powerpoint presentation – National Survey of Pesticides and Per- and Polyfluoroalkyl Substances (PFAS) in Groundwater 2022 was shown (CM Ref. 23248461). It was noted that the survey was funded by the regional and Unitary Authorities, whose support ensures the continuation of long-term monitoring of pesticides in groundwater throughout New Zealand.

As part of the presentation and discussion it was reported that pesticides were detected in 9.2% of the 184 wells sampled nationally. Nationally, only two pesticides were present at high concentrations, one of which was dieldrin (persistent insecticide) which exceeded the MAV, and clopyralid (herbicide) present at a

concentration of greater than 1.1 micro g/litre but doesn't have a specified MAV. The herbicide terbuthylazine was measured at a very low concentration at the MDC Renwick municipal supply well. The capture zone for this well is the land to the south-west, above and below the terrace which is dominated by vineyard. PFAS was not detected at any of the wells sampled in Marlborough.

Laura Banasiak provided a response to Cllr Minehan's question on Terbuthylazine and Murray Close advised that the report is made available to MfE and he will confirm that it is being provided to the EPA.

It was reported that Marlborough District Council sampled 10 wells as part of the 2022 survey. This number is down on previous surveys due to work priorities in 2023 including aquifer allocation limit setting as part of the NPS for freshwater management.

It was noted that Marlborough did use to have annual surveys but have gone to four yearly due to budget constraints and minimal pesticides being reported. It was also noted that for the intensive use of the Wairau Plain a pesticide has never been detected that exceeds the maximum allowable value.

Cllrs Innes/Fauls:
That the report be received.

Carried

ATTENDANCE: Ms Katie Littlewood, Council's Principal Coastal Scientist, was present for the following item.

**E&P-1123-168 Coastal Water Temperature Trends Report Card
2015 – 2023 E325-000-001**

Ms Littlewood reported that the purpose of the report was to present the annual Coastal Water Quality Report Card prepared by Pauline Mitterwallner. The report card was attached to the agenda item for members' information. To highlight the report a powerpoint presentation was shown (filed in CM Record No. 23248468).

It was reported that coastal water quality is monitored monthly at 22 sites across Tōtaranui/Queen Charlotte Sound and Te Hoiere/Pelorus Sound. The monitoring data has shown that both the Pelorus Sound and Queen Charlotte Sound have exhibited record-breaking high temperatures in 2022, with annual averages reaching approximately 15.7°C for Pelorus and 14.7°C for Queen Charlotte.

Members were advised that the trend analysis based on temperature anomalies and Sen-slope estimates indicate that the persistent heatwave in the Cook Strait has led to a highly significant increase of temperatures across all outer Pelorus sites. The ongoing heatwave in the Cook Strait has not only impacted surface waters but is also affecting deeper ocean layers across the outer Pelorus Sound.

Ms Littlewood reported that some of the potential effects of warming ocean temperatures on marine species and habitats in the Marlborough Sounds is the increased chance of established pests spreading further, reproducing faster and having greater adverse impacts on biodiversity. It will also increase the risk of new invasive pests and diseases becoming established.

Members asked a number of questions at the meeting including how this work sits with the Sustainable Seas work particularly in regard to kelp restoration and shellfish restoration. Ms Littlewood advised that the kelp restoration project is through Auckland University which the Coastal Team have been involved with. The project is in its second year with surveys due to start next week. Ms Littlewood will be assisting in those surveys with the aim of a report being presented to the Committee in 2024.

In regard Sustainable Seas a hui was recently held with Te Ātiawa and stakeholders. It was noted that Te Ātiawa will confirm their involvement in the project with Council following their upcoming board meeting. A report is being completed and it is anticipated that this will be presented to the Committee in 2024.

Members acknowledged that it is daunting to receive reports like this but recognised the importance of the information.

Cirs Innes/Minehan:
That the information be received.

Carried

ATTENDANCE: Ms Rachel Russell, Council's Te Hoiere Programme Manager, was present for the following item.

E&P-1123-169 Te Hoiere Project Update

E355-021-01-001

The 2022-23 Te Hoiere Restoration Project Annual Report was received by the Committee and members noted that it was available on Council's [website](#). To highlight the report a powerpoint presentation was shown (filed in CM Record No. 23248467).

It was noted that the Te Hoiere Restoration Project is a multi-partner project which aims to address land use derived issues alongside wider conservation goals. Over the last year work has continued on both private and public land to improve water quality through fencing, planting and pest control and there has been a focus on communication, in particular the development of a portal on Council's [website](#). This has created a central point of contact and information about the project. Other communication tools include social media and newsletters to improve connection with the wider community.

Members were advised that the Te Hoiere Project has engaged Scarlatti to support a project review in November. The purpose of the review is to ensure that the activities funded over the next 18 months are achieved and to also start planning what the project might look like beyond the current funding.

Ms Russell advised that work is also being undertaken on the development of geospatial tools to enhance our understanding of the landscape and best mitigation actions for landowners. The other upcoming projects noted are forestry, Mātauranga Māori, monitoring and river management plan.

Clr Faulls thanked the team for their mahi and indicated that early in the new year a site visit be undertaken for those interested to places like the Ruapaka Wetland. Clr Faulls noted that a hui will be held next week to discuss the ongoing viability and sustainability of the project with a number of stakeholders present. The Trust is currently working on filling a trustee vacancy. It was also noted that having forestry working with the project is important as they are an integral part of the catchment.

Clr Burgess also noted her appreciation of the mahi from Ms Russell and the team, in particular working in partnership with other stakeholders to achieve the outcomes that we are now seeing and as a consequence having more and more partners come and be involved to do their pieces.

In response to a query regarding fish passages through culverts, Ms Russell advised that council staff are working through a process to assess the priority culverts that have been picked up through the catchment condition survey and NIWA report. It is planned to hold a workshop to go through the process of what culvert replacement looks like in terms of the new regulations.

Cirs Burgess/S Arbuckle:
That the information be received.

Carried

ATTENDANCE: Ms Rosanne Homewood, Council's Catchment Care Advisor, was present for the following item.

E&P-1123-170 Catchment Care for At-Risk Catchments in Marlborough E345-007-001

Ms Homewood provided members with an update on the Catchment Care programme for At-Risk catchments in Marlborough. To highlight this report a powerpoint presentation was shown (filed in CM Record No. 23248466).

Members were advised that the Catchment Care programme is jointly funded by MfE, MDC and landowners and is in year 4 of a 5-year programme. The programme is aimed at improving water quality in degraded/at risk catchments in Marlborough. Catchment Care supports the Are Are Creek, Flaxbourne, Linkwater and Tuamarina catchments.

It was reported that to date there has been a total of 13.32km of fencing funded, approximately 30,000 plants planted, and 12 dung beetle packs released. The programme is on track to meet its targets for fencing and planting at this stage with a further 11,000 plants and 4km of fencing planned for Year 4. Dung beetle releases are behind schedule.

Other areas of progress are an updated Catchment Care website section, which will fit into the new [Marlborough Rural Hub](#) portal. This is a restructured part of the Council website that aims to provide pertinent information in a more accessible way to Marlborough's rural communities. It will also support landowners in their development of Freshwater Farm Plans, with Are Are Creek being the first catchment to be "turned on" and the other At-Risk catchments following shortly after.

Ms Homewood advised that feedback on the new portal would be appreciated.

The successes and challenges of the programme were discussed and further detailed in the agenda.

Clr Burgess/Mr Harvey:
That the information be received.

Carried

ATTENDANCE: Mr Jono Underwood, Council's Biosecurity Manager, was present for the following item.

E&P-1123-171 National Wilding Conifer Control Programme – update E315-019-001-01

Mr Underwood advised that the purpose of the report was to provide the Committee with an update on the National Wilding Conifer Control Programme (NWCCP), on-ground programmes in Marlborough and a recent [one-off] funding announcement. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23248464).

By way of background Mr Underwood reported that since 2016, Council has been managing additional Central Government investment into wilding conifer management in Marlborough through the NWCCP. In the early years, the modest investment focussed on Rangitahi/Molesworth. As part of Budget 2020 under the broader Jobs for Nature banner, the NWCCP received \$100M of funding over four years. This level of funding enabled both a significant lift in investment into the Rangitahi/Molesworth programme along with three additional programmes – Waihopai, Sounds and a community project across the Te Hau/The Ned and Awatere areas.

It was noted that since 2020/2021, Council has acted as both funds manager and contract principle for Rangitahi/Molesworth and Waihopai programmes. The Sounds programme has continued to be managed by the Marlborough Sounds Restoration Trust and Te Hau/The Ned/Awatere programme managed by the South Marlborough Landscape Restoration Trust.

Mr Underwood reported that for the upcoming 2023/2024 season, the NWCCP funding has dropped back to the baseline level of \$10M per annum. Following careful strategic planning within the regions and in

conjunction with programme staff, all programmes in Marlborough will still receive a degree of funding although significantly lower than what is needed to protect the gains. It was noted that the Sounds programme has been able to increase other sources of funding through successful applications being made to third party funders by the Marlborough Sounds Restoration Trust.

Members were advised that for the new one-off funding for 2023/2024, it is anticipated that \$913,000 of the \$7M will be directed to Marlborough targeting areas where maintenance has been deferred in the most vulnerable landscapes. It is likely these additional funds will be directed to the Molesworth and Waihopai programmes, although discussions are still being finalised with local stakeholders and the national programme team at MPI.

It was noted that all contracts and funding agreements are in place for the core 2023/2024. With the new funding, once final details are confirmed, there will be a range of new contract variations made to facilitate the boost to the respective programmes.

Cirs Faulls/Hope:
That the information be received.

Carried

ATTENDANCE: Mr Alan Johnson, Council's Environmental Science and Monitoring Manager and Tim Newsham, Co-Chair Marlborough Landscape Group was present for the following item.

E&P-1123-172 Marlborough Landscape Group Disestablishment

C230-001-M05

Mr Johnson reported that the purpose of the report was to notify Council of the intention to disestablish the Marlborough Landscape Group (MLG) and seek approval to redirect the MLG annual funding of \$20,000 to the Mahi mō te Taiao Grant Scheme.

By way of background Mr Johnson advised that the Marlborough Landscape Group (MLG) was established by Council in 2002 in response to community concern about rapidly changing land use on the Wairau Plains. MLG was an advisory group to Council who provided advice on how to protect and enhance Marlborough's landscape, and also worked to increase public awareness of the landscape. The MLG has achieved many outcomes since 2002 which included planting projects such as the Taylor River Reserve, Grove Road business frontages, and initiating the Greening Marlborough funding to encourage native plantings on vineyards.

Mr Newsham further spoke to the history of the group and provided a kaleidoscope of before and after images showing plantings that the group had undertaken within Marlborough (presentation filed in CM Record No. 23248462).

Clr J Arbuckle, as a past co-chair of the Landscape Group, and Clr Innes, current co-chair, thanked Tim Newsham and members both past and present for their mahi, passion and vision in protecting and enhancing Marlborough's landscape and increasing public awareness of the landscape.

Members also took the opportunity to acknowledge and thank the Chairs and members of the group along with the many volunteers who were invaluable to the group's success and spoke on the projects that had particular meaning to them.

Members discussed the reallocation of the MLG funding of \$20k and were supportive of the fundings being redirected to the Working for Nature/Mahi mō te Taiao grant scheme.

As part of the discussion Mr Johnson noted that the Jobs for Nature scheme is about to finish in 2024/25 and it is likely many community led environmental groups will be seeking options to exist. As Council would not have the resources to supplement all the needs of these groups, an option exists for an expanded Mahi mō te Taiao Grant Scheme category that could provide some leverage funding for groups that implement predator control activities. An expanded category could allow funding to be apportioned over a three-year term instead of annualised funding which would provide an avenue to these community groups to sustain a backbone of these programmes.

Cirs Innes/Mr Harvey:
That Council:

1. **Approve the Marlborough Landscape Group's decision to disestablish.**
2. **Redirect the \$20K Landscape Group annual funding to the Working for Nature/Mahi mō te Taiao grant scheme.**

Carried

ATTENDANCE: The meeting adjourned at 11.14 am and resumed at 11.28 am.

ATTENDANCE: Mr Pere Hawes, Council's Manager Environmental Policy, was present for the following two items.

E&P-1123-173 Appeals on the PMEP

M100-09-01

Mr Hawes reported that the purpose of the report was to inform the Committee of progress with resolving appeals made to the Environment Court on the PMEP.

It was noted that 51 notices of appeal on the PMEP were lodged with the Environment Court. Environment Court mediation on all topics has now been completed and good progress has been made in resolving appeals. There are nine consent memoranda currently being considered by the Court.

Members were advised that aquaculture interests have withdrawn a significant number of appeal points subsequent to the public notice of the Variation 1 decision. Work is ongoing to consider the relationship between outstanding PMEP appeals, and the Variation 1 decision and appeals.

With the gazettal of the NPS for Indigenous Biodiversity, parties are considering how the NPS direction may influence appeals placed on hold pending that gazettal.

Mr Hawes reported that all outstanding consent orders were received from the court last week. This is quite significant for Council as it resolves all appeals on water quality and water allocation and use. This means there is one statutory planning framework to guide that consenting process and provides staff processing those consents, resource users and others in the community with more certainty.

Mr Hawes also noted that the first appeal on variation 1 marine farming has been resolved and that in the new year staff will start to phase out this reporting and report on Variation 1 appeals.

Cirs Hope/Sowman:
That the information be received.

Carried

NB: The Mayor declared a conflict of interest in the above item and did not take part in discussion nor vote on the issue.

E&P-1123-174 Submission to Review of the Canterbury RPS

M100-11-004-03

Mr Hawes noted that the purpose of the report was to seek approval of a Council submission to the review of the Canterbury RPS. The draft submission was attached to the agenda item for members' information.

Mr Hawes explained that the Council is proposing six Freshwater Management Units (FMU) within Marlborough as part of the process of implementing the NPSFM, Waiau Toa/Clarence River is one of those FMUs. The Waiau Toa/Clarence River flows within both Marlborough and Canterbury and the submission seeks to encourage Environment Canterbury to likewise establish a standalone FMU for that part of the Waiau Toa/Clarence River catchment within Canterbury.

Mr Hawes noted that such an approach would recognise the unique and significant freshwater values that exist within this catchment. It also better enables ki uta ki tai and would ensure that the National Objectives Framework under the NPSFM is applied in a consistent manner within the catchment. Freshwater values for the catchment can be identified and documented in the same way, and a common vision and outcomes could be established. A Waiiau Toa/Clarence River FMU within both Canterbury and Marlborough could also enable a collaborative approach to be taken to the setting of attribute states and limits.

Members were advised that Council staff have discussed the nature of the submission with Ngāi Tahu and Ngāti Kuri and understand there is support for the relief sought.

Cirs Hope/Innes:

That the submission to the review of the Canterbury RPS be approved.

Carried

E&P-1123-175 Policy on Dangerous Dams, Earthquake-Prone Dams and Flood-Prone Dams 2023 R450-006-06

Mr Versteegh presented the Policy on 'Dangerous Dams, Earthquake-Prone Dams and Flood-Prone Dams' to the Committee for adoption. The policy was attached to the agenda for members' information.

It was noted that Section 161 of the Building Act requires a regional authority to develop a dangerous dams, earthquake-prone dams, and flood-prone dams policy within their region and review at intervals of not more than five years. The policy was last reviewed in 2018.

Cirs Innes/Sowman:

That Council adopt the Policy on Dangerous Dams, Earthquake-Prone Dams and Flood-Prone Dams 2023.

Carried

ATTENDANCE: Ms Tonia Stewart, Council's Environmental Protection Officer, was present for the following item.

E&P-1123-176 Winery Wastewater & Grape Marc Monitoring Report E360-006-02

Ms Stewart reported that the purpose of report was to inform the Committee of the Compliance Group's ongoing monitoring of the discharge of winery wastewater and grape marc to land for the period 1 June 2022 – 31 May 2023. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23248460).

Members were advised that Council reported on 39 out of 39 wineries that discharge winery waste to land within the rural environment for the 2022/2023 monitoring period.

For the monitoring period 18 wineries (46%) were assessed as fully compliant, 7 wineries (17%) were technically non-compliant, 14 Wineries (34%) were assessed as non-complaint and 1 winery (3%) was assessed as significantly non-compliant.

It was reported that based on the information provided to date there has been an improvement in record keeping for the entire reporting period. Ponding does remain an area that still requires better management.

Ms Stewart noted that the Compliance and Monitoring Group will continue to take a proactive and constructive partnership approach to monitoring with education, relationship building and graduated enforcement when required with the key objective being the mitigation of adverse environmental effects.

Cllrs Minehan/Hope:
That the information be received.

Carried

ATTENDANCE: Mr Mathew McCormick, Council's Environmental Protection Officer, was present for the following item.

E&P-1123-177 Forestry Monitoring Report E335-003-002-01

Mr McCormick reported that the purpose of the report was to inform the Committee of the Compliance Group's ongoing monitoring programme of forestry activities for the period 1 July 2022 – 30 June 2023. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 2328459).

For this monitoring period Compliance staff undertook 18 monitoring inspections, GeoInsight undertook 18 and there were two occasions where both compliance staff and GeoInsight inspected. A total of 38 monitoring inspections were carried out in 35 forestry blocks during the 12-month reporting period. This is 12 more inspections than the previous reporting period, and 6 less than the 2020/21 period.

A further 10 consultation/complaint related site visits were undertaken this period. It was noted that overall, Council's presence on forestry blocks increased to 50+ visits this period. This is not inclusive of Forestry working groups, or annual Environmental/Industry meetings.

Members were advised that of the 35 forestry blocks, four were monitored under a resource consent while the other 31 were monitored under the permitted activity (NES-PF) conditions. Of the blocks monitored, 15 (43%) were fully compliant after the first monitoring visit and required no remedial works or further inspections, 18 (51%) of the forestry blocks were rated non-compliant, 2 (6%) of the forestry blocks were assessed as being significantly non-compliant and no blocks were assessed as technically non-compliant.

Of the non-compliant blocks, 17 had achieved compliance by the end of the monitoring period, one block was remaining with non-compliant status following remedial works and will continue to be monitored to ensure compliance is achieved. Of the significantly non-compliant blocks one remained, this matter is ongoing at this time.

Mr McCormick advised that an environmental workshop will be held in March for management companies and contractors. A summarised version of the workshop will be created to take out to sites as a further educational tool for contractors. Information will also be included in the forestry newsletter.

Cllrs Minehan/Faulls:
That the information be received.

Carried

ATTENDANCE: Mayor N P Taylor withdrew from the meeting at 12.25 pm during the following item.

ATTENDANCE: Ms Karen Winter, Council's Team Leader Environmental Health, was present for the following item.

**E&P-1123-178 Environmental Health Activity Summary for
2022/2023 and Review of Survey Results E350-004-009-02**

Ms Winter noted that the purpose of the report was to provide the Committee with an overview of the activities undertaken by the Environmental Health Team for the 2022/2023 registration year and detail the results of the customer survey. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23248458).

