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# REGULATORY COMMITTEE

## Open Agenda

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Meeting Date: Tuesday 11 June 2019

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Time: Following the Strategy and Infrastructure Committee meeting

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Venue: Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
Napier

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Committee Members Councillor Taylor (In the Chair), Acting Mayor White, Councillors Boag, Brosnan, Dallimore, Hague, Jeffery, McGrath, Price, Tapine, Wise and Wright

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Officer Responsible Manager Building Consents

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Administration Governance Team

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**Next Regulatory Committee Meeting**  
**Tuesday 23 July 2019**

# ORDER OF BUSINESS

## **Apologies**

Mayor Bill Dalton

## **Conflicts of interest**

Councillor Tony Jeffery in relation to Agenda Item 1: Earthquake-Prone Buildings - Identification of Priority Buildings – Consultation.

## **Public forum**

Nil

## **Announcements by the Acting Mayor**

## **Announcements by the Chairperson**

## **Announcements by the management**

## **Confirmation of minutes**

That the Minutes of the Regulatory Committee meeting held on Tuesday, 30 April 2019 be taken as a true and accurate record of the meeting. ....35

## **Agenda items**

- |   |  |    |
|---|--|----|
| 1 | Earthquake-Prone Buildings - Identification of Priority Buildings - Consultation ..... | 3  |
| 2 | Renewal of Licence to Occupy - Sunday Market.....                                      | 23 |

## **Public Excluded**

Nil

# AGENDA ITEMS

## 1. EARTHQUAKE-PRONE BUILDINGS - IDENTIFICATION OF PRIORITY BUILDINGS - CONSULTATION

Type of Report:	Legal
Legal Reference:	Building Act 2004
Document ID:	737346
Reporting Officer/s & Unit:	Malcolm Smith, Manager Building Consents

### 1.1 Purpose of Report

The report provides an analysis of submissions received on the Statement of Proposal that will enable Council to identify priority buildings under the earthquake-prone building legislation.

#### Officer's Recommendation

That the Regulatory Committee:

- a. Receive the submissions on the Earthquake-Prone Buildings – Identification of Priority Buildings Statement of Proposal.
- b. Adopt the Earthquake-Prone Buildings – Identification of Priority Buildings Statement of Proposal as notified.
- c. That a **DECISION OF COUNCIL** is required urgently to enable Council Officers to meet a legislative deadline.

#### Chairperson's Recommendation

That the Council resolve that the officer's recommendation be adopted.

### 1.2 Background Summary

A national system for identifying, assessing and managing earthquake-prone buildings came into effect on 1 July 2017. It targets buildings or parts of buildings that pose the greatest risk to public safety and other property in a moderate earthquake.

Napier has been categorised as a high seismic risk area which means Council must identify priority buildings within two and a half years and other potentially earthquake-prone buildings within five years of the new legislation coming into effect on 1 July 2017.

The national system introduced the concept of 'priority buildings' which are certain types of buildings in high and medium seismic risk areas that are considered to present a higher risk to life or other property because of their construction type, use or location. Priority buildings need to be identified and remediated within half the time allowed for other buildings in the same seismic risk areas. Other buildings, such as unreinforced masonry (URM) buildings, may be considered a priority because, in an earthquake, parts of the building could fall onto thoroughfares with high pedestrian and vehicle traffic.

A Statement of Proposal was prepared under section 83 of the Local Government Act 2002 that presented the following proposal:

**Based on there being sufficient traffic and the potential for part of an unreinforced masonry building to fall, Council proposes the following thoroughfares be prioritised.**

**Napier CBD**

- a) **Shakespeare Road** from Hastings Street to Madeira Road
- b) **Browning Street**
- c) **Herschell Street**
- d) **Cathedral Lane**
- e) **Tennyson Street** from Clive Square East to Marine Parade
- f) **Hastings Street** from Shakespeare Road to Sale Street
- g) **Market Street**
- h) **Dalton Street**
- i) **Clive Square East**
- j) **Emerson Street** from Clive Square East to Marine Parade
- k) **Dickens Street** from Munroe Street to Hastings Street
- l) **Albion Street**
- m) **Station Street** from Munroe Street to Hastings Street
- n) **Vautier Street**
- o) **Raffles Street** from Munroe Street to Vautier Street
- p) **Bower Street**
- q) **Edwardes Street**
- r) **Sale Street**
- s) **Marine Parade** from Ocean Spa to Sale Street
- t) **Munroe Street** from Dickens Street to Sale Street

