



HEARINGS SUBCOMMITTEE

19 March 2024

Order Paper for the meeting to be held in the
Council Chambers, 2nd Floor, 30 Laings Road, Lower Hutt,
on:

Monday 25 March 2024 commencing at 10:00 am

The meeting will be livestreamed on Council's Facebook page.

The purpose of the hearing is to consider submissions on the proposed amendments to the Dog Control Bylaw – Tupua Horo Nuku

Membership

Cr S Edwards
Cr N Shaw

Cr C Parkin
Cr T Stallinger (Alternate)

For the dates and times of Council Meetings please visit www.huttcity.govt.nz

TE KAUNIHERA O TE AWA KAIRANGI | HUTT CITY COUNCIL

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ORDER PAPER

PUBLIC BUSINESS

1. OPENING FORMALITIES - KARAKIA TIMATANGA

Whakataka te hau ki te uru	<i>Cease the winds from the west</i>
Whakataka te hau ki te tonga	<i>Cease the winds from the south</i>
Kia mākinakina ki uta	<i>Let the breeze blow over the land</i>
Kia mātaratara ki tai	<i>Let the breeze blow over the ocean</i>
E hī ake ana te atakura	<i>Let the red-tipped dawn come with</i>
He tio, he huka, he hau hū	<i>a sharpened air.</i>
Tihei mauri ora.	<i>A touch of frost, a promise of a glorious day.</i>

2. APOLOGIES

No apologies have been received.

3. ELECTION OF CHAIR

4. CONFLICT OF INTEREST DECLARATIONS

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.

5. HEARING OF SUBMISSIONS - PROPOSED CHANGES WITHIN THE DOG CONTROL BYLAW

Report No. HSC2024/1/32 by the Head of Strategy and Policy

4

6. HEARING OF SUBMISSIONS

7. CLOSING FORMALITIES - KARAKIA WHAKAMUTUNGA

Unuhia!	Release us from the supreme
Unuhia!	sacredness of our tasks
Unuhia i te uru-tapu-nui	To be clear and free
Kia wātea, kia māmā	in heart, body and soul in our
Te ngākau, te tinana,	continuing journey
te wairua i te ara takatū	Oh Rongo, raise these words up high
Koia rā e Rongo	so that we be cleansed and be free,
whakairihia ake ki runga	Yes indeed, we are free!
Kia wātea, kia wātea!	Good and peaceful
Ae rā, kua wātea!	
Hau, pai mārire.	

Kathryn Stannard
HEAD OF DEMOCRATIC SERVICES

Report no: HSC2024/1/32

Hearing of submissions - proposed changes within the Dog Control Bylaw

Purpose of Report

1. This report provides information to assist the Subcommittee with hearing submissions on proposed amendments to the Dog Control Bylaw 2015 (the bylaw). The amendments aim to restrict dogs near the Tupua Horo Nuku (Eastern Bays Shared Pathway).

Recommendations

That the Subcommittee:

- (1) notes the resource consent conditions for Tupua Horo Nuku to protect kororā and other birds attached at Appendix 1 to the report;
- (2) notes that if Council does not meet the primary consent conditions by making changes within the Dog Control Bylaw 2015, further physical bird protection measures will be required;
- (3) notes that public consultation took place from 1 February to 1 March 2024;
- (4) notes that the Kōrero mai/Have Your Say page content is attached at Appendix 2 to the report;
- (5) notes that the maps used during public consultation are attached at Appendix 3 to the report;
- (6) notes the criteria for making amendments to dog prohibition areas in clause 8A.4 of the Dog Control Bylaw (as set out in paragraph 8 in the report);
- (7) notes 275 survey submissions and six email submissions were received and were provided to the Subcommittee members on 11 March 2024;
- (8) notes the high-level analysis of submissions included in Table 1 in the report;

- (9) notes the hearings schedule attached at Appendix 4 to the report;
- (10) notes that the written submissions in order of the hearings schedule are attached at Appendix 5; and
- (11) notes that the Policy, Finance and Strategy Committee will consider its recommendations on 7 May 2024.