A list of activities undertaken by the Environmental Health Group were detailed in the agenda item. It was noted that these activities are quantified and reported as performance measures under the Annual and Long Term Plans.

The following performance targets for the Annual Plan 2022/23 have been achieved:

- 100% of other registered premises were inspected; and
- 15 markets and events were inspected during 2022/23, the target was 12.

Ms Winter advised there were 258 verifications of businesses registered under the Food Act 2014 in the 2022/23 registration year. During verifications, requirements of the Plan are assessed and given a result of performing, conforming, non-conforming, non-compliant, or not applicable. Corrective Action Requests (CARs) are provided for any improvement required. The Ministry for Primary Industries (MPI) monitor the Council's performance and provide routine updates on performance against national trends.

The Environmental Health Team investigate complaints regarding food and food premises, along with nuisances under the Marlborough District Council Bylaws. 24 complaints were received regarding food safety and various forms of action were undertaken. There were no infringements or prosecutions in the 2022/23 year.

Members were advised that of the 139 On-licensed premises selling alcohol 130 compliance checks were carried. This exceeds the target of 90% in a financial year. A Controlled Purchase Operation (CPO) was carried out and of the 8 licensed premises tested two premises failed.

Surveys have continued to be undertaken in the 2022/23 registration year – 11 responses to the Health Act inspection were received with an overall mean result for satisfaction of 9.7 out of 10. 55 responses received for the Food Act Verification with overall mean result for satisfaction of 9.7 out of 10.

Cllrs Sowman/Fauls:
That the information be received.

Carried

ATTENDANCE: Ms Georgia Murrin, Council's Environmental Health Officer, was present for the following item.

E&P-1123-179 Marlborough Residual Noise Survey

E350-004-009-02

Ms Murrin reported that the purpose of the report was to provide a brief overview of a residual noise survey the Environmental Health team has been conducting at various sites across the Marlborough District. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23248457).

Ms Murrin advised that the Environmental Health Team have commenced an ongoing project that measures the residual sound levels at various locations in the Marlborough District. The survey will provide an understanding of the different noise levels around the district in various zones under the Marlborough Environment Plan (MEP) and how developments are impacting this.

It was noted these noise readings are initially to provide an understanding of the level of noise in a particular area. It is intended that in five years' time the same areas will be monitored to determine whether there have been any significant increases/decreases and identify any cause.

Ms Murrin advised that a total of 23 sites around Marlborough have been selected. These sites ranged from multiple spots in Blenheim to Renwick, Grovetown, Spring Creek, Picton, Rarangi, Wairau Valley, Waihopai Valley and St Andrews. The various locations were chosen to capture the different zones within the Marlborough Environment Plan. Due to the different zones, the noise levels were monitored and compared against the plan rules for each different zone.

A summary of the different noise levels measured in the various locations was contained in the agenda.

Cllrs Sowman/Burgess:
That the information be received.

Carried

E&P-1123-180 Animal Control Sub-Committee

D050-001-A04

The minutes of the Animal Control Sub-Committee meeting held on 23 August 2023 were presented for ratification by the Committee.

Cllrs Faulls/Hope:

That the minutes of the Animal Control Sub-Committee meeting held on 23 August 2023 be ratified.

Carried

E&P-1123-181 Information Package

-

Cllrs Innes/Minehan:

That the Regulatory Department Information Package dated 16 November 2023 be received and noted.

Carried

The meeting closed at 12.43 pm.

Record No: 23253069

5. Committee Reports

5.3 Economic, Finance & Community Committee

Economic, Finance & Community Committee Meeting held on 28 November 2023
(Minute Nos. EFC-1123-182 to EFC-1123-201)



**Minutes of a Meeting of the
ECONOMIC, FINANCE & COMMUNITY COMMITTEE
held in the Council Chambers and via Teams, 15 Seymour Street, Blenheim
on TUESDAY, commencing at 9.00 am**

Present

Clrs J D N Croad (Chairperson), S R W Adams (Deputy), S J Arbuckle (from 9.15am), A R Burgess, D A Dalliessi, B G Dawson, B A Fauls, B J Minehan, T P Sowman and Mayor Nadine Taylor

Present via Teams

Clr J A Arbuckle and R J Innes

In Attendance

Messrs G K Blake (Chief Financial Officer) and N Chauval (Committee Secretary)

In Attendance via Teams

D G Heiford (Manager, Economic, Community & Support Services),

Apologies

Clr Croad/The Mayor:

That the apology for absence from Clrs M R K Flight, G A Hope and J C Rosene be received and sustained.

Carried

EFC-1123-182 Declaration of Interests -

No interests with items on the agenda were declared.

ATTENDANCE: Mr Warren McNabb, Chair, Port Marlborough NZ Ltd; Mr Rhys Welbourne, Chief Executive, Port Marlborough NZ Ltd; Mr Matt Kerr, Chair, MDC Holdings Limited and Marlborough Airport Ltd and Mr Adrian Ferris, Council's Corporate Accountant were present for the following item.

**EFC-1123-183 MDC Holdings Limited and Group Annual
Reports for the Year Ended 30 June 2023**

S400-004-002-23

Messrs Welbourne and McNabb presented Port Marlborough New Zealand Limited's Annual Report 2023 with a powerpoint presentation (presentation filed in CM Record No. 23254359)

Messrs Kerr and Ferris presented Marlborough Airport Limited's Annual Report 2023 with a powerpoint presentation (presentation filed in CM Record No. 23254361).

The Marlborough District Council Holdings Limited's Annual Report 2023 was received.

Members noted that the Annual Reports were available on each respective website and that links were included in the agenda item.

Members asked a number of questions at the meeting and had the common view that the results were very satisfactory noting that 2024 will be a mix of challenges and opportunities.

Cllrs Croad/Sowman:

That the Annual Reports of MDC Holdings Limited and its subsidiaries for the financial year ended 30 June 2023 be received.

Carried

ATTENDANCE: Messrs Kevin Moseley, Chairman; Anton James, CA Trustee; and Joseph Casalme, CEO Marlborough Civic Theatre Trust were present for the following item.

EFC-1123-184 Marlborough Civic Theatre Trust A200-002-09

Messrs Mosely, James and Casalme reported on the Marlborough Civic Theatre Trust's operations and financial results for the year ended 30 June 2023. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23254357).

Members asked a number of questions at the meeting and were supportive of the Trust's focus on improving its systems and resilience to assist them with the challenges posted by the recession and rising cost pressures.

Cllrs Croad/Dalliessi:

That the information be received.

Carried

NB: The order of the agenda was altered at this point and the following Item 8 was heard ahead of Item 5.

ATTENDANCE: Mr Bernie Rowe Chairman, Clive Jones (Trustee) and John Patterson MRC Associate were present for the following item.

**EFC-1123-185 Marlborough Research Centre Trust Annual
Report 2022-23 E100-009-01**

Messrs Rowe and Patterson presented the Marlborough Research Centre Trust's Annual Report 2022/23 and the Financial Overview and Highlights for 2022/23. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23254353). Members acknowledged the presence of Susan Foster (MRC Office and Accounts Manager) in the public gallery.

Members noted that the Annual Report 2022/23 had been circulated separately to the agenda (filed in CM Record No. 23247874) and that the Financial Overview and Highlight's 2022/2023 report formed part of the agenda.

Mr Patterson responded to a number of questions from members.

Cllr Croad/The Mayor:

That the Marlborough Research Centre Annual Report 2022/23 and Financial Overview and Highlights Report for 2022/23 be received.

Carried

ATTENDANCE: The meeting adjourned at 11.19 am and resumed at 11.30 am

ATTENDANCE: Ms Dorien Vermaas, Council's Economic Development Portfolio Manager, was present for the following three items.

EFC-1123-186 Economic Development Update

E100-010-01

Ms Vermaas advised that the purpose of the report was to provide members with an update on the activities and achievements of Annual KPI's of the Economic Development Team since the last meeting.

Members noted the information contained in the report.

Cllrs Dawson/Dalliessi:
That the information be received.

Carried

EFC-1123-187 Collaboration, Innovation and Transformation (CIT) Programme

E100-010-03-01

Ms Vermaas noted that the purpose of the report was to advise the Committee of the name change of the 'Smart+Connected' programme to 'Collaboration, Innovation and Transformation' and to seek approval for an amendment to the programme to enable funding to be provided to support projects prioritised by the groups,. To highlight this report a powerpoint presentation was shown (presentation filed in CM Record No. 23254355).

Members were advised that the proposed amendment would not change the fundamentals of the programme as they were key elements to its success. The changes would make the programme more contemporary, relevant and agile and would be achieved within the existing budget.

For members' information the Smart+Connected Version 2.0 was attached to the agenda item and detailed the process to consider proposals from groups, decision making and procurement.

It was raised whether there was opportunity for the agriculture sector to be considered as a new group as there is a lot of innovation and environmental best practice happening in that sector. Ms Vermaas reported that the start-up of new groups would be a possibility.

Ms Vermaas advised that she had been approached by various groups regarding the participation of councillors at their respective meetings. Councillors were asked to consider whether that would something they would be interested and if so to contact Ms Vermaas.

It was noted that all Smart+Connected groups will be meeting on Tuesday 5 December and members were welcome to attend.

Cllrs Croad/Dalliessi:
That Council approves the proposed programme amendment to enable funding to be provided to support projects prioritised by the groups within existing budgets.

Carried

EFC-1123-188 Screen Marlborough 2022-23 Report and 2023-34 Plan

E100-000-01

Members received the performance review for 2022-2023 on Screen Marlborough office and Screen Sector development in the region and the 2023-24 Annual Plan for Screen Marlborough. To highlight the reports a powerpoint presentation was shown (presentation filed in CM Record No. 23254354).

Members noted that the Screen Marlborough Activity and Annual Plan, containing details of KPI's and measured successes, were attached to the agenda item.

The Mayor/Clr S Arbuckle:
That the information be received.

Carried

ATTENDANCE: Ms Jodie Griffiths, Council's Community Partnerships Advisor and Heather Barnes, Welcoming Communities Co-ordinator were present for the following item.

EFC-1123-189 Welcoming Communities C150-002-028-01

Ms Griffiths reported that the purpose of the report was to provide the Committee with an update on the Welcoming Communities programme for Marlborough.

It was noted that Marlborough was accepted into the Welcoming Communities programme offered by Immigration NZ on 1 July 2022, with work commencing in October following the appointment of the programme coordinator, Heather Barnes. The programme is supported by an Advisory Group and Councillor Dalliessi is council's representative on the governance group.

Members were advised that the programme to date has completed many of the objectives set by Immigration NZ as well as opportunities presented by the community. A hugely successful Welcoming Week was held during 2 – 10 September. 20 events were coordinated to celebrate the week and the diversity in Marlborough's community and connected newcomers to local programmes/services.

Ms Barnes advised that a stocktake/survey was undertaken on what is already happening here in Marlborough. Over 450 people completed the survey. Ms Barnes highlighted the connection that has occurred with Marlborough Business Trust and newcomers to Marlborough.

The Mayor thanked Ms Barnes and the team for getting Council to the accredited stage and the numerous areas being covered as well as the visible benefits to the Marlborough Community.

Clr Dalliessi/The Mayor:
That the information be received.

Carried

ATTENDANCE: Mr Mike Porter, Council's Democratic Services Manager, was present for the following item.

EFC-1123-190 Temporary Alcohol Ban – Renwick L150-019-15

Members considered and were supportive of the report to resolve that a Temporary Alcohol Ban on High Street, Renwick and the associated side streets of Inkerman, Uxbridge and Alma Streets be in place for the 24 hours from 6.00 am on Saturday 10 February 2024 to 6.00 am on Sunday 11 February 2024 for the Marlborough Wine and Food Festival and the associated event at the Woodbourne Tavern.

Clr Adams/The Mayor:
That Council resolve and publicly notify that a Temporary Alcohol Ban will be in place for the 24 hours from 6.00 am on Saturday 10 February 2024 to 6.00 am on Sunday 11 February 2024 for High Street, Renwick and associated side streets of Inkerman, Uxbridge and Alma Streets as depicted in the plan attached as *Attachment 1*.

Carried

EFC-1123-191 Commercial Events Fund Sub-Committee

E100-002-006-28

The Minutes of the Commercial Events Fund Sub-Committee meeting held on 25 October 2023 and 2 November 2023 were attached for ratification by the Committee.

Cirs J Arbuckle/Innes:

That the Minutes of the Commercial Events Fund meeting held on 25 October 2023 and 2 November 2023 be ratified.

Carried

EFC-1123-192 Housing for Seniors Sub-Committee

D050-001-H01, C600-004-002-01

The Minutes of the Housing for Seniors Sub-Committee meeting held on 2 November 2023 were attached for ratification by the Committee.

Cirs Croad/Dalliessi:

That the Minutes of the Housing for Seniors Sub-Committee meeting held on 2 November 2023 be ratified.

Carried

EFC-1123-193 Small Townships Programme Sub-Committee

D050-001-S03

The Minutes of the Small Townships Programme Sub-Committee meeting held on 19 October 2023 were attached for ratification by the Committee.

Cirs Faulls/Minehan:

That the Minutes of the Small Townships Programme Sub-Committee meeting held on 19 October 2023 be ratified.

Carried

EFC-1123-194 Sister City Sub-Committee

D050-001-S02

The Minutes of the Sister City Sub-Committee meeting held on 11 August 2023 were attached for ratification by the Committee.

Cirs S Arbuckle/Dalliessi:

That the Minutes of the Sister City Sub-Committee meeting held on 11 August 2023 be ratified.

Carried

EFC-1123-195 CBD and Parking Sub-Committee

D050-001-P01

The Minutes of the CBD and Parking Sub-Committee meeting held on 6 October 2023 were attached for ratification by the Committee.

Cirs Dawson/Croad:

That the Minutes of the CBD and Parking Sub-Committee meeting held on 6 October 2023 be ratified.

Carried

EFC-1123-196 Long Term Plan Working Group D050-001-L21

The Minutes of the Long Term Plan Working Group meeting held on 8 September 2023 and 17 October 2023 were attached for ratification by the Committee.

Cllrs J Arbuckle/Dawson:

That the Minutes of the Long Term Plan Working Group meeting held on 8 September 2023 and 17 October 2023 be ratified.

Carried

ATTENDANCE: Ms Tessa Davies, Council's Financial Accountant, was present for the following item.

**EFC-1123-197 Financial Report for Council – Period Ended 30
September 2023 F275-001-01**

Members noted that the purpose of the report was to present the Financial Report for Council for the period ending 30 September 2023.

It was reported that the major variances between actual and budget were; lower than anticipated roading reinstatement expenditure and subsidy for the impacts of the August 2022 flood event. In the 2023/24 year \$4.2M has been spent on the July 2021 and August 2022 events; Grants received for the College Park Hockey Turf relocation; Grants received for the National Wilding Conifer Control Programme; Lower than anticipated expenditure on Flood Protection and Control Works Flood damage; Interest expenses are lower than anticipated due to the savings, deferrals and delays in past capital expenditure programmes resulting in less external borrowings.

Comments were provided in the report on variances greater than \$100,000.

Cllrs Croad/Dawson:

That Council receive the Financial Report for the period ending 30 September 2023.

Carried

**EFC-1123-198 Debtors Overdue Reports as at 31 October 2023
F270-36-21**

Mr Blake presented the Debtors Overdue Reports as at 31 October 2023 to members.

Members were advised that the annual resource consent administration fees were charged in July 2023 totalling ~\$1.3M with 88% having been paid to date.

The 90 Days balance includes several Development Contribution invoices that will be paid once the building project is near completion. It also includes invoices for the annual resource consent administration fees that have not been paid. Invoice copies have been emailed requesting payment.

The Property Leases and Licences Debtors Report as at 31 October 2023 was noted.

Cllrs Croad/Adams:

That the information be received.

Carried

EFC-1123-199 Rates Report as at 31 October 2023 F270-36-21

Mr Blake presented the Rates and Water Billing Debtors reports as at 31 October 2023.

Members were advised that as at 31 October 2023 29.03% rates had been collected which is comparable to last year's collection rate for the same period of 29.09%.

It was noted that following the 2021 and 2022 Weather Events Council had agreed to extend the rates relief to red (100% relief) and yellow (50% relief) stickered properties, details of amounts were contained in the agenda item.

The Water Billing report for 90 Days balance included a number of credit balances and overdue June 2023 invoices, invoices requesting prompt payment have been sent. A number of Renwick and Havelock water invoices are to be reassessed by the water team due to large water leaks.

It was noted that the Rates team continue to work with ratepayers to provide mutually agreeable repayment plans to assist ratepayers to clear their arrears and ongoing rates.

Cirs S Arbuckle/Dawson:
That the information be received.

Carried

EFC-1123-200 Information Package -

The Mayor/Clr Minehan:
That the Economic, Finance & Community Information Package dated be received and noted.

Carried

EFC-1123-201 Decision to Conduct Business with the Public Excluded -

Cirs Croad/Adams:
That the public be excluded from the following parts of the proceedings of this meeting, namely:

- **Sub-Committee Minutes (Public Excluded Sections)**

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Sub-Committee Minutes	As set out in the Minutes and Reports	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

Carried

The meeting closed at 12.42 pm.

Record No: 23255505

Attachment 1



6. Adoption of 2022-23 Annual Report

(also refer to separately circulated documents)

(The Mayor) (Report prepared by M Fletcher)

F275-A23-01

Purpose of report

1. To adopt the 2022-2023 Annual Report.

RECOMMENDATION

That the Council adopt the 2022-2023 Annual Report.

Background

2. The Annual Report reports the performance of Council against non-financial performance targets and financial forecasts. The Draft Annual Report will be circulated separately.

Comment

3. It is expected that a recommendation from Council's Audit and Risk Sub-Committee will be provided to the meeting on whether Council should adopt the Annual Report.
4. It is anticipated that the relevant Audit Opinion will be circulated at the meeting subject to Council adopting the Annual Report without material change.

Separate Attachment

Separate Attachment 4.1 – Final Draft Annual Report (circulated via ShareFile/Website)

Author	Martin Fletcher, Chief Financial Officer
Authoriser	Mark Wheeler, Chief Executive

7. Gambling Venues Policy Review Hearing

(includes Attachment 7.1)

(Clr Faulls) (Report prepared by G Murrin)

E350-004-009-02

Purpose of Report

1. To provide Council a summary of the Gambling Venue Policy Hearing which was conducted on 27 September 2023 and discuss the recommendations the Sub-Committee has made following the hearing. If Council agrees with the recommendation the process to formally adopt the new Gambling Venues Policy will be undertaken.

Executive Summary

2. On 27 September 2023 a Hearings Panel of Councillors Barbara Faulls (Chair), Ben Minehan and Thelma Sowman met to hear submissions from five submitters. One submitter did not appear on the day (Hospitality NZ).
3. A total of 14 submissions were received on the draft of the new Gambling Venue Policy.
4. The Panel deliberated over the submissions and made the following recommendations:
 - 4.1 That Council adopt a sinking lid approach for the number of Class 4 venues and gaming machines. Therefore, Council will not grant consent for:
The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.
 - 4.2 Club Mergers:
Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines, whichever is less.
 - 4.3 Relocation:
Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.
 - 4.4 TAB Venues:
Allow the establishment of TAB venues if it meets the application requirements.