Background

2. The 2021 resource consent for Tupua Horo Nuku required Council to establish Bird Protection Areas (BPAs), and to initiate potential changes under the bylaw to protect kororā and other birds. The resource consent conditions are attached at Appendix 1 to the report.
3. If changes under the bylaw are not made the consent requires other physical bird protection measures to be made, such as improved fencing and revegetation.
4. On 21 November 2023, Council approved public consultation taking place from 1 February 2024 to 1 March 2024 on the proposed amendments within the bylaw. The amendments include changes to dog restrictions in and around the BPAs.
5. Registered dog owners in Hutt City were all contacted to inform them of the survey.
6. Public submissions were received via the Kōrero mai/Have Your Say web page and the Tupua Horo Nuku Project email. The Kōrero mai page content is attached for the Subcommittee's reference at Appendix 2 to the report.
7. Maps were used during public consultation to assist public understanding. The maps are attached for the Subcommittee's reference at Appendix 3 to the report.

Discussion

8. Under clause 8A.4 of the bylaw, before making a resolution to amend dog prohibition areas within the bylaw, Council must consider the following:
 - a. the need to minimise danger, distress and nuisance to the community generally;
 - b. the need to avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children, whether or not the children are accompanied by adults;
 - c. the importance of enabling, to the extent that is practicable, the public (including families) to use streets and public amenities without fear of attack or intimidation by dogs;
 - d. the exercise and recreational needs of dogs and their owners;
 - e. impact on wildlife areas;
 - f. whether it is necessary to consult with the public to gauge community views on a proposed dog prohibition area; and
 - g. any other information considered by the Council to be relevant.

Submissions Received

9. During the one-month consultation period, 275 responses were received via the survey and six were received via email.
10. The results demonstrate majority support for the proposed amendments in three of the four areas (Sorrento Bay, Whiorau and HW Shortt Park), and opposition in the fourth (Bishop Park).
11. To assist the Subcommittee's consideration of the submissions, a high-level analysis is set out in Table 1 below.

Table 1: Survey Response Analysis

Survey Questions	Yes/No	Response statistics and frequent reasons for responses
Do you support the proposal for Sorrento/Lowry Bay ? (Current: Dogs prohibited between 9am-8pm during daylight saving period, on-lead all other times. Proposed: dogs prohibited at all times)	Yes - 60.99%	<ul style="list-style-type: none"> - Native bird protection; - Dog owners have other options, birds do not; - Irresponsible dog owners.
	No - 39.01%	<ul style="list-style-type: none"> - Oppose BPA location; - Dogs on leash rather than banned; - Irresponsible people are the problem, not dogs; - Inconsistent restrictions.
Do you support the proposal for Whiorau ? (Current: Dogs prohibited 9am-8pm during daylight saving period, on-lead at all other times. Proposed: dogs prohibited in BPA at all times. No changes proposed outside the BPA)	Yes - 61.72%	<ul style="list-style-type: none"> - Native bird protection; - Dog owners have other options, birds do not; - Irresponsible dog owners.
	No - 38.28%	<ul style="list-style-type: none"> - Dogs on leash rather than banned (in the BPA); - Oppose changes to current restrictions; - Irresponsible people are the problem, not dogs.
Do you support the proposal for Bishop Park ? (Current: Dogs prohibited between 9am-8pm during daylight saving period, on-lead all other times. Proposed: dogs prohibited at all times)	Yes - 41.15%	<ul style="list-style-type: none"> - Native bird protection; - Dog owners have other options, birds do not; - Irresponsible dog owners.
	No - 58.85%	<ul style="list-style-type: none"> - Oppose BPA location; - Negative health impacts on people and dogs if dogs are banned; - Dogs on leash rather than banned; - The restrictions are inconsistent; - Fence will impact view.