RECOMMENDATION

That the report be received and the proposed Gambling Policy is adopted.

Background

5. The Department of Internal Affairs (DIA) is the main regulator of gambling in New Zealand, however under the Gambling Act 2003 (section 101) and Racing Industry Act 2020 (section 96) every TA must adopt a Class 4 and TAB venue policy.
6. This policy must be reviewed every three years. The current policy was adopted on 17 May 2018 with a review completed in December 2020 confirming the policy would remain with no changes.
7. The Racing Act 2003 has been repealed and replaced by the Racing Industry Act 2020 which came into force in 1 August 2020.
8. A Gambling Policy does not cease to have effect because it is due for review or being reviewed.
9. The Gambling Act was passed by Parliament on 11 September 2003.
10. Council adopted its first Gambling Venue Policy in early 2004.

11. This policy must have regard for the social impacts of all gambling within the District.
12. Class 4 and TAB venues must apply for consent to the Territorial Authority (TA) for where the venue is to be located.
13. Under the Gambling (Gambling Harm Reduction) Amendment Act 2013 a TA must consider adopting a Class 4 Venue relocation policy. This was adopted in the policy in 2018.
14. The previous major changes to the policy in 2018 were adopting a relocation policy and reducing the total cap number of gaming machines from 258 to 240.
15. No further amendments have been made to this policy since.
16. This proposed policy has been prepared in accordance with section 101 of the Gambling Act 2003 and section 96 of the Racing Industry Act 2020.

Key notes from the hearing

17. The five submitters who spoke in person were Jarrod True from Gaming Machine Association New Zealand, Mathew McMillian from Nelson Marlborough Problem Gambling Service, Nicola Gausel and Andrew Lindsay from National Public Health Service Nelson Marlborough, Andre Froude from Problem Gambling Foundation and Martin Cheer from Pub Charity Limited.
18. Each submitter was given 15 minutes to talk to their submission.
19. Summaries of the submissions can be found in Attachment 7.1 of this report.
20. Following the hearing further information from submitters was provided to the panel for clarification.
21. After reviewing the submissions both verbally and in writing, the panel has made the following recommendations.

Recommendations

22. That Council adopt a sinking lid approach for the number of Class 4 venues and gaming machines. Therefore, Council will not grant consent for:

The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.

22.1 Club Mergers

Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines, whichever is less.

22.2 Relocation

Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

22.3 TAB Venues

Allow the establishment of TAB venues if it meets the application requirements.

23. Further recommendations that are requested by the panel for the next review in three years time include:

Taking into account lessons learned from other TLA's the Panel consider that to be proactive in the next review that a 100m restriction should be added to the wording of the policy so that Class 4 venues are not allowed within a 100m radius of schools or educational facilities, religious or spiritual facilities, ATMs.

24. With a new Local Alcohol Policy likely to be implemented into Council over the next three years, it will be timely to ensure sensitive sites under both Policies align.

25. If the recommendations are accepted, there will be no changes to the Draft Policy that was presented at Environment and Planning Committee on 20 April 2023 (refer Appendix A below).

Next steps

26. Council accepts or rejects the panel's recommendations.
27. If accepted the new policy is formally adopted.
28. Once adopted a copy of the Policy is sent to Department of Internal Affairs.

Attachments

Attachment 7.1 - Gambling Venue Policy Review Hearing Wednesday 27 September 2023.	Page 50
Appendix A - Draft Gambling Venue Policy	Page 62
Appendix B – Statement of Proposal	Page 65
Appendix C – Comparison of Policies	Page 73

Author	Georgia Murrin, Environmental Health Officer
Authoriser	Karen Winter, Team Leader Environmental Health

Attachment 7.1

Gambling Venues Policy Review Hearing Wednesday 27 September 2023

1. On 27 September a Hearings Panel of Ctrs. Barbara Faulls (Chair), Ben Minehan and Thelma Sowman, met to hear submissions from five submitters. One submitter did not appear on the day (Hospitality NZ). There was one email which after discussion between panel members, was allowed as evidence even though it wasn't in the prescribed form.
2. Ms. Karen Winter, the Team Leader Environmental Health/Chief Licensing Inspector and Ms. Georgia Murrin, Environmental Health Officer/Licensing Inspector were present for the hearing as was Mr. Mike Porter who was the hearing's facilitator.
3. Mr Martin Cheer (Pub Charity Limited) and Mr. Mathew McMillan (Nelson Marlborough Problem Gambling Service) attended in person while other submitters appeared on Microsoft Teams.

Background

- 4 The New Zealand Government has announced new regulations for the Gambling Harm Prevention and Minimisation Amendment Regulations 2023 to strengthen gambling harm minimisation in Class 4 venues.
- 5 The changes have been informed by public consultation which was run by DIA and aimed to seek feedback on high level options for reducing harm.
- 6 The Ministry of Health in NZ is responsible for developing and refreshing the strategy in three-yearly intervals, and for implementing it. The Ministry sought comments on its draft strategy to prevent and minimise harm and on draft levy rates. Feedback was used to help develop proposals submitted to the Gambling Commission which in turn made recommendations to Government.
- 7 Marlborough District Council (MDC) prepared a draft policy as part of its statutory 3 yearly review of the Gambling Venue Policy (attached as Appendix A) required by Section 101 of the Gambling Act 2003 and Section 96 of the Racing Industry Act 2020.
- 8 Both Acts require Territorial Authorities to have a policy that guides if, where and how many Class 4 (Pokies) and TAB venues may be established in the district.
- 9 MDC has had a single combined policy for Gambling Venues (Class 4 and TAB venues) since the legislation was introduced in 2003.
- 10 The operation of Class 4 gaming machines must not be the primary activity on any Class 4 venue.
- 11 The objectives of the draft policy are to minimise harm to the community caused by gambling, to manage gambling in the district by controlling the location of venues and the number of gaming machines permitted to operate, to facilitate community engagement in decisions about gambling and to recover costs where appropriate.
- 12 A Statement of Proposal (Appendix B) was released for public submissions detailing the proposed change or amendments to the policy, these being: to adopt a sinking lid policy for Class 4 gaming venues, to discuss the number of gaming machines allowed at a venue should there be a merger of two or more clubs, whether to separate out Class 4 venues and standalone venues within the policy and finally, to improve the readability of the wording of the policy.

What is a Sinking Lid?

- 13 A sinking lid is a type of policy implemented by a Council to limit the spread of pokie machines within their territory. A sinking lid policy means that when an existing Class 4 Pokie venue closes, consent for another to be established will not be given. This policy aims to reduce the social and economic harms caused by problem gambling, such as addiction, debt, crime, family break down and suicide.

Some of the pros of a sinking lid policy are:

- It reduces the availability and accessibility of Pokie machines, which are considered to be the most harmful form of gambling in NZ.
- It prevents the proliferation of Pokie machines in areas of high deprivation, where they tend to be concentrated and where people are more vulnerable to gambling harm.
- It reduces the amount of money lost by gamblers to Pokie machines, which can have negative impacts on their well-being and their families' welfare.
- It supports the public health approach to gambling harm prevention and minimisation, which recognises that gambling is influenced by environmental and social factors, not just individual choices.

Some of the cons of a sinking lid policy are:

- It may not address the underlying causes of problem gambling, such as poverty, stress, mental health issues, or lack of alternative recreational opportunities.
- It may not reduce the demand for gambling, as some gamblers may switch to other forms of gambling, such as online or offshore gambling, which are less regulated and more difficult to monitor.
- It may reduce the funding available for community groups and organisations that rely on grants from Pokie trusts, which distribute a portion of the proceeds from Pokie machines to local causes.
- It may face legal challenges from the gambling industry or Pokie operators, who may argue that it infringes on their property rights or legitimate business interests.

The Submitters

- 14 An email was received in the MDC inbox from an individual who wished to state that she had the “odd flutter” on the Pokies and would be sad to see the machines reduced in number. The email was accepted by the Panel despite the normal submission form not having been used.
- 15 She stated that since the closure of the Clubs of Marlborough, it was hard to find an empty machine. She noted an occasion when she had visited a tavern in town and all the machines were being used in the middle of the day.
- 16 The submitter was concerned that there were people within the community who would spend four hours or more on a machine in the hope that they would strike it big. She suggested that the publicans should put a time limit on gamblers to stop them becoming a problem and to allow others to “have a turn”. She also said that you should be able to get extra change from the pub in order to play the games (rather than having to go to an ATM). She said that life would be dull without the Pokie machines, “as one needs a break from time to time, as long as they control their own money”. She complained that her money didn’t seem to last as long, and it used to be easier to win free spins. “The new machines are certainly not the same”.
- 17 From a commercial perspective, the Panel heard from **The Gaming Machine Association of New Zealand**. This Association represents the vast majority of the gaming machine societies that operate in New Zealand.
- 18 Mr Jarrod True, Counsel for the Association presented information and submitted that they wished to have the current flexible, discretionary relocation policy retained. The introduction of a new requirement that relocation is only permitted when the venue can no longer operate at the existing site due to circumstances beyond its control was opposed. He stated that they should not have to wait for a fire, flood, or public works acquisition to move a venue out of a suburban high deprivation area to a more suitable, lower deprivation area. He asserted that venue relocation is a harm minimisation tool.
- 19 He also noted that the introduction of this new term would be unlawful, as it had not been notified in the Statement of Proposal. He stated that if Council wanted to include the new requirement, then a fresh consultation process would be required.
- 20 Mr True also pointed out that the introduction of a formal requirement preventing gaming venues moving to a higher deprivation area may have the unintended consequence of preventing venues relocating out of undesirable residential areas to more desirable areas such as central business districts.
- 21 The relocation policy should also be flexible enough to support businesses that wish to move to new, modern, refurbished premises in the Association’s opinion as this would allow local businesses to

upgrade their premises and provide a more modern, attractive offering to the public thus helping to revitalise business districts and improving the local economy whilst encouraging tourism.

- 22 Mr True stated that the current relocation provision was flexible and sensible as it allows for Council to consider proposed relocations in circumstances on a case-by-case basis and utilising the tools available in a resource consent process. Council will naturally consider the deprivation level of the new site as part of this discretionary process. He believed that the deprivation level requirement did not therefore need to be a formal prerequisite.
- 23 The Association supported the cap being reduced to current numbers (165 machines). Mr. True believed that there was no new evidence or new concern that would justify the adoption of a more restrictive policy such as a sinking lid.
- 24 A current cap on numbers (165) was stated as being reasonable, given the current environment of high regulation and naturally reducing machine numbers (a 40% reduction since 2015).
- 25 While the amount that has been spent on gaming machines in Marlborough since 2015 has increased, the Association noted that this was due to inflation and Marlborough's population growth. He stated that the increased spend in Marlborough of 27.9% since 2015 is also lower than the national increase for the same period which is 30.6%. He said that there is no direct correlation between gaming machine numbers and problem gambling rates (and that the problem gambling rate has stayed the same).
- 26 The Association noted that The Gambling Act 2003 seeks to balance the potential harm from gambling against the benefits of using gaming machines as a mechanism for community fundraising.
- 27 Introducing a more restrictive policy is unlikely to reduce problem gambling, but will, over time, reduce the amount of funding available to community groups based in Marlborough. Reducing gaming machine venues reduces casual and recreational play, and therefore reduces machine turnover and the amount of money generated for grant distribution.
- 28 Problem gamblers are people who are addicted to gambling so if a new bar is established and the policy prevents the bar from hosting gaming machines, the problem gambler will simply find another venue that does have gaming machines.
- 29 The Association also stated that gambling is a popular, enjoyable form of entertainment that most New Zealanders participate in. "The majority of people who gamble do so because they find it an enjoyable activity. Gambling for the non-addictive gambler may also be an avenue for socialising, stress relief and a way of having fun. Gamblers do not necessarily anticipate that they will make money from gambling.
- 30 The Association said that any reduction in local gaming machines may have unintended consequences as this may simply lead to a migration of the gambling spend to offshore internet and mobile-based offerings. This offshore gambling does not generate any community funding for New Zealanders, does not generate any tax revenue for the New Zealand Government, nor does it make any contribution to the New Zealand health and treatment services as no contribution is made to the problem gambling levy.
- 31 **The Lion Foundation** submitted a very full submission. They are one of New Zealand's largest gaming machine societies by venue number, machine, and money returned to the community through grants. They support any review that allows consideration to be given to the total impact that gambling has on the community. They stated that in New Zealand, gambling is not operated for commercial gain, but rather for community gain.
- 32 Consequently, the Lion Foundation does not support the adoption of a sinking lid. Rather, they supported Option 2-the lowering of the cap to current numbers (165) of electronic gaming machines operating in the district. Two venues in Marlborough are currently operated by the Foundation: the Crow Tavern and Woodbourne Tavern. The venue operators and managers of these venues are members of the local community and receive a limited or capped payment. This payment is designed to compensate the venue operators for the operational costs incurred in operating the gaming machines for the Class 4 society.
- 33 The Lion Foundation aims to return at least 90% of funds back to the community of origin with the remaining funds being returned to organisations providing a national benefit to all New Zealanders. Regional grants are considered by a Regional Grants Committee, comprised of community members. Funding is allocated to sports, community, arts and culture, health, and education groups. Stringent processes are employed when a grant is assessed to ensure that grant funding lands where it is supposed to land. Educational webinars have been launched to ease the process of community-based organisations navigating the process of applying for funding.

- 34 The Lion Foundation stated that the current policy is working well and balances the potential harm from gambling whilst preserving access to community funding. They do not believe that a sinking lid policy preserves community funding. They presented multiple examples of community groups who relied heavily on gaining Lion Foundation funding to support their existence and day to day operations.
- 35 The Lion Foundation does not support Option 1, the adoption of a sinking lid policy. The level of reported harm related to problem gambling remains low and the Foundation believed that Council was relying on anecdotal evidence from the community as to the level of harm.
- 36 The Lion Foundation supports the adoption of Option 2-capping the number of electronic gaming machines to 165.
- 37 They reasoned that this option allows Council to maintain control over the growth of gambling, that existing levels of community funding can be maintained, that gaming machine numbers are in natural decline anyway as are the number of gaming venues, that none of the 12 existing venues are in areas of high deprivation and that there is a very well-funded problem gambling service available 24hrs of the day, 365 days of the year.
- 38 The Lion Foundation also asserted that the adoption of a sinking lid policy also completely disregards the research that concludes that gambling is a popular form of entertainment that people find enjoyable. Furthermore, the Lion Foundation believes that adopting a sinking lid policy is not appropriate given the significant measures that are already in place to minimise harm from gaming machines.
- 39 These measures include:
- A statutory age limit that prevents persons under 18 years of age from playing a gaming machine.
 - Restrictive limits on the amount of money that can be staked, and the prize money won.
 - Bank notes above \$20.00 in denomination are not accepted in the machines.
 - ATMs are excluded from all gaming rooms.
 - All gaming venues have pamphlets providing advice about problem gambling and where to seek help.
 - All venues have signage that encourages gamblers to gamble only at levels that they can afford.
 - All venues have a harm minimisation policy.
 - All gaming venue staff are required to have undertaken comprehensive problem gambling awareness and intervention training.
 - It is not permissible for a player to play two machines at once.
 - The design of a gaming machine is highly regulated and controlled. It cannot generate a result that indicates a near win.
- 40 The Lion Foundation recognised the value of maintaining a relocation provision in Options 1 and 2. They did note, however, that the introduction of the new requirement that relocation is only allowed when the venue has to move due to circumstances beyond its control has not been notified in the statement of proposal and therefore cannot be lawfully considered as part of this review.
- 41 The proposal to limit relocations to areas in the same or lower deprivation level has been notified but they believe that this would have the unintended consequence of preventing venues moving into the CBD (CBD areas tend to have areas of very high deprivation).
- 42 The Lion Foundation therefore submitted that there was no reason to amend the current relocation provision. They believe that the policy was well drafted and should remain in force and effect.
- 43 The Lion Foundation suggest that by adopting a sinking lid policy thus supporting the closure of physical and safe Class 4 gambling environments, that the problem gamblers may be driven into a world of unregulated and potentially harmful gambling.
- 44 Offshore online gambling providers do not need to operate in accordance with the Gambling Act, do not offer any harm minimisation features to protect players and do not contribute to New Zealand communities.
- 45 The Lion Foundation spoke of the Class 4 Gambling industry contributing significant amounts to the problem gambling levy assisting the Ministry of Health to support and treat problem gambling.

- 46 The Lion Foundation concluded that Council's policy needs to optimise the balance between reasonable controls over the incidence of problem gambling against the generation of funds for the community from legitimate gambling. The adoption of a sinking lid policy does not, in their opinion, achieve this.
- 47 **Pub Charity Limited (PCL)** represented by Mr. Martin Cheer (Managing Director of PCL) opposed Option 1 and supported Option 2 (capping machines at the current level). Mr Cheer stated that no evidence had been presented that supported the change of policy to a sinking lid. Furthermore, he stated that current gaming machine numbers sit well below the existing cap and that reported harm statistics are low.
- 48 PCL currently operates 5 venues and 57 gaming machines within Marlborough. They distributed 116 grants totalling \$2,146,510 benefitting Marlborough.
- 49 PCL state that MDC have reported a 33% increase in spending on Class 4 gambling within Marlborough. They say that this ignores the underlying macroeconomic conditions like inflation which accounts for 23% of the increase, as well as the impact of Government fiscal stimulus linked to COVID that saw retail spending increase in 2022. They believe that per capita *inflation adjusted* spending on Class 4 gambling between 2015 and 2022 shows a small decline.
- 50 In comparing other economic metrics in 2015 and 2022, the minimum wage increased by 44%, the average wage by 35%, and MDC rates revenue by 31.1%
- 51 PCL noted that recent media coverage described the sinking lid proposal as a "*meagre attempt to reduce problem gambling harm*" and empirical evidence from Te Whatu Ora supports this view. They believe that there is no evidence that the intent of limiting the availability of Class 4 gambling by imposing a sinking lid policy, will reduce gambling, total gambling spend, or problem gambling prevalence. They say that New Zealand has one of the lowest problem gambling rates in the world at 0.2% of the adult population. They contend that Class 4 gambling for the overwhelming majority of the community provides a safe vehicle for entertainment, socialising, recreation, and a source of fundraising for the community. It also creates jobs and economic stimulus for local businesses.
- 52 PCL state that calls for a sinking lid ignore the counter narrative which would accelerate the existing trends towards gambling in uncontrolled and unsupervised environments such as offshore gambling which produces, they say, worse health outcomes. They argue that calls from anti gaming groups that there is no risk of migration to online gambling is out of touch with clear evidence to the contrary.
- 53 The DIA reports that there is an increase in all other forms of gambling including online, as spending on Class 4 has declined, while the MOH reported no corresponding reduction in problem gambling.
- 54 The call for a sinking lid, say PCL, suggests demand outstripping supply but current gaming machine numbers in Marlborough at 165 sit well below the current cap.
- 55 Larger PCL venues in Marlborough have some of the most effective harm minimisation regimes in the country, including facial recognition training (of which there are two in Marlborough).
- 56 Sinking lid policies have all but destroyed fundraising opportunities in some areas while gambling spending in the community on all other forms of gambling with little or no focus, like Lotto, TAB and online gambling has increased and continues to grow. PCL state that there is empirical evidence that there is no direct correlation between harm and exposure to gaming machine and gaming venue numbers.
- 57 Reducing controlled and supervised community spaces for gambling will, in PCL's view, simply accelerate the existing trend for gambling to move to commercial, uncontrolled, and unsupervised channels, a trend already causing a great deal of concern internationally.
- 58 The location of potential gaming venues is not set by licence holders like Pub Charity, but by Central and Local Government statute, regulation, and policy. These locations are already focussed on an activity for persons of or over 18 years of age with staff already trained in host responsibility. In addition, the Gambling Act 2003 prohibits gambling being the primary activity of the venue, so a dominant primary activity is required. These restrictions therefore mean that the majority of suitable premises to host gaming machines are taverns, pubs and hotels located in areas zoned commercial or mixed use.
- 59 Class 4 gaming societies have policies that ensure the majority (90% for PCL) of funds raised within a TLA are returned to local organisations within that TLA.
- 60 PCL provided a list of all community groups within Marlborough who had benefitted from grants.
- 61 **Hospitality New Zealand** had asked to speak to their submission but did not appear at the hearing. Zinnia Foster submitted a written statement on their behalf.

- 62 Hospitality NZ is a member led, not for profit organisation representing approximately 3,000 businesses including cafes, restaurants, bars, nightclubs, commercial accommodation, country hotels and off-licences. They advocate on behalf of their members to prevent restrictive legislation, protect commercial interests and to spearhead innovation for a sustainable future.
- 63 Hospitality NZ supports the current relocation policy being retained. Relocation from high deprivation areas to more suitable low deprivation areas should not be reliant on reasons beyond the venue operators control in Hospitality NZ's opinion. They believe that relocation is a harm minimisation tool.
- 64 They also supported the cap being reduced to 165 machines and did not think that there was any evidence to suggest that a sinking lid policy was necessary.
- 65 **The New Zealand Community Trust (NZCT)** lodged a full submission supporting in part Option 3. Mr. Don Martin, from NZCT wrote that they supported the cap of 240 machines and relocation to a deprivation level of the same or lower level (option 2, point 3). He believes that this will ensure that thousands of dollars continue to be granted to the local community. NZCT recommended that MDC allowed relocation to new modern premises.
- 66 NZCT is one of New Zealand's largest gaming trusts with 13% market share. Their contribution to community funding reflects its venue numbers and the turnover of each of those venues. They believe that Council gambling venue policies are critical to maintaining the infrastructure that allows community funding from gaming trusts to be sustainable long term. They state that sinking lid and non-relocation policies destroy this infrastructure, and that Councils need to be informed and to take a balanced approach to community benefit and potential harm from gambling.
- 67 They contend that the controlled, Class 4 environment is the best environment to reduce gambling harm to people and communities. Where a sinking lid is used as a blunt instrument, they state that this does little to address problem gambling and reduces community funding by removing the funding infrastructure. Problem gambling is a complex addiction.
- 68 Therefore, a cap on gaming machine numbers and an effective relocation policy allows for a much fairer environment for the community and hospitality business owners as well as helping to address problem gambling.
- 69 Removing the option to relocate simply entrenches venues in undesirable residential locations. The relocation policy is positive.
- 70 Community organisations rely on pub gaming to survive. Many community sports, arts, and other groups, including councils, accept grants and may depend on these grants to survive. NZCT therefore believe that it is crucial that this fundraising system is sustainable long-term. They state that seventy five percent of groups surveyed in 2012 indicated that their organisation was moderately or totally reliant on gaming funding to support their core business. There is no evidence that this situation has changed for the better since then.
- 71 NZCT asserts that the reduction in gaming trust funding has had a negative impact on community organisations, with many ceasing to operate and others severely reduced in capacity and capability. Grassroots community organisations are struggling, and voluntary organisations are increasingly reliant on nationwide public donation campaigns to stay afloat. The Covid-19 pandemic has only worsened this situation.
- 72 NZCT supplied a list of Nelson/Marlborough groups supported by NZCT grants to show how many organisations in the community relied upon this source of funding.
- 73 Amateur sport has traditionally been NZCT's focus, yet they fund education, the arts and health as well.
- 74 Added to this they stated that when it comes to preventing and minimising harm, the location of the gaming machines is more important than the number of gaming machines operating. Problem gambling is also influenced more by the distance to the nearest gambling venue, rather than the number of gambling venues withing walking distance. Broad relocation clauses help gambling venue policies accommodate urban growth, re-zoning changes or changes in population demographics. This is not possible while gambling machine entitlements are linked to a physical address.
- 75 NZCT states that it is naïve, misleading, and wrong to assume that fewer gaming machines will result in fewer problem gamblers. They state that pub gaming is a legal, valid, and enjoyable source of entertainment. Most players regard gaming as light entertainment and know when to stop. NZCT recognises that the MDC aims to balance the needs of visitors and residents while achieving a focus on the wellbeing and economic development. They believe that if appropriate measures remain in place to

support problem gambling, then funding structures should remain in the community for the good they will bring.

- 76 NZCT say that NZ has one of the lowest rates of problem gambling in the world. NZCT is committed to reducing and minimising the harm that can be caused by gambling. They say that the Gambling Act obliges venue staff to provide ongoing help to a potential or current problem gambler. Offering help once, and then ignoring continued warning signs, is not sufficient.
- 77 A venue is in breach of the law if an excluded person enters the gambling area. Venues must be able to show that they have robust systems and processes in place that restrict excluded people from entering.
- 78 NZCT provides face to face and online problem gambling training to staff at each of its venues. Refresher training is provided annually, and gaming venues are reminded of their obligation to ensure that a trained person is always on duty when gaming machines are operating.
- 79 NZCT reiterated that the gambling industry pays around \$18-20 Million to the Government in the form of a problem gambling levy. These funds pay for the implementation of public health services, intervention services, research, evaluation, and workforce development.
- 80 In addition to a problem gambling resource kit that NZCT provides to all its venues, facial recognition technology is increasingly being used to identify problem gamblers and to assist in them being excluded.
- 81 NZCT has a strong interest in seeing the collective levy spent effectively, but over the last 10 years, the problem gambling rate has not reduced, and the key objectives of the strategy have not been met. NZCT has twin goals of serving their publicans and the communities in which they operate.
- 82 Two publicans submitted on the review of the policy, one opposing the policy options in part and the other supporting Option 2 in full.
- 83 Mr C. Hart opposed Option 2 in part because he agreed that by capping the machine level at 165, that this number had already decreased significantly in recent times. He believed that this number benefitted the community. He said that there were no clubs with gaming machines so this point might be null and void. Implementing a sinking lid, in his opinion would impact on what community groups would receive in gaming trust grants. He opposed the sinking lid option.
- 84 Mr. C. Neal supported Option 2 in full. He had attended the public meeting and felt that the information presented was based at the National level and did not correspond to Marlborough. He felt that there was a conundrum where gaming machines caused harm to some people while on the other hand provided financial benefit to others through grants.
- 85 Mr. Neal believed that the safest place for people to gamble was probably at a venue where it could be monitored.
- 86 Mr Neal also pointed out that there are currently 75 unused machine licences in the community. He asked why, if there were not queues of people waiting to use the machines at the venues would you want any more? He said that with a sinking lid policy this does not allow for flexibility such as changing a venue from a Trust to a Club.
- 87 Mr. Neal asked Council to adopt Option 2.
- 88 Mr Mark Davis from **The Inspire Foundation Marlborough** opposed the policy in full and stated that he did not support a sinking lid policy.
- 89 He believes that a sinking lid policy removes funding streams for valuable and important community organisations. He stated that it is better to monitor and control the number of machines in the district to manage the impact of gamblers in a controlled environment. He was concerned that funding streams are reducing and that there has been no consideration as to how these will be replaced, and he believed that there would be more reliance on Councils to top these organisations up in the future.
- 90 Mr. Davis wants Council to adopt Option 2 to protect the future funding for community organisations whilst continuing to control and manage a safe gambling environment.
- 91 Mr Scott Simmiss representing **the Pelorus Trust** opposed Option 1 in part and supported Option 2.
- 92 Mr Simmiss said that a sinking lid policy ultimately effects the local economy, local employment, and hospitality businesses. Gaming machines in hospitality venues provide entertainment that benefits the community by providing funding to sports, health and education. The Class 4 sector also supports employment, technology, and many other associated industries.

- 93 The Pelorus Trust supports the lowering of the cap to current gaming machine numbers. They believe that the current cap is not under any pressure and that there is no local demand for any increase in venues or machines.
- 94 Gaming machine societies face increasing costs that continue to impact the sector. Further reduction in the number of machines is possible as societies are required to maximise returns and this will, they believe, be no different in Marlborough.
- 95 Gaming machine numbers continue to decline nationwide each year. The trend is likely to continue with rising compliance and licensing costs forcing the closure of venues.
- 96 The Pelorus Trust stated that the new requirement that relocation only be allowed when the venue has to move under circumstances beyond their control is not lawful as it had not been notified as part of the review.
- 97 **The Problem Gambling Foundation (PGF)** commended the Council for its strong harm minimisation focus and for proposing a sinking lid policy in support of this. They believe that a sinking lid policy is one of the best policies available to reduce gambling losses and harm from gambling. They stated that their submission was evidence based.
- 98 PGF works closely with its subsidiary charitable companies, **Asian Family Services** and **Mapu Maia Pasifika Service**, united by a common goal to provide public health and clinical services that contribute to the wellbeing of whanau and communities. PGF operate under Te Whatu Ora and is funded by the gambling levy. They are opposed to the harm caused by gambling and advocate for better protections for those most at risk of experiencing gambling harm.
- 99 Despite the relocation review not being lawful, the PGF believe that a “gold standard” sinking lid policy would be one which does not allow relocations or club mergers. In their view, allowing Class 4 venues to either relocate or merge undermines the efficacy of a sinking lid policy and simply moves gambling around.
- 100 PGF encouraged Council to look at the relationship between harmful gambling, social disparity and a funding model that enabled it.
- 101 The saturation of Class 4 venues in areas of high social deprivation and the resulting harm placed on these communities, is disproportionately borne by Māori and Pasifika peoples. Funding, therefore, communities based on a system that relies on our lowest income households putting money they can ill-afford into gaming machines is both unethical and inequitable.
- 102 PGF recognises that the majority of New Zealanders are non-problem gamblers, but a significant minority do experience harm from their gambling, including negative impacts on their own and the lives of others. In 2022 over \$1 billion was lost to Pokies across New Zealand. This was the highest annual loss since 2003. In Marlborough this equated to \$12 million being lost to Pokie machines. PGF stated that Pokie machines are not decreasing fast enough in areas where they need to, such as areas of high social deprivation. Across the Marlborough District, seven out of the 12 Class 4 venues are located in the most deprived communities.
- 103 According to the 2018 Census, the median income in Marlborough was \$31,500. In comparison, every machine in Marlborough made, on average, around \$72, 458 in 2022. That means that a Pokie machine made \$41,000 more than the average person in Marlborough.
- 104 Class 4 gambling is characterised as high risk, high turnover gambling and is the most harmful form of gambling in New Zealand according to PGF. It is a continuous form of gambling that elicits a pure high, triggered by the stimulation of Pokie sounds and fantasy themes. The short turnaround coupled with the ability to play multiple games in quick succession makes continuous gambling one of the most addictive forms.
- 105 PGF state that the Trusts who hold licenses for Class 4 machines often submit that the relatively low number of people who seek help for a gambling problem is a positive indicator about the prevalence of problem gambling in New Zealand. They say that this assertion is misleading.
- 106 PGF presented that the MOH assessment and outcomes monitoring reports show that only 16% of potential clients for gambling support services actually access or present at these services. Furthermore, the MOH estimates the number of people experiencing mild, moderate, or severe gambling harm is more than 250,000 (more than the population of Wellington).
- 107 PGF state that from July 2021 until June 2022, 32 clients were assisted from the Marlborough District. They highlighted research that indicated that Māori and Asian peoples experience harmful gambling

differently. It is unethical therefore that the majority of Class 4 machine expenditure is coming from our lowest income households who can least afford it. This is particularly concerning, PGF state, as this disproportionately impacts Māori who generally live in the areas where many Class 4 venues are located. PGF assert that Māori are 3.13% times more likely to be moderate risk problem gamblers than non-Māori (Marlborough has a Māori population of 13.3%).

- 108 PGF also supports the submission made by the **Asian Family Services**.
- 109 Asian peoples experience gambling harm differently and their risk of harmful gambling was 9.5 times higher.
- 110 PGF state that from a Public Health perspective, the view is that the easier it is to access an addictive product, the more people that will consume that product. Therefore, stronger restrictions on the number and location of addictive products, such as gaming machines, require a public health approach to the prevention and minimisation of gambling harm. Sections 92 and 93 of the Gambling Act mandate the maximum number of Pokie machines a Class 4 venue can host (18 if the venue licence was held on or before 17 Oct 2001, nine if the licence was granted after that date).
- 111 PGF stated that sinking lids and per capita caps are equally the most effective at reducing machine spending. Those TLAs who adopted restrictions above and beyond those mandated by the Gambling Act experienced less gambling harm than those TLAs who have not.
- 112 Grants have inextricably linked gambling harm with the survival of community groups, sports, and services. Of the \$11 million lost in Marlborough in 2022 however, just under \$4 million was returned to organisations based in Marlborough. This represents approx. 32.9% return to Marlborough.
- 113 The unethical nature of the funding model cannot be ignored state PGF. They are concerned that DIA revealed that there is a strong redistributive effect from more deprived to less deprived communities. Less deprived communities provided 26% of the Gaming Machine Profit (GMP) but receive 88% of the grants while more deprived communities provide 74% of the GMP but receive only 12% of the grants.
- 114 PGF fully supported MDC in its proposed policy direction.
- 115 Mr. Ivan Yeo from **Asian Family Services** (AFS) supports in part the option to replace the current cap on gaming machine numbers with a sinking lid policy. He stated that the sinking lid policy is the most effective measure to reduce gambling harm and losses. However, AFS believe that allowing Class 4 venues to relocate or merge undermines the effectiveness of a sinking lid and urged Council to disallow this.
- 116 AFS also opposes changes proposed for the establishment of TAB venues, given that there are no standalone TAB venues in the district. They quoted reviews which pointed towards a higher prevalence of suicidal ideation and suicide attempts among those with gambling-related behaviours. They stated that gaming machine use, often associated with gambling-related harm, may pose an elevated suicide risk for affected individuals.
- 117 AFS also quoted research that revealed the individuals with pathological gambling tendencies were more likely to have comorbid mood and anxiety disorders. The prevalence of suicidal ideation and suicide attempts was also evident among individuals seeking treatment for gambling problems, including Pokie machine addiction. One of the contributing factors to mental health issues for Asian people is problem gambling.
- 118 According to the 2018 Census, the Asian population in Marlborough sat at 4.1%. This percentage is thought to be growing steadily, so AFS recommended that Council consider Asian voices at the policy level and that MDC adopt a sinking lid policy to protect Asian residents within Marlborough from gambling harm. They believe that Asian people's risk for individual gambling harm was 9.5 times higher than other Europeans/other ethnicities. Asian culture (Yin-yang) can tend to encourage Asian people to take greater risks on low probability games than Europeans thus making them more susceptible to gambling harm.
- 119 Problem gambling clients were afflicted with co-existing issues such as suicidal ideation, financial hardship, domestic violence, and severe depressive and anxiety symptoms due to problem gambling.
- 120 AFS stated that in 2021, of the 74.7% of Asians who participated in gambling activities, 41.5% chose to gamble at Class 4 venues. 16.5% of the 41.5% were identified as experiencing gambling-related harm. Asians who gambled at these venues were more likely to be young, male and to have lower incomes compared to those who did not gamble at such venues. For a number of reasons, many did not seek early intervention. 78.7% of Asian gamblers however identified stigma as one reason preventing them from seeking help or intervention.

- 121 Asians, according to AFS, play the Pokies as they are low barrier games, they provide stress release, combat loneliness, and enable them to make easy money albeit with addiction driven playing. Restaurant workers, cleaners, builders, older people, international students, and work visa holders are the most common Asian Pokie players.
- 122 AFS urged the Council to adopt a sinking lid policy with no relocations or mergers permitted to foster a safer and healthier gambling environment for all stakeholders.
- 123 Mr. Stuart Petersen from the **Blenheim Community Patrol Charitable Trust** supported in part Option 2. This was because he believed that by protecting the number of gaming machines in Marlborough that this would protect the funding available for community organisations such as the Patrol.
- 124 BMCP would like to maintain the number of machines permitted as over the past six years the Trust had applied to The Lion Foundation, The Pelorus Trust and the Redwood Trust and had been granted funds to operate two community patrol vehicles and these funds have enabled them to set up Marlborough patrol groups and carry out their mandate with the NZ police. Applications to Lotto had not been successful.
- 125 Miss Hana Wilkinson submitted on behalf of **National Public Health Service-Nelson Marlborough (NPHS-NM)** with Dr Andrew Lindsay and Nicola Gausel presenting on their behalf. This organisation is a key organisation involved with the health and wellbeing of the people of Te Tau Ihu. Their submission was made under their responsibility to protect, promote, and improve the health of all NZ'ers whilst achieving equity in health outcomes among NZ population groups.
- 126 They also submitted from a Health in All Policies (HIAP) perspective. HIAP considers the health implications of decisions. NPHS-NM recognises the parallels between the roles of the public health and local government sectors in contributing towards the shared goal of promoting and protecting community wellbeing. NPHS-NM submitted to MDC during the 2017 review and is pleased to see a sinking lid has been proposed under Option 1 in the draft policy for 2023. They recommend that additional levels of restriction could strengthen the policy further in support of MDC in its efforts to minimise harm to the community. They recommend not allowing relocations or club mergers.
- 127 NPHS-NM supports in part Council using a sinking lid approach to Class 4 venues or additional gaming machines. They recommend to further strengthen the policy to achieve the policy objective 2.1 *to minimise harm to the community caused by gambling*. They proposed that Council would not grant the merger of two or more clubs, that it would not consent to any relocation of any Class 4 Venue licence and would not allow any new gambling venues associated with standalone TAB venues.
- 128 NPHS-NM state that gambling harms include depression, suicide, emotional and psychological distress, job losses, bankruptcy, reduced work or educational performance, relationship breakdowns and crime including theft from family members, businesses, and communities.
- 129 Harmful gambling can occur across the spectrum of gambling symptom severity (low or moderate risk or problem gambling) and continues to impact all aspects of wellbeing for individuals, their whanau (families) and communities. NPHS-NM state that a large proportion of gambling related harm is accruing to those who are not necessarily problem gamblers and that it is important to note that one problem gambler can affect at least five to ten others. They claim that research shows that 22% of NZ adults are affected at some time in their lives by their own or other's gambling.
- 130 Harmful gambling typically presents with other health issues such as higher levels of alcohol consumption, smoking, and other drug use. The substantial links to mental health problems and psychological wellbeing as noted by other submitters, were noted. A catch 22 situation exists where evidence shows that those with depression may not only use gambling to manage their symptoms but suffer depression as a result of their gambling.
- 131 NPHS-NM state that the risks and prevalence of harmful gambling remain inequitable with Māori and Pasifika people, the most at risk with the highest prevalence of harmful gambling. They believe that Class 4 venues are disproportionately located in areas of economic deprivation. People living in these areas spend on average up to three times more on Class 4 gambling compared to people in the least deprived areas. These areas, as noted before, tend to have an over representation of Pasifika and Māori residents who are most at risk of problem gambling. A higher percentage of the Māori population in Marlborough live in areas with the highest NZ Deprivation scores (NZDep score of 8). NPHS-NM was concerned that despite reaching out to Iwi, Maata Waka and Māori wardens early, that no response was received and that Māori voice, particularly that of local iwi and hapu has not been captured.
- 132 NPHS-NM state that over half of the Councils in NZ have adopted the sinking lid policy, and that recent evidence shows that sinking lids can effectively reduce the number of Class 4 venues, decrease service

use, and reduce gambling expenditure. They state that evidence also suggests that the costs (Individual, family and community harms) far outweigh any benefits (e.g., employment, community funding). The money that problem gamblers have spent and lost on gambling accounts for up to two thirds of the money paid out in community grants. Class 4 gambling tends to magnify community disadvantage.