<p>Do you support the proposal for HW Shortt Park?</p> <p>(Current: Dogs may be off-lead but you need one with you. Dogs must still be under control at all times. Proposed: BPA (dogs prohibited at all times). No changes proposed outside the BPA)</p>	Yes - 57.58%	<ul style="list-style-type: none"> - Native bird protection; - Irresponsible dog owners; - Dog owners have other options, birds do not.
	No - 42.42%	<ul style="list-style-type: none"> - Negative health impacts to people and dogs; - Irresponsible people are the problem, not dogs; - Oppose BPA locations ; - Dogs on leash rather than banned (in the BPA).

Hearing Subcommittee Process

12. The hearings schedule is attached at Appendix 4 to the report.
13. The written submissions in order of hearings are attached at Appendix 5 to the report.
14. Five minutes have been allocated for individual hearings and 10 minutes for organisations. 18 individuals and two organisations (Forest and Bird and Eastbourne Community Board) are scheduled to speak to their submissions.

Next Steps

15. Following the hearing, the Subcommittee will make recommendations to the Policy, Finance and Strategy Committee on 7 May 2024.

Legal Considerations

16. The proposed changes within the bylaw are for the purpose of meeting consent conditions relevant to Tupua Horo Nuku.
17. Section 82 of the Local Government Act 2002 includes consultation requirements. These, combined with the bylaw requirements for consultation, warranted this public engagement process.

Financial Considerations

18. If the proposed restrictions are not met Council will be required to meet secondary conditions that will have financial implications.

Appendices

No.	Title	Page
1↓	Consent Conditions	10
2↓	Consultation Page	19
3↓	Maps for Consultation	20
4↓	Hearing Schedule	24
5↓	Written Submissions in Order of Appearance in Hearing	25

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Reviewed By: Bradley Cato
Chief Legal Officer

Approved By: Jarred Griffiths
Director Strategy and Engagement



Appendix A: Relevant consent conditions

Main consent condition	Relevant conditions under the main consent condition	
<p>EM.1 In order to avoid or minimise adverse effects of the Project on Kororāand Shoreline Foragers, the Consent Holder shall:</p>	<p>(a) Seek dog control measures in accordance with Condition EM.2;</p> <p>(b) Prepare a Bird Protection Plan (BPP) in accordance with Conditions EM.3 to EM.3C;</p> <p>(c) Undertake Construction Works in accordance with Conditions EM.4 to EM.4D;</p> <p>(d) Deliver pest management in accordance with Condition EM.5;</p> <p>(e) Deliver the protection areas in accordance with Conditions EM.6 to EM.6E;</p> <p>(f) Deliver rubbish and waste management in accordance with Condition EM.7;</p> <p>(g) Complete reviews of the protection areas (Conditions EM.8 to EM.8C);</p> <p>(h) Complete a study of Tōrea Pango / Variable Oystercatchers (Condition EM.8D); and</p> <p>(i) Complete a public education awareness programme for avifauna in accordance with Condition EM.9.</p> <p>In relation to:</p> <p>(j) Pest management, the Consent Holder shall provide up to a maximum of \$60,000 to be used to implement the measures set out in the Pest Management Strategy;</p> <p>(k) The protection areas in Conditions EM.6B to EM.6E, the Consent Holder shall:</p> <p>(i) Provide up to a maximum of \$300,000 to be used to establish the protection areas (including, if required, the potential additional area in Condition EM.2(d)) in accordance with the BPP; and</p> <p>(ii) Provide up to a maximum of \$6,000 per year for the duration of the consents for the ongoing management of the protection areas;</p> <p>(l) The Tōrea Pango / Variable Oystercatcher study in Condition EM.8D, the Consent Holder shall provide up to a maximum of \$30,000; and</p> <p>(m) The public education programme in Condition EM.9, the Consent Holder shall provide up to a maximum of \$15,000.</p> <p>All the sums above include GST.</p> <p>The Consent Holder shall report to the Manager, Environmental Regulation and the Manager, Regulatory Services, Hutt City Council when the monies specified above have been allocated. Any monies not fully spent to the maximum sums above shall be allocated to ongoing management (including pest control) within the protection areas and/or the public educational campaign in Condition EM.9.</p> <p><i>Advice note: The handling of protected wildlife will require permits to be obtained from the Department of Conservation under the Wildlife Act 1953.</i></p>	
<p><i>Dog control measures</i></p>		
<p>EM.2 The Consent Holder shall within 12 months of the Commencement of Consent initiate the required statutory process to exclude dogs from:</p>	<p>(a) The foreshore and beach area of Rona Bay abutting Bishop Park protection area and running for the same length; and</p> <p>(b) The foreshore and beach area of Sorrento Bay from the southern end of the Sorrento Bay oystercatcher protection area and running to the northern end of the oystercatcher managed works zone.</p> <p>Should the dog exclusions over the foreshore and beach areas outlined above not be successfully delivered the Consent Holder shall:</p> <p>(c) Review the fencing options for the Bishop Park and the Sorrento Bay protection areas;</p>	