- 133 NPHS-NM recommends that MDC's proposed policy Option 1 is strengthened by adopting a 100m rule approach for 6.3c. This specifies what is considered close to residential and sensitive sites and removes ambiguity when assessing an application against the criteria.
- 134 NPHS-NM also recommends the following word changes under 6.3c: the closeness of the venue not being within 100m of any residential zone, to any ATM, educational facility, spiritual facility, cultural facility, health facility or other educational or religious establishment.
- 135 It is recommended that any relocation is only from a high deprivation area (NZ Dep 7-10) is only to a lower deprivation area (NZ Dep<7).
- 136 NPHS-NM recommended that MDC did not allow (at 3.2 of the policy) the establishment of TAB venues as this would only increase access to gambling.
- 137 Finally, Mr Mathew McMillan spoke on behalf of the **Nelson-Marlborough Problem Gambling Service**. He also submitted on behalf of his organisation, Addiction Advice Ltd (aka Addiction Advice and Assessment Services) (AAAS Ltd) and Te Ratonga Tohutohu Waranga. These organisations hold the current contract with Health NZ to provide problem gambling clinical and public health services for the Nelson, Tasman, and Marlborough regions.
- 138 Mr McMillan stated that the more accurate assessment of people meeting the criteria of being problem gamblers is 6%, not the 0.2% stated by industry (4% at risk and 2% experiencing a moderate to severe gambling problem).
- 139 Mr. McMillan said that between July 2021 until June 2022 he saw a total of 59 clients with 40 of those being new to the service. These numbers need to be considered alongside other information. The N-M PGS has only had a 0.5fte clinical role in Marlborough over the past couple of years with this person carrying out both face to face support and other activities. This means that the 40/59 figure does not accurately reflect the number of problem gamblers in the community, simply the number that they were able to assist with their limited resource. Their services are also not funded on the number of people that they see, rather the sessions that they provide. Some people only need a few sessions while others are more intensive. Only about one in seven people present for help to a service. These numbers also don't include the gambling helpline statistics.
- 140 Over half of his clients are women who report just needing something to "switch off" and note that they often say "well, at least I'm not drinking". Most people don't report to formalised support services, instead they exclude themselves from the venues and turn to their church or to other people for help.
- 141 The best figures to study are the low number of people who gamble regularly on Class 4 pokies and the 30% approximately who go on to develop a problem. Most Class 4 gamblers according to Mr. McMillan, only gamble on pokies and they don't tend to cross-addict to another form of gambling such as online.
- 142 Mr. McMillan stated that he and other Counsellors developed the Multi Venue Exclusion (MVE) system in NZ, and it is important to note that the ability to exclude someone from a venue is something made possible under the Gambling Act, not something led by industry. Some gambling trusts have installed facial recognition to help them manage their venues (which they are paid to do). They have been reluctant to agree to an independently managed system.
- 143 It is important that venues play their part as they seem to consistently fail to identify people who are problem gambling.
- 144 Mr McMillan stated that a small number of people in our community are losing a lot of money to support a few community activities locally and elsewhere. He continued to say that some in the industry will try to highlight the dangers of online gambling. Of the clients that he sees, 80% of them still have an issue with pub Pokies. He said that the online issue (especially the overseas sites) is an issue, but this is something for DIA to sort and is not within the scope of MDC's gambling policy.
- 145 The number of people presenting to help services is not a good measure of the issue at hand as the clinical counselling providers and public health activities are under resourced and do not have the capacity to cope with the regular overflow of monthly targets (without even advertising their services). He believes that if there was a full-time equivalent staff member in Marlborough that they would see client referrals rise exponentially.

- 146 Debt levels of the clients that he sees varies pay week to pay week and puts direct pressure on families. Some report losing up to \$20,000 while others have credit cards maxed out with no real way of getting out of debt. Some have lost their homes and have debts totalling up to \$100,000.
- 147 N-M PGF strongly advocated against no standalone TAB's, and if they were to be set up to ensure that their gaming machine numbers are included in the overall numbers for Marlborough. TABs would not have to adhere to a sinking lid policy, and they have no reason to give back to a community.
- 148 N-M PGF recommended for venues not to be allowed to relocate. If MDC did allow for relocation, then they believe that it is important to ensure that it is not allowed next to a school, ATM or in a lower socio-economic area. They do not want to see hubs of gambling machines in the CBD.
- 149 **The Deliberation**. The panel having heard and read all submissions for and against the proposed and preferred Option 1 and Option 2, deliberated on matters of fact and opinion.
- 150 The Gaming Industry understandably do not wish to see a drop in the level of Class 4 machines in the district and presented reasons why there should be a cap rather than a sinking lid. They did not believe that there was a real and evident issue with problem gambling within Marlborough and presented contrary findings based on the Covid surge, rates revenue and inflation.
- 151 The Medical profession and Associated service organisations argued that the rate of problem gambling in Marlborough is higher than reported and that, in fact, the statistics do not contain certain raw data due to the fact that there are insufficient counsellors full time in Marlborough to deal with the problem. Additionally, due to cultural shame, certain groups within Marlborough did not seek help or instead went to their church or friends for help. Stigma played large part in whether gamblers sought help or not.
- 152 The grants committees and trusts argued that without the funding from the levy, they would not be able to fund charitable work in the community. They argued that some societies might no longer be sustainable and that sports clubs would lose crucial funding.

Recommendations

The Panel thanks all submitters and having taken all contrary information, opinions, views, ethical arguments and evidence into account, recommends the following:

- 153 That Council adopt a sinking lid approach for the number of Class 4 venues and gaming machines. Therefore, Council will not grant consent for:

1. The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.

154 Club Mergers

2. Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines, whichever is less.

155 Relocation

3. Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

156 TAB Venues

- Allow the establishment of TAB venues if it meets the application requirements.

Further Recommendations and Notes:

- 157 Taking into account lessons learned from other TLA's the Panel consider that to be proactive in the next review that a 100m restriction should be added to the wording of the policy so that Class 4 venues are not allowed within a 100m radius of schools or educational facilities, religious or spiritual facilities, ATMs.
- 158 Marlborough does not have any standalone TAB facilities so any application to establish such a venue would have to be assessed under the normal circumstances for a resource consent.
- 159 Online gambling does not come under the scope of the policy so whilst the Panel accepts that there is concern shown by both the industry and the health professionals about potential and growing harm from this sector, there is nothing that MDC can do to address this.
- 160 Similarly, casinos which are Class 3 standalones are nothing to do with MDC and would again need to go through the resource consent process.
- 161 Appendix C. is a comparison of similar Councils and their Gambling Venue policies.

Appendix A

Draft Gambling Venue Policy

Gambling Venue Policy 2023

(under the Gambling Act 2003 & the Racing Industry Act 2020)

1. INTRODUCTION

- 1.1 This policy has been prepared in accordance with Section 101 of the Gambling Act 2003 and Section 96 of the Racing Industry Act 2020.
- 1.2 Both Acts require Territorial Authorities to have a policy that guides if, where and how many Class 4 (pokies) and TAB venues may be established in the district.
- 1.3 Both Acts require that these policies are reviewed every three years.
- 1.4 Marlborough District Council has had a single combined policy for Gambling Venues (Class 4 and TAB venues) since the legislation was introduced in 2003.
- 1.5 The operation of Class 4 gaming machines must not be the primary activity on any Class 4 venue.

2. OBJECTIVES OF THE POLICY

- 2.1 To minimise harm to the community caused by gambling.
- 2.2 To manage gambling in the district; by controlling the location of venues and number of gaming machines permitted to operate.
- 2.3 Facilitate community involvement in decisions about gambling.
- 2.4 Recover costs where appropriate.

3. ESTABLISHMENT OF TAB VENUES

- 3.1 TAB venues are defined in the Racing Industry Act 2020 as those premises that are owned or leased by the TAB NZ and where the main business carried out at the premises is providing racing betting, sports betting, or other racing or sports betting services.
- 3.2 Council will allow new gambling venues associated with standalone TAB venues under this Policy.
 - 3.2.1 TAB outlets may be established within any zone where commercial activities are permitted subject to:
 - a) Meeting application and fee requirements;
 - b) The venue having a 'host responsibility' and gambling harm minimisation policy and staff training programme, approved by the Ministry of Health;
 - c) When assessing an application to establish a TAB outlet, consideration must be given to the following;
 - i. The venue not being primarily associated with family or children's activities;
 - ii. The closeness of the venue to any residential zone;

- iii. The closeness of the venue to any educational facilities, spiritual facilities, recreational facilities, cultural facilities, and other educational or religious establishments.
- iv. The concentration of gambling venues.

Note: For the purposes of clarity TAB NZ requires the consent of the Council if it proposes to establish a TAB venue. For the avoidance of doubt, this policy only applies to applications for the establishment of standalone TAB venues. This policy does not cover the installation of TAB terminals in premises not owned or leased by the Board (for example hotels, bars and clubs).

TAB venues may be established in within the Marlborough District, subject to the provisions of the Marlborough Environment Plan and meeting application and fee requirements.

4. ESTABLISHMENT OF CLASS 4 VENUES & MACHINES

4.1 Class 4 gambling is the term used in the Gambling Act 2003 to describe non-casino gaming machines (pokies) and the premises that are used to operate those machines.

4.2 Council uses a 'sinking lid' approach to Class 4 venues or additional gaming machines. Therefore, Council will not grant consent for:

- a) The establishment of any additional Class 4 venues or additional gaming machines.
- b) The re-establishment of a Class 4 venue with gaming machines once a licence is no longer held for that venue and territorial authority consent is required.

Note: situation 4.2(b) usually applies when no licence has been held by any society for a particular Class 4 venue within the previous six months.

To make it clear, no new Class 4 venues or gaming machines will be allowed under the Councils sinking lid Policy. This means when an existing venue closes, the Council will not give consent for another to be established.

5. EXCEPTIONS FROM MEETING PARTS OF THIS POLICY (MERGERS)

5.1 In the case of clubs only, when two or more clubs merge legally and physically in terms of section 95 of the Gambling Act 2003, they may apply to have the lesser of:

- a) The sum of the number of gaming machines specified in all of the clubs Class 4 venue licences at the time of application; or
- b) 18 gaming machines.

6. RELOCATION OF EXISTING CLASS 4 VENUE

6.1 On application Council may permit existing Class 4 venues to re-establish at a new site where due to circumstances beyond the control of the owner or lessee of the premises in which the machines are located, the premises cannot continue to operate at the existing site.

6.2 Any application to relocate a current venue will be considered on a case-by-case basis and approval will be at the discretion of the Council.

6.3 An application, and the proposed venue, must comply with all other conditions and provisions set out in this Policy and subject to the following conditions:

- a) The venue operator of the new location will be the same as the former location.
- b) The venue not being primarily associated with family or children's activities.

- c) The closeness of the venue to any residential zone.
- d) The closeness of the venue to any educational facilities, spiritual facilities, recreational facilities, cultural facilities, and other educational or religious establishments.
- e) The deprivation level is the same or lower.
- f) The maximum number of gaming machines permitted to operate at the new venue is the same as the maximum number of gaming machines permitted to operate at the old venue immediately before the licence relating to the old venue is cancelled.
- g) Meeting the application fee requirements.

Note: Where a venue relocates, the Class 4 licence for the old venue will be cancelled and the old venue will be treated as if no Class 4 venue licence had ever been held for that venue.

7. APPLICATIONS

7.1 All applications must be made on the approved form and must provide the following:

- a) Name and contact details of applicant.
- b) Evidence of police clearance for owners and managers of the venue.
- c) A 12-month business plan or budget for the establishment, covering both gambling and other activities proposed for the venue.
- d) A site plan covering both gambling and other activities proposed for the venue, including details of each floor of the venue.
- e) Evidence of the distance to the nearest residential zone, other Class 4 gambling venues, as well as distance to any educational, recreational, cultural, and religious facilities and establishments
- f) Street address of premises proposed for the venue.
- g) Details of any alcohol licence(s) applying to the premises
- h) A copy of the proposed Gambling Harm Minimisation Policy, including the staff training programme and details of how underage access will be controlled effectively.
- i) Signed written approval from the verified property owner.
- j) Any other relevant information requested by the territorial authority, or that the applicant wishes to provide.

8. APPLICATION FEE

8.1 The fee for making an application for a venue or relocation licence is \$290.00 per application based on a maximum processing time of two hours. Further time taken to process an application will be charged at \$145.00 per hour.

8.2 The fee is set by Council in accordance with Section 150 of the Local Government Act 2002 and includes consideration of the cost of processing the application.

Date for next review is July 2026

Appendix B – Statement of Proposal

Statement of Proposal



for Class 4 Gaming Venues and Racing Board Venues Policy Review

Marlborough District Council is seeking feedback on the proposed Gambling Venue Policy.

This document is divided into five parts:

- Part 1: Introduction**
- Part 2: Reason for Proposed Change**
- Part 3: Proposed Changes**
- Part 4: Options**
- Part 5: Have your say**

Appendix B

Executive Summary

The Marlborough District Council (Council) want to hear your thoughts on its proposed Gambling Venue and TAB venue policies. This statement of proposal has been prepared as part of consultation with those with an interest in the proposed Gambling Venue Policy Review. Under the relevant legislation (Gambling Act 2003 and Racing Industry Act 2020) Council are required to review both Policies every three years.

Under the Gambling Act 2003 and the Racing Industry Act 2020, Territorial Authorities can approve consents for Class 4 (pokie machines) gambling venues and standalone racing (TAB) venues. Both Acts require Territorial Authorities to have a policy that guides if, where and how many Class 4 and TAB venues and machines may be establishes in the district.

When reviewing these Policies, we must consider the social impacts of gambling in our community. That is why your feedback is needed – it is crucial that or community have input to let us know what you think, and if we are on the right track.

In summary, the number of Class 4 gaming venues in the district has decreased since 2016 from 20 venues to 12, with the number of gaming machines also decreasing from 249 to 165 as of January 2023. There are no standalone TAB venues in the district.

Recent Gaming Machine Statistics released by the Department of Internal Affairs shows that while a 40% decrease in venues and 33.7% decrease in gaming machines in the District from March 2015 to December 2022, the quarterly gaming machine profits have increased by 33% in the same period.

The level of reported harm (problem gambling referrals) remains low, however anecdotal evidence received from the community indicates that there may be harm occurring as a result of Class 4 gambling in the community.

Council has considered the proposed changes along with other options and resolved to support the proposed changes highlighted in option one, subject to a special consultative procedure.

The special consultative procedure gives the public an opportunity to make submissions and provide feedback on the proposed fees. Once the submission period closes, hearings will be conducted if people indicate they want to speak in support of their submissions.

This statement of proposal has been prepared in accordance with the requirements of section 83 of the Local Government Act 2002.

Part 1: Introduction

The Gambling Act 2003 came into effect on 18 September 2003 and requires Territorial Authorities to adopt a policy that must have regard to the social impact of gambling within the Territorial Authority district.

The policy **must** specify whether or not class 4 venues may be established and if so, where they may be located.

It **may** specify any restrictions on the maximum number of gaming machines that may be operated at a Class 4 venue.

It **may** include a **relocation policy**

The purpose of the Gambling Act 2003 is to:

- **control** the **growth** of gambling; and
- **prevent** and **minimise** the **harm** caused by gambling, including problem gambling; and
- **authorise** some gambling and **prohibit** the rest, and
- **facilitate** responsible gambling; and
- ensure the **integrity** and **fairness** of games; and
- **limit opportunities** for **crime** or **dishonesty** associated with gambling; and
- ensure that money from gambling **benefits the community**; and
- facilitate **community involvement** in **decisions** about the provisions of gambling.

The Racing Industry Act 2020 came into effect on 1 August 2020 and requires Territorial Authorities to adopt a TAB venue policy and have regard to the social impact of gambling within the Territorial Authority district.

The policy **must** specify whether or not new TAB venues may be established and if so, where they may be located.

In determining its policy on whether TAB venues may be established in the Territorial Authority district and where any TAB venues may be located, the Territorial Authority **may** have regard to any relevant matters, including –

- a) the characteristics of the district and parts of the district.
- b) the location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.
- c) the cumulative effects of additional opportunities for gambling in the district

The purpose of the Racing Industry Act 2020 is to: Reform the law relating to New Zealand racing in order to:

- provide **effective governance** arrangements for the racing industry; and
- **promote** the long-term viability of New Zealand racing; and
- **facilitate** betting on galloping, harness, and greyhound races, and other sporting events; and
- ensure that the **value** of racing property is **retained** in the industry and is used for maximum industry benefit; and
- **prevent** and **minimise harm** from gambling conducted under this Act, including harm **associated with problem gambling**.

Part 2: Reason for Proposed Changes

The policy determines whether Class 4 and standalone TAB venues can be established in the district and, if so, where they can be located. Through these controls, the policy aims to minimise harm to the community caused by this type of gambling while allowing for it as a provision for funding given out to the community from proceeds.

Class 4 gambling is defined as gambling that involves a gaming machine (also known as pokies) and legislated under the Gambling Act 2003. The machines are run by societies or clubs and a proportion of the net proceeds are required to be distributed to the community, or to a club's approved purposes.

TAB venues are legislated for under the Racing Industry Act 2020. Council only has jurisdiction over numbers and locations of standalone TAB venues, not TAB outlets or agencies.

In reviewing the policy, a territorial authority may have regard to the social impact of gambling within the territorial authority district (positive and negative impacts).

In determining its policy on whether class 4 venues and standalone TAB venues may be established in the territorial authority district, where any venue may be located, and any restrictions on the maximum number of gaming machines that may be operated at venues, the territorial authority may have regard to any relevant matters, including;

- characteristics of the district and parts of the district.
- location of kindergartens, early childhood centres, schools, places of worship, and other community facilities.
- the number of gaming machines that should be permitted to operate at any venue or class of venue.
- the cumulative effects of additional opportunities for gambling in the district.
- how close any venue should be permitted to be to any other venue.
- what the primary activity at the venue should be.
- a relocation policy.

It may consider other matters that are relevant.

Council may prescribe fees with a sole purpose of the charge to recover reasonable costs incurred by the local authority in respect of the activity to which the charge relates.

Part 3: Proposed Change

Council considers that the current policy requires changes; its existing policy has a cap on the number of gaming machines at 240 which is greater than the demand. Since the implementation of the previous policy operating numbers have been lower than the cap and are currently significantly lower than the cap. Council are looking to adopt a sinking lid policy for class 4 gaming venues to ensure the numbers of venues and gaming machines are managed effectively to represent the current numbers. While Council proposes to adopt a sinking lid policy, it also recommends that the total number of gaming machines allowed in a club merger is reduced from 30 to 18 machines. With the new Racing Industry Act the TAB Venue Policy will be updated to reflect the new legislation, and to align with the new format of the Gambling venue Policy.

Council is proposing the following amendments to the policy:

1. Adopt a sinking lid policy for Class 4 Gaming Venues.
2. Where two or more clubs merge legally and physically and combine their premises, they may apply to have up to the lesser of:
 - the sum of the number of gaming machines specified in all of the class 4 venues licences at the time of the application.
 - or 18 machines (change from 30 to 18 machines).
3. Separate out class 4 venues and standalone TAB venues within the policy.
4. Amendments to the wording and layout of the policy to update changes in legislation and improve its readability.

A copy of the proposed Gambling Policy is available on Councils Website at www.marlborough.govt.nz or at Council offices.

Part 4: Options

The Council, in consultation with the community, have the opportunity to influence gambling through restrictions on the number and locations of TAB venues. The Council considered the following options in relation to numbers of machines and venues and have established the three options below.

Option One – Preferred Option

Class 4 Gaming Venues

1. Adopt a sinking lid approach for the number of class 4 venues and gaming machines.

Therefore, Council will not grant consent for:

- The establishment of any additional Class 4 venues or additional gaming machines, including Class 4 machines in TAB venues under this policy.

Example: If a class 4 venue closes, the Council will not issue any other society a licence to replace that venue. Or that once the number of machines licenced to operate in a community decreases, Councils will not issue any other society a licence to replace those machines.

2. Club Mergers

- Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.

3. Relocation

- Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same or lower.

4. TAB Venues

- Allow the establishment of TAB venues if it meets the application requirements.

Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.

Option Two

Class 4 Gaming Venues

1. Cap the total number of gaming machine numbers to current machines in use in the District currently.
 - Cap the number of gaming machines to 165

Example: Council set a number of gaming machines to be 165, no further gaming machines will be issued unless other machines are surrendered. The total number of gaming machines in the district would not exceed 165. However, if numbers dropped a new venue could be established and have no more than 9 machines if the cap allows

2. . Club Mergers

- Permitted number of machines when clubs merge is the sum of machines previously operated by each club, or 18 machines whichever is the less.

Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club.

3. Relocation

- Allow relocation as per the current policy, but only allow relocation to a deprivation level the same or lower.

Example: If a venue had earthquake damage to the building it would be able to relocate to a new venue if the deprivation level was the same.

4. TAB Venues

- Allow the establishment of TAB venues if it meets the application requirements.

Example: If a new TAB standalone venue wanted to open in the District, Council would allow application for consent.

Option Three

1. Retain the existing Class 4 Policy but amend wording to allow for the new Racing Industry Act 2020.

Example: the current policy position remains in place until it is reviewed in 2026

Benefits and Disadvantages

	Benefits	Disadvantages
Sinking lid	<p>The Gambling Act 2003 was introduced to limit the number of pokies in non-casino establishments.</p> <p>Pokies are still the most harmful form of gambling in NZ.</p> <p>Sinking lid policies are designed to control the growth of gambling. They work by gradually reducing the number of machines by prohibiting the transfer of gambling licences.</p> <p>By adopting a sinking lid policy, it shows strong alignment with the Gambling Act.</p> <p>Effective in reducing gambling expenditure i.e, player losses over time.</p> <p>Reduces the potential for harmful gambling by reducing the opportunities to gamble, while still enabling existing gambling venues to continue to operate.</p> <p>Reduced likelihood that gambling and associated harms could become a significant problem in our district.</p>	<p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However, under section 67(1)(k) Gambling Act 2003 it states that a class 4 venue cannot have gambling as its primary activity.</p> <p>Class 4 venues that are taverns must hold an appropriate licence for the sale and supply of alcohol. District Licensing Committees have at times refused the renewal of alcohol licences where the main activity of the premises has been found to be gambling. Similarly, the Gambling Commission has upheld a number of decisions not to renew Class 4 venue licences; a point in case is GC25/12 (Whiskey Jacks).</p> <p>Over time may reduce proceeds to the community if venues were to close.</p>
Lower cap (165)	<p>Reduces the opportunities to gamble and reduces gambling expenditure i.e, player losses therefore reducing the potential for harmful gambling, while still enabling existing gambling venues to continue to operate.</p> <p>Does not allow any more machines above the current allowed number or any more venues to operate currently.</p>	<p>May reduce the return to the community.</p> <p>May discourage new hospitality businesses if they need gaming machines to be financially viable. However same issues as above.</p>
Cap remains at 240	<p>May encourage new businesses if machines influence a business's financial viability. However as discussed above s67(1)(k) of the Gambling Act states that gambling cannot be its primary activity.</p> <p>May increase the return to the community.</p>	<p>An increase in the number of gaming machines may increase the potential for problem gambling.</p> <p>Increased likelihood that gambling and associated harms could be a significant problem in our district.</p>

Part 5: Have your Say

Make a submission on our proposed Gaming Venue Policy

You can make a submission by filling in a submission form and returning it.

Post to:

Gambling Policy Consultation
Marlborough District Council
PO Box 443
Blenheim 7240

Deliver to:

Marlborough District Council
15 Seymour Street
Blenheim

Marlborough District Council
67 High Street
Picton

Email to: georgia.murrin@marlborough.govt.nz

Any questions, call Council's Environmental Health Team on 03 520 7400.

Submissions close at 5.00pm Monday, 19 June 2023.

Timeline for considering the proposed fees

Date TBC	Consultation period
6:00pm DATE TBC	Community Group Meeting
Date TBC	Submissions close
As soon as possible after submissions close	Hearing of submissions to proposal
Date TBC	Sub-committee to deliberate and make recommendation
Date TBC	Full Council to ratify hearing panel's recommendation
Date TBC	The Council decides whether to adopt the proposed policy at Environment and Planning Committee
Date TBC	Formally adopt the new policy in accordance with our governance requirements and Local Government Act. And send a copy of the Policy to DIA

Phone: +64 3 520 7400 | Email: mdc@marlborough.govt.nz
PO Box 443, Blenheim 7240, New Zealand

marlborough.govt.nz

Appendix C

Comparison of Policies

Council	Sinking Lid/ Cap	Relocation	Allow new applications	Merger	Other notes
Marlborough District Council 2017	Cap 240	Allow relocation	Accept new application given it is under the cap	Lesser of the sum of the two clubs merge or 30 gaming machines	Fee: \$290 and \$145 per hr for further time to process application
Tasman District Council 2019	Sinking lid	Not grant consent for relocation	Refuse to grant new or additional Class 4 gaming machines	No mergers allowed	Allow new gaming venues associated with NZ racing Board (TAB) application fee \$500 then further costs if required
Nelson City Council 2018	Cap 162	No relocation policy	Accept new application given it is under the cap. Very site restrictive	No more than 30 machines, will be assessed case by case	Very site specific. New venues only allowed 5 machines total. Before 17 Oct 2001 (18 machines) - at or after 17 Oct 2001 (9 Machines)
Gisborne District Council 2022	Sinking Lid	Allow relocation only if earthquake strengthening is required	No additional or new gaming machines/venues including machines in TAB venues	Maximum 10 Machines	Separate out TAB venues and Class 4
Wellington City Council 2021	Sinking lid	Doesn't mention	No new class 4 venues – however allows new TAB venues	Doesn't mention	Fee: \$90 per hour
Waitaki District Council 2022	Sinking Lid	Allow relocation under exceptional circumstances (i.e. natural disaster)	No new applications granted	Non-commercial club mergers allowed, but not more than 30 machines or the sum of the two combined. (the lesser of the two options)	Separate policy for TAB venues and Class 4 Gambling Venues
Hamilton City Council	Sinking lid	Allows relocation if lease isn't renewed or building deemed unsafe	No new applications unless relocation or merger of clubs	Allows merger 24 machines or sum of two (whichever is less)	Gambling Permitted areas

NB: I have selected these policies due to their similarity to our region and to compare them to what City Councils have adopted.

8. Increase to Kerbside Collections

(Clr Dalliesi) (Report prepared by M Lucas)

C315-21-077-04

Purpose of Report

1. To increase the kerbside collection areas to include other residential zoned properties, that were left out of the original kerbside collection discussions.

Executive Summary

2. During the original consultation process for the Kerbside collection some residential areas were not included as they were not part of the current kerbside collection. After reviewing the maps there are two main areas that have been left off the proposed plan, being Rapaura and Fairhall. It is considered appropriate to include the areas in the kerbside collection, subject to appropriate consultation with the properties affected.

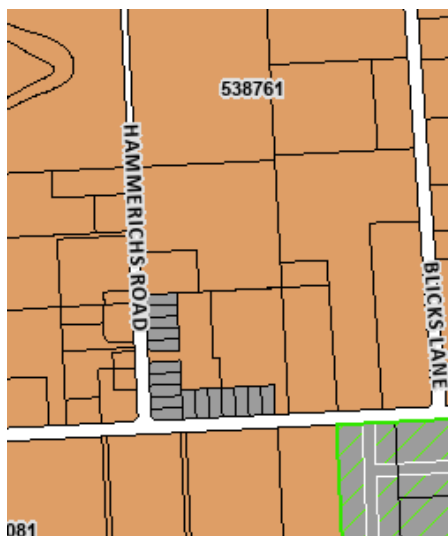
RECOMMENDATION

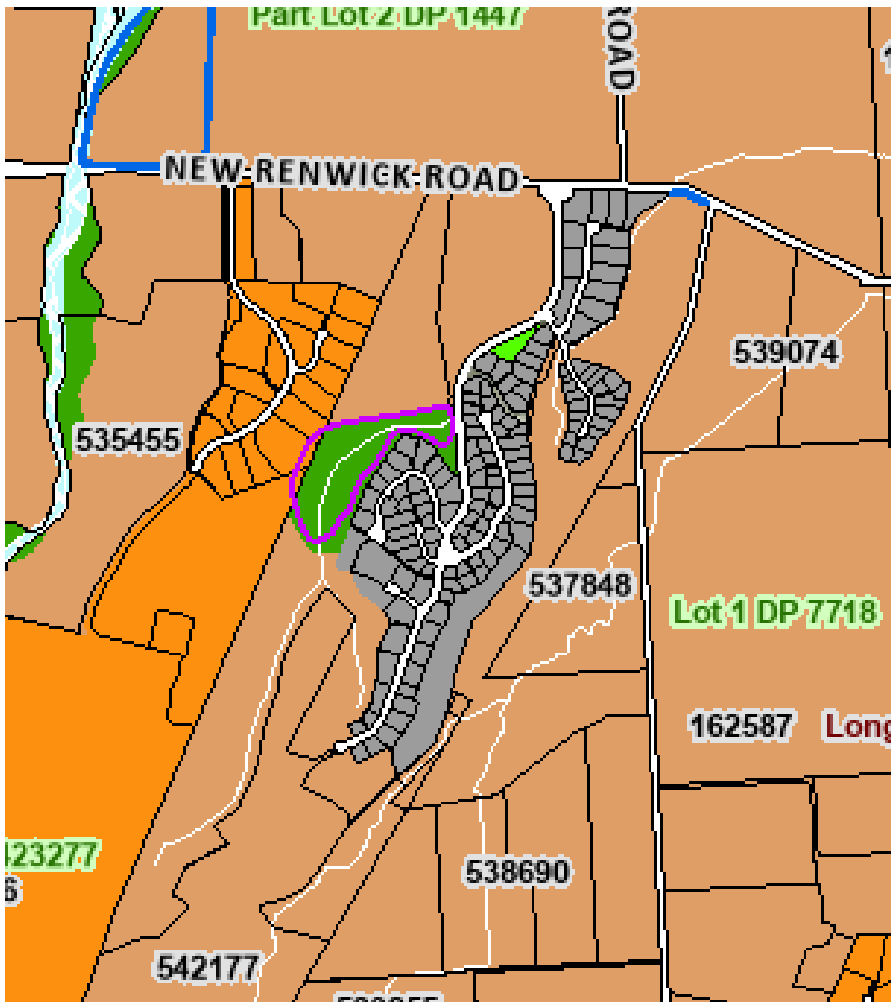
That Council approve consultation with the targeted properties in the expansion of the kerbside collection area, including Marlborough Ridge, Fairbourne Drive, Fairhall and include all of Old Renwick Road from Waipuna Street to Hammerichs Road, Hammerichs Road to Rapaura Road, 88 Dillons Point Road, and 211 and 215 Middle Renwick Road.

Note: Further recommendations will be provided once legal advice on consultation requirements has been received.

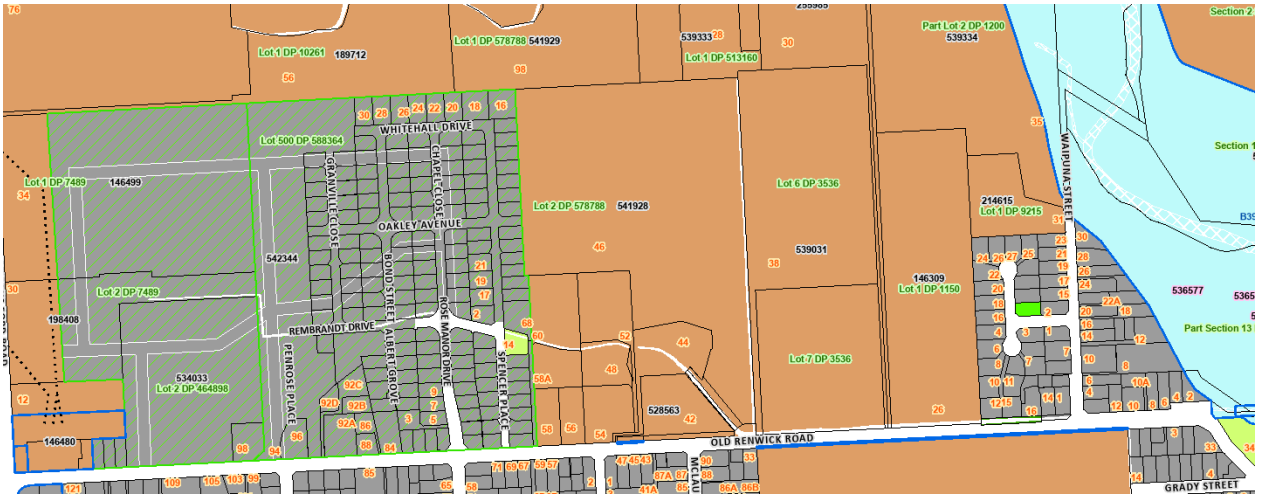
Background/Context

3. As part of the tender and acceptance of Contract 21-077 - Waste Management and Minimisation the current collection areas were used as a benchmark and then the new areas were included.
4. The new areas included, after consultation, in the kerbside collection are Renwick, Seddon, Rarangi, Tua Marina, Spring Creek, Havelock, and the Rai Valley.
5. The areas not included in the kerbside collection area but are zoned as residential are Rapaura and Fairhall. The following maps identify these areas (in grey).