Main consent condition	Relevant conditions under the main consent condition	
	<p>(d) Develop and implement, in consultation with the Manager, Environmental Regulation and the Eastbourne Dunes Restoration Group, a revegetation plan (with the purpose to support the enhancement of the area for shorebirds through appropriate replacement of exotic plants (in particular marram grass) and planting for screening), install signage in accordance with Condition LV.7(k) and (l) and pest management in accordance with Condition EM.5 at the potential revegetation area which covers the areas of existing vegetation between the Rona Bay pier and the HW Shortt Park protection area; and</p> <p>(e) Investigate alternative dog control measures that may be available and the details of any enforcement or compliance measures that may be implemented, and report back to the Manager, Environmental Regulation and the Manager, Regulatory Services, Hutt City Council.</p>	
<i>Bird Protection Plan</i>		
EM.3	The Consent Holder shall prepare a BPP and submit this to the Manager, Environmental Regulation for certification in accordance with the requirements of Condition GC.5 .	
EM.3A	<p>The purpose of the BPP shall be to as far as reasonably practicable avoid, but otherwise minimise, adverse effects on Kororā and Shoreline Foragers in the Project area and adjacent areas (including existing revetment, the coastal edge running along the length of the Project area and the bird protection areas set out in Conditions EM.6 to EM.6E).</p> <p>The objectives of the BPP shall be to:</p> <p>(a) Maintain or enhance the level of habitat and species diversity post-construction of the Project comparative to that existing pre-construction.</p> <p>(b) Maintain or enhance habitat for Kororā and Shoreline Foragers along the Eastern Bays coast comparative to pre-construction of the Project.</p>	
EM.3B	The BPP shall be prepared by a suitably qualified and experienced ecologist in consultation with the Little Penguin Interest Group, Eastbourne Dunes Restoration Group, and the Mana Whenua Steering Group.	
EM.3C The BPP shall include:	<p>(a) Nesting and construction measures (Conditions EM.4 to EM.4C);</p> <p>(b) Staff and contractor training requirements (as necessary and reasonable);</p> <p>(c) Suggested signage locations and content to be incorporated as appropriate within the BSUDPs under Condition LV.7;</p> <p>(d) Opportunities to avoid or further minimise effects on kororā and enhance kororā habitat through detailed design (through linkage to the CEMP in Condition GC.8), including:</p> <p>(i) Potential seawall design opportunities to restrict road access for kororās; and</p> <p>(ii) Potential rock rip rap design opportunities to include key holes for kororā nests;</p> <p>(e) A Pest Management Strategy (Condition EM.5);</p> <p>(f) A plan for works within 100m of a Shoreline Forager nest (Condition EM.4D);</p> <p>(g) The final boundary, fence design and details of the four bird protection areas to be established (Conditions EM.6 to EM.6E);</p> <p>(h) Rubbish and waste management (Condition EM.7);</p> <p>(i) A framework for a public education programme for avifauna (Condition EM.9);</p> <p>(j) Identification of important habitat for Shoreline Foragers including opportunities for screening or barriers at these areas as provided through Condition LV.7;</p> <p>(k) A description of measures to ensure the protection areas are appropriately managed and maintained to maximise opportunities for habitation by kororā and Shoreline Foragers for the duration of the consents; and</p>	