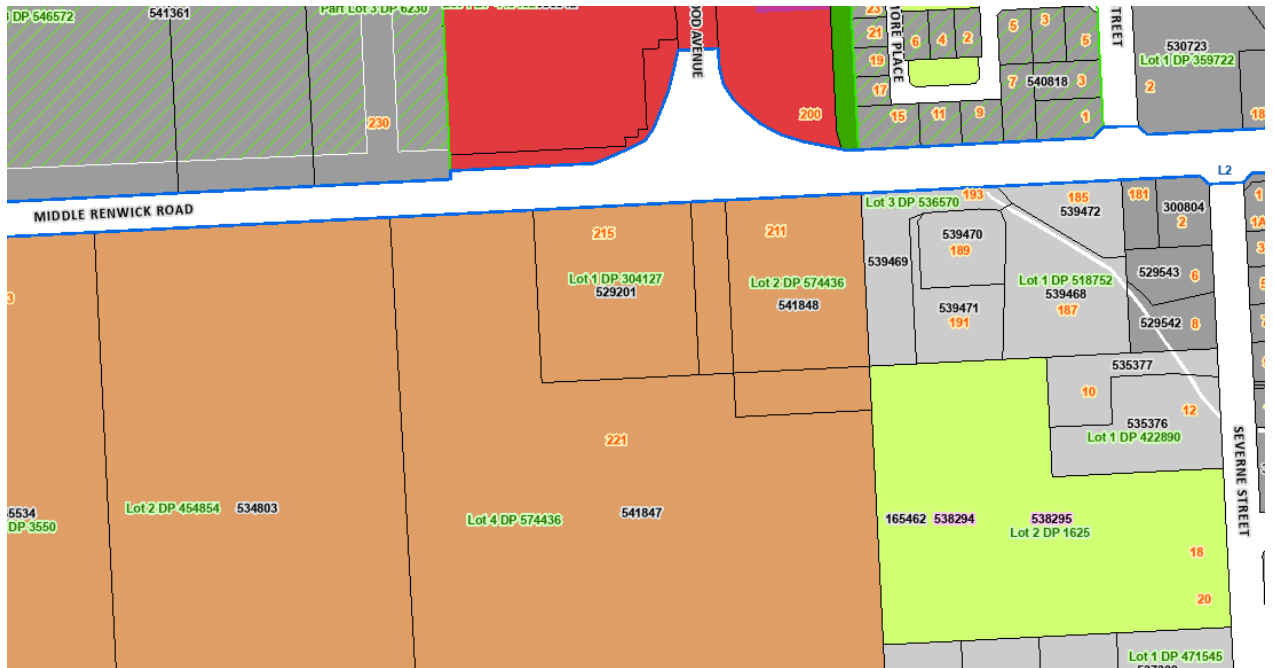




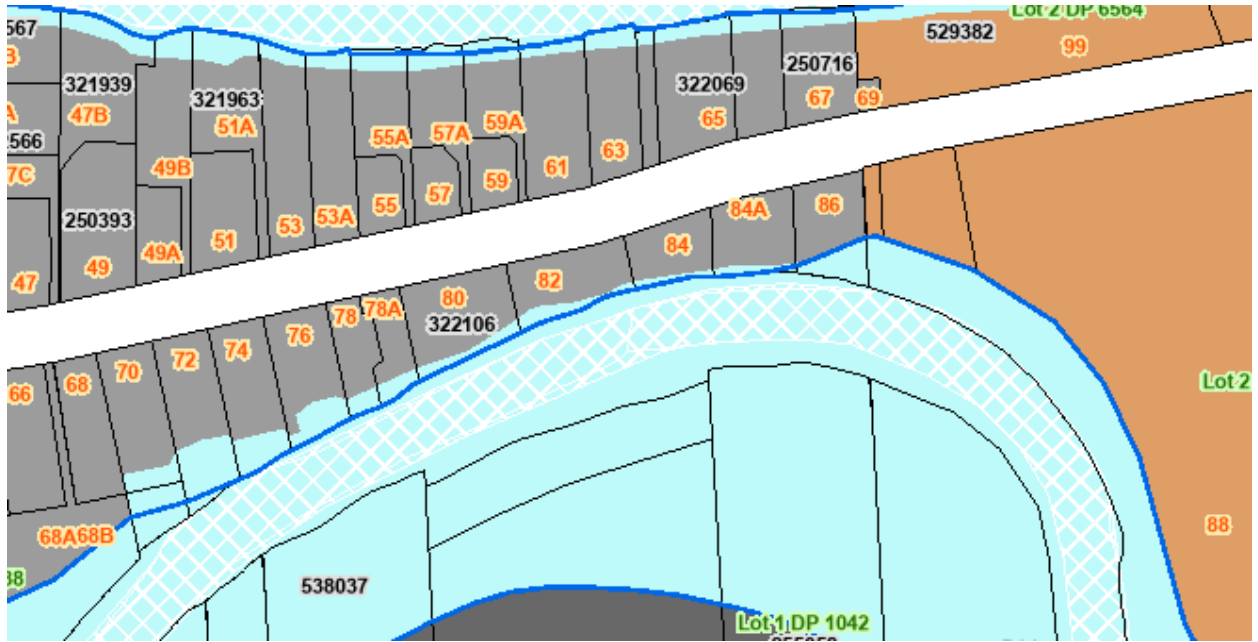
- 6. There is an anomaly on Old Renwick Road where Council is collecting via kerbside in Waipuna Street and then in Rose Manor, however the houses in between are not being collected. The Houses on the other side of Old Renwick Road are part of the current collection area.



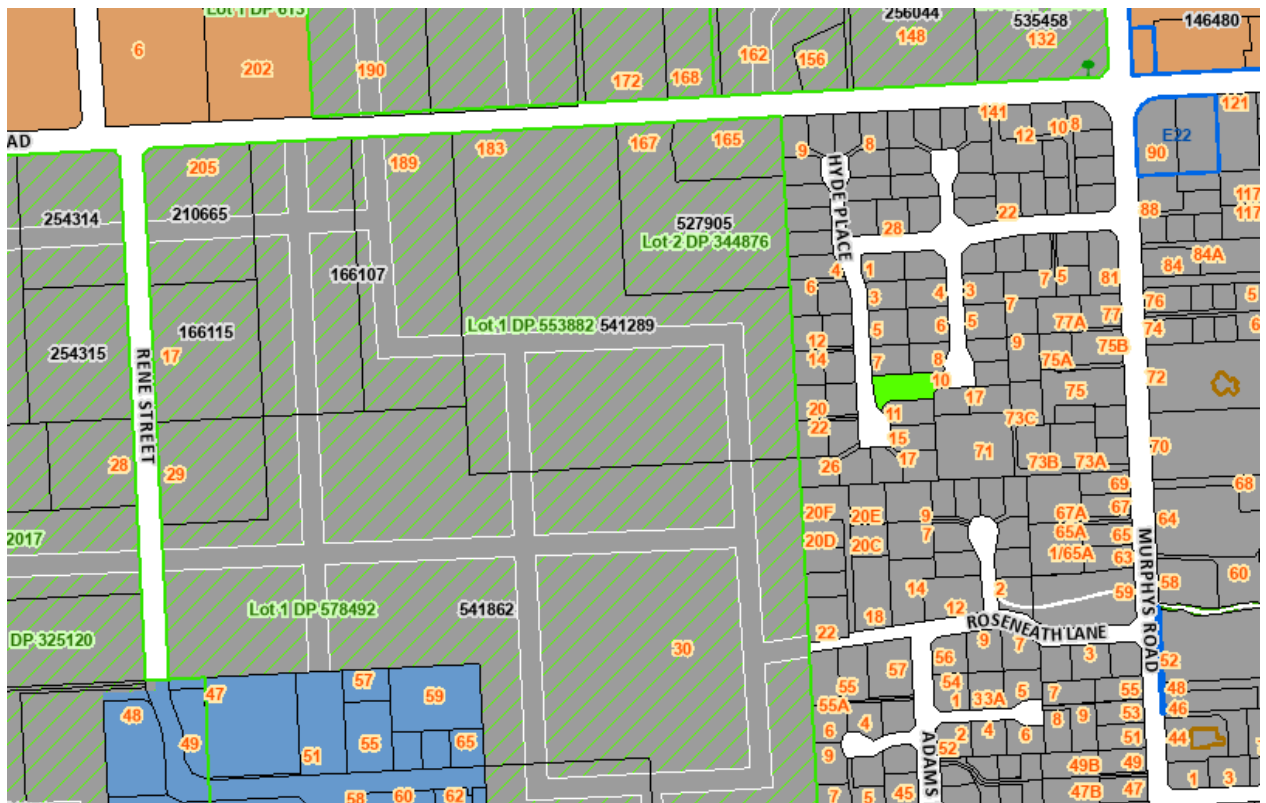
- 7. There are also three residential houses on Middle Renwick Road that fall just outside the area, numbers 221, 215 and 211.



8. There is also one house on Dillons Point Road that are in a similar situation, number 88.



9. From the beginning of January, the Summerset Retirement Village will be operating. This village currently sits outside the collection area.



10. If the proposed changes are accepted, this will bring Summerset into the collection area.
11. There are 148 additional properties identified in Fairhall and 80 additional properties identified in Rapaura.
12. Council has written confirmation from the new contractor; Waste Management New Zealand Limited, that the increased collections areas can be included in the current rate per property at the same collection rate applying to the already approved areas.

13. Staff originally considered the increased collection area to include from Havelock to Rai Valley, but this would have been an increase in cost of 10%, so this is not being proposed.
14. It is proposed that this is funded by the targeted rate, as with the other properties in the original kerbside collection area, this would make it a cost neutral project.
15. If Rapaura was included in the collection area, Council would not have to construct a remote transfer station (RTS) in Rapaura, which is a saving of approximately \$50K.

Assessment/Analysis

16. Legal advice is being obtained on an appropriate consultation process to meet Local Government Act requirements. This will be explained at the Council meeting.
17. Each property would have the option of selecting the bin size as part of the consultation process.

Option One (Recommended Option)

18. Council approves the expansion of the kerbside collection area.

Advantages

19. There is no extra cost to Council.
20. This would save the Council approximately \$50,000.00 in construction costs for a RTS in Rapaura.
21. It would include the remaining properties that are zoned as residential.

Disadvantages

22. N/A.

Option Two – Status Quo

23. Council stays with the current areas.

Advantages

24. No cost and no extra work required.

Disadvantages

25. Council will need to build a RTS at Rapaura.
26. Several properties that are zoned residential are not receiving the same service as other properties zoned the same.

Next steps

27. A consultation process which may include targeted consultation to the newly identified houses, via letter, to confirm if they wish to take up the offer of the extended kerbside collection. This process will be based on legal advice to be advised to Council at the meeting.

Author	Mark Lucas, Solid Waste Manager
Authoriser	Richard Coningham, Assets & Services Manager

Summary of decision-making considerations			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic development	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environment & RMA Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land transport	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water.			
Financial considerations			
The project has not been budgeted for however it is a cost neutral projects as it is covered by the targeted rate.			
Significance			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
Engagement			
A communications plan will be developed.			
Risks: Legal / Health & Safety etc			
There are no known significant risks or legal implications.			
Climate Change Implications			
There are no known climate change implications to this decision.			

9. Remote Transfer Station (RTS)

(Clr Dalliessi) (Report prepared by M Lucas)

W300-006-009-09

Purpose of Report

1. To update Council on the estimated costs to construct the Remote Transfer Stations (RTS) compounds on the proposed sites, and the funding mechanism to be used.

Executive Summary

2. As a result of the letting of Contract 21-077 Waste Management and Minimisation contract and the community consultation it was decided that Council will install 11 remote transfer sites. It was hoped at the time that these would be covered via a waste minimisation fund grant. As a result of the grant application being declined these sites now require internal funding.

RECOMMENDATION

That Council approves the expenditure to construct the RTS compounds on the approved sites with funding as follows:

- a) **Financial Year 2024-25 – Forestry and Land Development Reserve - \$309,104.95 + GST;**
- b) **Financial Year 2025-26 – Forestry and Land Development Reserve, or rates funded debt to be reviewed during the Long Term Plan process - \$422,403.05 + GST.**

Background/Context

3. As part of the tender and acceptance of Contract 21-077 - Waste Management and Minimisation it was decided that the current coin skips and recycling bins that are located remotely are replaced with a Remote Transfer Station.
4. During the consultation phase of the above-mentioned contract an application to the Waste Minimisation fund was submitted to cover the construction of the RTS compounds. This application has been declined.
5. The application was for \$550k or \$50k per RTS, for the 11 sites.
6. The application was declined as the focus area for the fund is now on organic waste.
7. The approved sites are Awatere Valley Road, Ohingaroa Quarry, Port Underwood, Portage, Rai Valley, Rapaura, Linkwater, Titirangi, Waihopai Valley, Waitaria Bay, and Ward. A separate paper (Item 8 above) proposes an extension of the new collection contract which could remove the need for the Rapaura site. This paper assumes that is the case.
8. The concept design of the new RTS compound has been completed, with an emphasis on aesthetics, practicality, ability to contain the waste, and ease of keeping clean.
9. The design has several recyclable products, including repurposed vineyard posts and mussel ropes. They are considered as an asset that will have a 40+ year life span, with appropriate maintenance.
10. All the sites have been designed so people with reduced mobility will be able to use the sites, including wheelchair access.
11. All the sites have been costed to have a 24/7 CCTV camera to cover the site.
12. The CCTV cameras are intended, if required, to be used to identify people who refuse to follow the terms and conditions of use of the RTS.

13. At the time of completing this paper, no tender requests have been sought, so a actual cost of each RTS cannot be confirmed, however the estimated costs to build the 10 sites (which excludes Rapaura) is \$731,511.00 +GST, made up of the following:

Site name	Budgeted Costs	Year of Construction
Awatere Valley	\$ 60,313.50	FY24
Ohingaroa Quarry	\$ 56,001.00	FY24
Port Underwood	\$ 62,251.00	FY25
Portage	\$ 87,563.50	FY25
Rai Valley	\$ 52,813.50	FY24
The Grove	\$ 59,063.50	FY25
Titirangi	\$ 87,563.50	FY25
Waihopai Valley	\$ 55,938.50	FY24
Waitaria Bay	\$ 87,563.50	FY25
Ward	\$ 55,938.50	FY24
Contingency (10%)	\$ 66,501.00	
Total	\$ 731,511.00	

Assessment/Analysis

14. As part of the process to confirm the new kerbside collection contract, full community consultation was completed, and the above-mentioned sites were agreed.
15. Staff are finalising sites according to size, H&S issues, and suitable sub grade. The footprint of the new RTS compounds is bigger than the current footprint.
16. All the site designs and locations, prior to construction, will be discussed with the local community.
17. Due to site finalisation and preparation details, there is potential for delayed construction not being completed until after 1 July 2024.
18. Once it is clear which sites will be delayed and for how long, the affected communities will be advised that interim arrangements will be required.

Option One (Recommended Option)

19. Council approves the expenditure for the construction of the 10 RTS sites.

Advantages

20. Council has a fully functional site that can be kept clean and retains all the waste spillage.
21. All sites will have CCTV cameras to assist in identifying people who deposit waste that is outside what is acceptable at the RTS.
22. This is another step in the journey of Council working with the rural communities in achieving a circular economy and the overall goal of reducing waste to landfill.

Disadvantages

23. A cost of \$731,511.00 + GST to complete the site constructions.

Option Two – Status Quo

24. Council does not build the compounds and Council runs the sites as they are.

Advantages

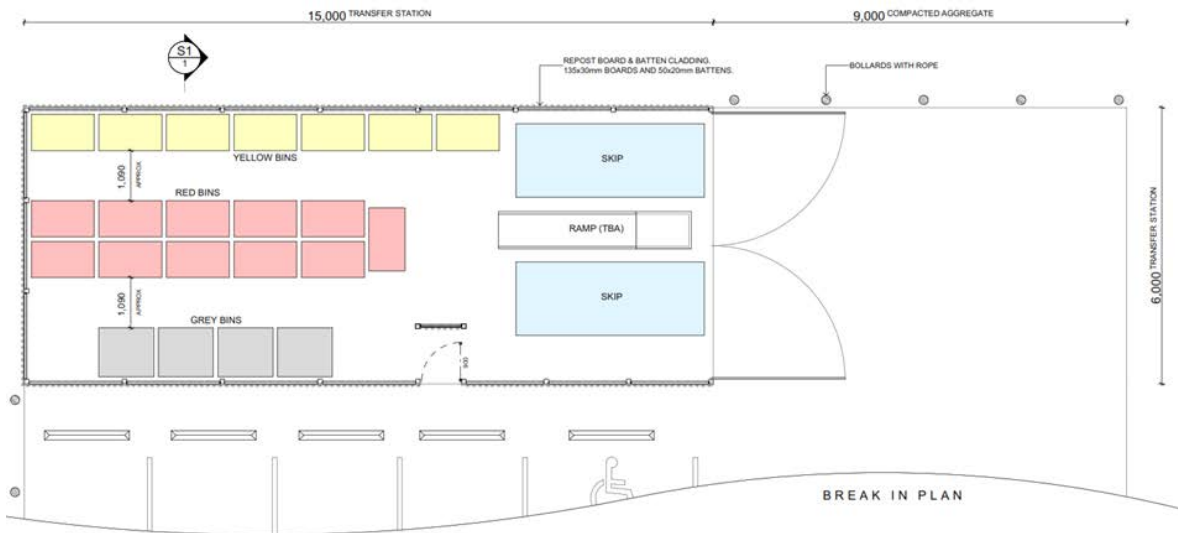
25. Little to no cost

Disadvantages

- 26. Potential contract variations as the sites have been priced as per the contract.
- 27. Council has sites that cannot offer the services that were agreed during the consultative process.
- 28. The sites have no restrictions to the waste that can be deposited there.

Attachments

Below is the concept design of the RTS compound. The design is based on the Picton Marina compound.



Author	Mark Lucas, Solid Waste Manager
Authoriser	Richard Coningham, Assets & Service Manager

Summary of decision-making considerations			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Infrastructure Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Environment & RMA Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and reserves	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water.			
Financial considerations			
The project has not been budgeted for.			
Significance			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
Engagement			
Engagement has occurred with the community via full consultative process for the location and number of RTS sites. The sites that have been confirmed were as a result of this process.			
Risks: Legal / Health & Safety etc			
There are no known significant risks or legal implications.			
Climate Change Implications			
There are no known climate change implications to this decision.			

10. Bylaw Decision: Proposed Navigation Bylaw 2023

(includes Attachment 10.1 and Attachment 10.2) (also refer to the separate attachment 10.3)

(Clr Innes) (Report prepared by J Oliver)

H100-001-01

Purpose of Report

1. Releases the report 'Recommendations of the hearings panel for the proposed Marlborough Navigation Bylaw 2023'.

Executive Summary

2. The Navigation Bylaw 2009 came in force on 1st July 2010. The bylaw contains rules relating to maritime and navigation safety.
3. Section 159 of the Local Government Act 2002 requires local authorities to review a bylaw made by it under this Act [LGA 2002], the Maritime Transport Act 1994, or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by section 158 or section 159.
4. A review of the bylaw commenced in 2017. The review process was not followed through to a final conclusion because, whilst working through the bylaw making process, a number of new issues arose in respect of navigation safety issues arising from the emergence of the iReX project.
5. Owing to the delays to projects within the region, largely due to COVID, the current 2009/2010 bylaw on investigation was deemed to be expired.
6. This meant that the consultation process previously conducted in 2017 was no longer suitable for implementation of a reviewed instrument and a new review and consultation process for a replacement bylaw was required.
7. Given that it is important to have a new bylaw in place as soon as possible (because the current bylaw has been deemed to have expired) Council proposed to roll over into a replacement bylaw as much of the 2009 bylaw as possible with some minor amendments for clarity. This was the approach taken with the proposed bylaw.
8. Council notified the proposed bylaw on the 15 June 2023. Consultation ran until the 1 October 2023.
9. A total of 8 submissions were received, of which 2 wished to be heard in support of their submissions at a hearing.
10. Public notification of the bylaw was preceded by consultation with Maritime New Zealand and direct consultation with Iwi.

RECOMMENDATIONS

1. **That the proposed bylaw be promulgated into effect without any further modifications.**
 2. **That the bylaw come into effect on 20 December 2023.**
 3. **That the Harbourmaster actively investigates an alternative access lane for water skiing to replace the Cherry Bay access lane.**
 4. **That the Recreational Boating Bylaw process be commenced early in 2024.**
 5. **That the submitters be thanked for their participation in the process and advised of the outcome.**
-

Background/Context

11. The Navigation Bylaw 2009 came in force on 1st July 2010. The bylaw contains rules relating to maritime and navigation safety.

12. Section 159 of the Local Government Act 2002 requires local authorities to review a bylaw made by it under this Act [LGA 2002], the Maritime Transport Act 1994, or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by section 158 or section 159.
13. Section 33M of the Maritime Transport Act 1994 enables regional councils, in consultation with the Director of Maritime NZ to make bylaws to:
 - a) regulate and control the use or management of ships:
 - b) regulate the placing and maintenance of moorings and maritime facilities:
 - c) prevent nuisances arising from the use of ships and seaplanes:
 - d) prevent nuisances arising from the actions of persons and things on or in the water:
 - e) reserve the use of any waters for specified persons, ships, or seaplanes:
 - f) in relation to boat races, swimming races, or similar events,—
 - i) prohibit or regulate the use of ships:
 - ii) regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas:
 - g) regulate and control the use of anchorages:
 - h) prescribe ship traffic separation and management schemes:
 - iii) specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft:
 - i) require the marking and identification of personal watercraft.
14. A review of the bylaw commenced in 2017. The review process was not followed through to a final conclusion because, whilst working through the bylaw making process, a number of new issues arose in respect of navigation safety issues arising from the emergence of the iRex project.
15. Owing to the delays to projects within the region, largely due to COVID, the current 2009/2010 bylaw on investigation was deemed to be expired.
16. This meant that the consultation process previously conducted in 2017 was no longer suitable for implementation of a reviewed instrument and a new review and consultation process for a replacement bylaw was required.
17. Given that it is important to have a new bylaw in place as soon as possible (because the current bylaw has been deemed to have expired) Council strategically proposed to roll over into a replacement bylaw as much of the 2009 bylaw as possible with some minor amendments for clarity. This was the approach taken with the proposed bylaw.
18. Consultation on the proposed bylaw opened on the 15th June 2023. Consultation ran until the 1st October 2023.
19. A total of 8 submissions were received, of which 2 wished to be heard in support of their submissions at a hearing.
20. Public notification of the bylaw was preceded by consultation with Maritime New Zealand and direct consultation with Iwi.

Attachments

Attachment 10.1 – Navigation Bylaw Hearing Panel Report

Page 87

Attachment 10.2 – Class Exemption from Maritime New Zealand

Page 92

Separate Attachment 10.3 – Bylaw as notified with amendments made after Maritime New Zealand submissions

Author	Jake Oliver, Harbourmaster
Authoriser	Hans Versteegh, Manager Environmental Science and Policy

Report on the Hearing for the 2023 proposed Navigation Bylaw

This is the report of the hearings panel comprised of Councillors Croad, Innes and Minehan on the matter of the proposed Navigation Bylaw 2023 who were delegated by Council at the meeting on 2 November 2023 to hear submissions received on the proposed bylaw.

Hearing date 30th November 2023.

Introduction

The Navigation Bylaw 2009 came into force on 1 July 2010. The bylaw contains rules relating to maritime and navigation safety.

Section 159 of the Local Government Act 2002 requires local authorities to review a bylaw made by it under this Act [LGA 2002], the Maritime Transport Act 1994, or the Local Government Act 1974 no later than 10 years after it was last reviewed as required by section 158 or section 159.

Section 33M of the Maritime Transport Act 1994 enables regional councils, in consultation with the Director of Maritime NZ to make bylaws to:

- a. regulate and control the use or management of ships:
- b. regulate the placing and maintenance of moorings and maritime facilities:
- c. prevent nuisances arising from the use of ships and seaplanes:
- d. prevent nuisances arising from the actions of persons and things on or in the water:
- e. reserve the use of any waters for specified persons, ships, or seaplanes:
- f. in relation to boat races, swimming races, or similar events,—
 - i. prohibit or regulate the use of ships:
 - ii. regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas:
- g. regulate and control the use of anchorages:
- h. prescribe ship traffic separation and management schemes:
- i. specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft:
- j. require the marking and identification of personal watercraft.

A review of the bylaw commenced in 2017. The review process was not followed through to a final conclusion because, whilst working through the bylaw making process, a number of new issues arose in respect of navigation safety issues arising from the emergence of the iRex project.

Owing to the delays to projects within the region, largely due to COVID, the current 2009/2010 bylaw on investigation was deemed to have expired.

This meant that the consultation process previously conducted in 2017 was no longer suitable for implementation and a new review and consultation process for a replacement bylaw was required.

Given that it is important to have a new bylaw in place as soon as possible (because the current bylaw has been deemed to have expired) Council proposed to roll over into a replacement bylaw as much of the 2009 bylaw as possible with some minor amendments for clarity. This was the approach taken with the proposed bylaw.

The proposed bylaw

The proposed bylaw covers, rules for recreational boating, control, and management of commercial shipping, defining Harbour limits, fees and charges, controls on anchoring, seaworthiness. A copy of the proposed bylaw is attached as Appendix 1.

Timeline of date for consultation

Maritime New Zealand were consulted on the bylaw in accordance with section 33M of the Maritime Transport Act 1994. On completion of the consultation with Maritime New Zealand, a public consultation period opened.

All top of the South Iwi were contacted to advise of the upcoming bylaw and direct consultation was undertaken.

Consultation opened on 15 June 2023, and closed on 1 October 2023.

Number of submissions

A total of 8 submissions were received, two of which indicated that they wished to be heard. One of the submissions heard was on behalf of the Queen Charlotte Yacht Club, the other submission sought the reinstatement of the Cherry Bay Ski Lane, not included as part of the proposed bylaw.

On the day of the hearing, only the submitter and legal counsel on behalf of the Queen Charlotte Yacht Club were available to appear in person. The submitter was represented by Mr Van Der Waal, acting on behalf of the yacht club and supported by Mr Rob Burn (Commodore of the yacht club).

Mr William Deerness, who initially wanted to be heard in respect of Cherry Bay Ski Lane was unable to attend in person due to work commitments. Mr Deerness provided further a statement in support of the reinstatement of the ski lane for the committee’s consideration. This was considered along with the other submissions also received in respect of the proposed bylaw.

The breakdown of the submissions considered by the panel are as follows.

Proposed Marlborough District Council Navigation Bylaw - Submissions		
Submitter No.	Submitter	Summary
1.	Mr William (Bill) Deerness	Seeks reinstatement of Cherry Bay Ski Lane.
2.	Queen Charlotte Yacht Club Incorporated	Seeks relief from the No Anchoring Rule in Picton Harbour.
3.	Ms Vicki Flyger	Seeks reinstatement of Cherry Bay Ski Lane.
4.	Mr Jason Hunt	Seeks expanded provisions for vessel identification.
5.	Ms Lara Wolfe	Seeks an exemption for Stand Up paddle boards.
6.	Mr Roger Ryan	Seeks reinstatement of Cherry Bay Ski Lane.
7.	Mr Peter Ryan	Seeks reinstatement of cherry Bay Ski Lane.

Consideration of submissions

In both the written and oral submission on behalf of the Queen Charlotte Yacht Club Mr Van Der Waal emphasised their support of the bylaw and the Harbourmaster function. The second part of Mr Van Der Waal's presentation was to emphasise the desire of the yacht club to have certainty over the operational capacity of the club to run its sailing events both now and into the future in a manner that is compliant with the bylaw provisions. The issues he raised related particularly to the ability of the club to lawfully anchor and set out racing marks and use safety boats during events which may currently as worded contravene the proposed bylaw provisions. Mr Van Der Waal in discussion with the panel highlighted the potential of the exemption process in the bylaw, however, expressed a desire that the panel consider providing an appeal process in regard to any failure by the club to be granted such an exemption.

Mr Burn also spoke in support of the submission and highlighted the good working relationship the Club had with the Harbourmaster's Office, though deferred to Mr Van Der Waal for the legal aspect of the submission.

In considering this issue the approach of the panel was to return to first principles of making a bylaw. The purpose of the bylaw is to ensure safety on the water and in this respect the bylaw assists the Harbourmaster with discharging a statutory role for ensuring maritime safety. The bylaw provides another tool for managing navigation safety alongside Harbourmaster Directions. For this reason, it is unclear how an appeal process would sit alongside the exemption process given that Harbourmasters decisions cannot be fettered by a third party other than through the Courts or Maritime New Zealand.

The panel reviewed the exemption making process and found it to be fit for purpose and is satisfied that it can be used for a specified period, for example over a whole sailing season. It can also be sought for example, in advance of a future event such as a national regatta. It is acknowledged that the success of this approach to Harbour Management relies on the good will of both parties acting in good faith.

Turning to the submissions in respect of the Cherry Bay ski lane removal. Four submitters, Mr Roger Ryan, Mr Peter Ryan, Mr William Deerness, and Ms Vicki Flyger seek the reinstatement of the Cherry Bay ski lane which was omitted from Schedule 4 of the proposed bylaw.

In support of the submissions, it was drawn to the panel's attention that Cherry Bay has been a location for water-skiing activities with the inclusion of a water ski access lane for as long as 60 years. The submitters are "puzzled as to why it is proposed to remove the access lane" from the bylaw and how a mooring came to get a resource consent in this location.

In essence the panel is confronted with a situation whereby it is unable to recommend the reinstatement of the ski lane on safety grounds. This follows from the fact that a resource consent has been granted for a mooring under the Resource Management Act in the bay during the period the bylaw was deemed to be expired. For the time being at least the mooring consent must be regarded as a lawfully established activity which precludes the reinstatement of the ski lane in this locality. The Harbourmaster has given an undertaking to look for an alternative suitable location in the vicinity of Cherry Bay to re-establish a suitable access lane for water-skiers using the Ruakaka Bay locality.

Review of the resource consent making process is not something that can occur under the bylaw making process and must be pursued elsewhere.

The submission received from Mr Jason Hunt supports the bylaw in part with regard to the extent that the bylaw deals with some aspects of vessel identification. Mr Hunt seeks that the bylaw institutes compulsory identification of all vessels including personal watercraft (Jetskis) by way of an identification number on vessels. This he proposed be by either trailer registration or call sign.

In consideration of the submission the panel noted that the scope of the proposed bylaw was notably restricted to reinstate a base bylaw as a matter of urgency given the deemed expiry of the 2009/2010 bylaw. The Council is fully committed to addressing the issue raised by the submitter by way of proposed bylaw amendments to commence in 2024.

The submission received from Ms Lara Wolfe seeks an exemption from clause 2.1.a, Personal Flotation Devices. No recommendation to change this provision needs to be made. This follows from the fact that Maritime Rule Part 91 and the Maritime Transport (Class Exemption — Carriage of Personal Flotation

Devices on Stand-up Paddleboards in Surfing Zone) Notice 2022 is already in effect. Appendix 1 – Navigation Bylaw 2023 (attached separately)

Appendix 2 - Class Exemption from Maritime New Zealand (below as Attachment 10.2)

Attachment 10.2 is a copy of the Class Exemption from Maritime New Zealand.

Recommendations

1. For the foregoing reasons, the panel recommends that the proposed bylaw be promulgated into effect without any further modifications.
2. That the bylaw come into effect 20th December 2023
3. That the Harbourmaster actively investigates an alternative access lane for water skiing to replace the Cherry Bay access lane
4. That the Recreational Boating Bylaw process be commenced early in 2024
5. That the submitters be thanked for their participation in the process and advised of the outcome.

Attachments

Appendix 1 – Navigation Bylaw 2023 (attached separately)

Appendix 2 - Class Exemption from Maritime New Zealand (below as Attachment 10.2)

Attachment 10.2

Maritime Transport (Class Exemption — Carriage of Personal Flotation Devices on Stand-up Paddleboards in Surfing Zone) Notice 2022

Pursuant to section 40AA(1)(b) of the Maritime Transport Act 1994, the Director of Maritime New Zealand, being satisfied of the matters set out in section 40AA(2) of that Act, gives the following notice.

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Notice

1. Title

This notice is the Maritime Transport (Class Exemption — Carriage of Personal Flotation Devices on Stand-up Paddleboards in Surfing Zone) Notice 2022.

2. Commencement

This notice comes into force on 1 December 2022

3. Interpretation

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

Act means the Maritime Transport Act 1994

Out back means the area of open water where waves are not breaking, that is adjacent to the area of breaking waves, where a SUP surfer may wait before attempting to ride a wave

Rules means Maritime Rules, *Part 91: Navigation Safety Rules*

Stand-up paddleboard means a recreational craft similar to a surfboard, of rigid or inflatable construction, that—

(a) provides sufficient buoyancy for the user to stand upright on the board when the board is stationary; and

(b) is powered solely manually by the SUP surfer using a paddle or by pumping (if using a board with hydrofoils),

but does not include a board that is powered by a motor of any kind

SUP means a stand-up paddleboard

SUP surfer means every person in charge of a stand-up paddleboard for the purpose of SUP surfing

Maritime Transport (Class Exemption— Carriage of Personal Flotation Devices on Stand-up Paddleboards in Surf Zone) Notice 2022

SUP surfing means the act of riding breaking waves toward the shore, on a stand-up paddleboard, in a surfing zone, where the board is propelled by the slope of the advancing wave, and includes activities directly related to riding waves such as—

- (a) paddling through the transit zone;
- (b) waiting or resting out back;
- (c) attempting to catch waves;
- (d) returning to a position to catch waves, or out back

Surfing zone means an area of water lying between the shore and open water, where waves advancing toward the shore are breaking due to wave shoaling, to form rideable waves, and includes—

- (a) any body of salt or fresh water where wind or swell waves exist with sufficient magnitude to produce rideable waves;
- (b) out back;
- (c) transit zone,

but does not include—

- (d) river waves or any area where waves are formed by flowing water such as standing waves, tidal bores or upstream waves;
- (e) areas of open water where a SUP surfer may paddle an extended distance to reach the breaking waves or out back

Transit zone means the area of water between the nearest appropriate point of entry to, or exit from, the water and the surf or out back, through which a SUP surfer may transit in order to safely enter or exit the water.

- (2) Any term or expression that is defined in the Act or the rules and used, but not defined, in this notice has the same meaning as in the Act or the rules.

4. Exemption for personal flotation devices

- (1) The class of person described in subclause (2) is exempt from the requirements specified in rule 91.4(1) of the Maritime Rules, *Part 91: Navigation Safety Rules*.
- (2) The class is every person in charge of a stand-up paddleboard for the purpose of SUP surfing.

5. Condition of exemption

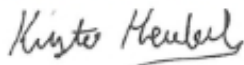
- (1) The exemption in clause 4 is granted subject to the condition set out in subclause (2).
- (2) The SUP surfer must be attached to the stand-up paddleboard by means of a board leash that is fit for purpose and suitable for the circumstances.

6. Expiry of exemption

The exemption in *clause 4* expires on:

- (a) the date that rule 91.4(1) is replaced with a rule which has a similar or same effect as this exemption or is revoked; or
 - (b) the date that this exemption is revoked or replaced; or
 - (c) 1 December 2027,
- whichever is sooner.

Dated at Wellington this 16th of November 2022



Kirstie Hewlett

Chief Executive/Director

Maritime New Zealand | Nō te rere moana Aotearoa

Maritime Transport (Class Exemption— Carriage of Personal Flotation Devices on Stand-up Paddleboards in Surf Zone) Notice 2022

Statement of reasons

This notice exempts a class of person from compliance with specified requirements in Maritime Rules, *Part 91: Navigation Safety Rules* made under the Maritime Transport Act 1994 (see section 40AA(1)(b) of the MTA).

General provisions relating to the exemption

The exemption in *clause 4* of this notice relates to rule 91.4(1) of the Maritime Rules, *Part 91: Navigation Safety Rules*. The rule requires the person in charge of a recreational craft to ensure there are on board at the time of use, and in a readily accessible location, sufficient personal flotation devices of an appropriate size for each person on board.

In respect of the requirements specified in maritime rule 91.4(1), the exemption will apply to a class of person, being every person in charge of a stand-up paddleboard for the purpose of stand-up paddleboard surfing.

The exemption in *clause 4* is subject to the condition that the stand-up paddleboard surfer must be attached to the stand-up paddleboard by means of a board leash that is fit for purpose and suitable for the circumstances.

This exemption comes into force on 1 December 2022 and it expires on 1 December 2027, or the date when rule 91.4(1) has been replaced with a rule which has a similar or same effect as this exemption or is revoked, or the date that this exemption is replaced or revoked, whichever is sooner.

Director may grant exemptions from maritime rules

The Director of Maritime New Zealand, after being satisfied as to the matters set out in section 40AA of the Act, thinks it appropriate to grant the class exemption because:

- requiring persons in charge of stand-up paddleboards in the surfing zone to comply with the specified requirements to carry PFDs is inappropriate in the circumstances of the activity;
- this exemption aligns with the objective of Maritime Rules, *Part 91: Navigation Safety Rules*, which allows exemptions from personal flotation device requirements where compliance is impractical or inappropriate.

The Director is further satisfied that the exemption meets the criteria in section 40AA(2) of the Act and conditions are appropriate as:

- **No international convention requirements:** the requirements are purely domestic requirements that do not implement any international conventions. Therefore granting the exemption will not breach New Zealand's obligations under any convention (s.40AA(2)(a)).
- **One of the criteria in s.40AA(2)(b) applies:**
 - (iii) the requirement is clearly inappropriate in this particular case:
 - the stand-up paddleboard itself provides ample buoyancy for the user, and far greater buoyancy than that provided by any personal flotation device;

Maritime Transport (Class Exemption— Carriage of Personal Flotation Devices on Stand-up Paddleboards in Surf Zone) Notice 2022

- persons being attached to the stand-up paddleboard by means of a board leash that is fit for purpose and suitable for the circumstances provides a more effective safety outcome than compliance with the requirement to carry a personal flotation device;
 - Part 91 does not directly reference stand-up paddleboards. It does however exclude surfboards from the requirement to carry personal flotation devices. From a practical and safety perspective, SUP surfing is more similar to surfing on a surfboard than any other activity involving a watercraft. The only practical difference is the use of a paddle to power the craft. This has no relevance to the safety considerations in relation to personal flotation device carriage or use while surfing.
- **Risk of harm to the marine environment:** there are no specific or unique environmental risks related to the requirements to carry personal flotation devices. Therefore the granting of the exemption will not significantly increase risk of harm to the marine environment (s.40AA(2)(c)).
 - **Risk to safety:** granting the exemption will decrease risk to safety (s.40AA(2)(d)):
 - Personal flotation devices reduce the user's ability to participate in the sport, and have direct impact on safety by reducing the user's ability to avoid the energy of breaking waves, and to avoid being injured directly by interaction with the stand-up paddleboard in the breaking waves. Further, personal flotation devices could contribute to exhaustion during the normal participation in the sport. In the event of exhaustion, or being swept out to sea, the stand-up paddleboard remains the most important buoyancy aid;
 - The buoyancy of a stand-up paddleboard significantly exceeds that of any personal flotation device, and is sufficient to allow the user to climb onto the board and out of the water, reducing the risk of drowning and hypothermia while also increasing visibility;
 - The design and construction of stand-up paddleboards mean they cannot take on water and will not lose buoyancy even if capsized or completely submerged by a breaking wave;
 - Stand-up paddleboard surfers need to avoid being unintentionally separated from, or completely losing control of their board, even when tumbled in heavy surf. This is essential for the safety of the user to ensure the buoyancy of the board is available if needed, and for the safety of other water users who could be injured by and out of control board in the surfing zone. Therefore board leashes should always be used when stand-up paddleboard surfing. Appropriate board leashes are designed specifically for this purpose and the environment within the surfing zone.

11. Decision to Conduct Business with the Public Excluded

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Confirmation of Public Excluded Minutes
- Committee Reports (Public Excluded Sections)
- Appointment of Director

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes and Reports	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.
Appointment of Director	In order to protect the privacy of natural persons, as provided for under Section 7(2)(a).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.