**Taradale Shopping Centre**

- a) **Gloucester Street** from Northern and Southern junctions with Lee Road
- b) **Lee Road** from Northern and Southern junctions with Gloucester Street
- c) **Symons Lane**
- d) **White Street** from Symons Lane to Gloucester Street
- e) **Puketapu Road** from Symons Lane to Lee Road

**Ahuriri Shopping Centre including West Quay**

- a) **Bridge Street** from Hardinge Road to Nelson Quay
- b) **Waghorne Street** from Barry Street to Wright Street
- c) **Barry Street** from Waghorne Street to Nelson Quay
- d) **Routledge Street**
- e) **Nelson Quay** from Barry Street to Bridge Street
- f) **West Quay**

**Marewa Shopping Centre**

- a) **Kennedy Road** from Douglas McLean Avenue to Nuffield Avenue

**Onekawa Shopping Centre**

- a) **Maadi Road** from 12 Maadi Road to Menin Road

The Statement of Proposal was notified on 6 May 2019. Submissions closed at midday on the 31<sup>st</sup> May 2019. A Summary of Submissions is included below, with copies of the full submissions provided as **Attachment A** to this report.

A cautious approach has been taken to the inclusion of areas. Where there is doubt it is recommended that the area be included at this stage of the process, given that the next stage is to investigate individual buildings in each identified area. Therefore, if there is no identified threat from individual earthquake prone buildings in a given area no action will follow and vice versa.

### 1.3 Summary of Submissions

A total of six (6) submissions were received by 31 May 2019. One of these submissions did not answer any of the questions and has not been considered within the summary. A submission has been received by Heritage New Zealand Pouhere Taonga which states it “does not specifically comment on the proposed routes but focuses on the numerous heritage buildings within the proposed thoroughfares, predominantly in central Napier”. As this submission is out of scope it is not considered in the summary or recommendations below. However, Officers have noted the points raised and will endeavour to keep Heritage New Zealand Pouhere Taonga advised throughout the remaining process.

Below is a summary for each of the identified areas feedback was sought.

#### **Napier CBD**

Of the six submissions received, one was in agreement with the identified roads or pathways having sufficient traffic and/or pedestrian activity and three disagreed. Two submissions identified the inclusion of additional roads, being:

- Thackeray Street as a main access road;
- Extending Tennyson Street around to the intersection with Kennedy Road, Station Street and Thackeray Street; and
- Including all of Dickens Street.

Three submissions agreed that roads or pathways identified should be excluded. One of these submissions recommended Cathedral Lane, Herschell Street and Browning Street be excluded from the identified roads. While another recommended all current identified areas be excluded. With another recommending all except a “ring road” of Marine Parade, Sale Street, Munroe Street, Clive Square East and Tennyson Street be excluded.

#### Officer's Response to Matters Raised – Napier CBD

After considering the submission points received Officer's do not agree with the inclusion of additional roads (Thackeray Street, extending Tennyson Street and including all of Dickens Street), as while these access roads may have high traffic volumes it has been determined that there are no unreinforced masonry buildings that would qualify the roads to be included.

With regards to the submission to exclude Cathedral Lane, Herschell Street and Browning Street from the identified area, Officer's consider this area should continue to be included in the identifiable area to ensure due diligence is completed through the next stage of the process to identify buildings. At this point in time Officers cannot be certain there are no unreinforced masonry buildings within these streets.

**Taradale**

From the six submissions received, one was in agreement with the identified roads or pathways having sufficient traffic and/or pedestrian activity, while two disagreed. One submitted for all identified roads be excluded, while another submitted for all areas apart from Lee Road to be excluded.

No submission points were made to add any roads or pathways to the Taradale area.

**Officer's Response to Matters Raised – Taradale**

After considering the submission points received in relation to the identified roads and pathways in Taradale it is considered appropriate for the current proposal to remain to ensure due diligence is completed through the next stage of the process.

**Ahuriri**

Two of the submissions received are in disagreement with the identified area in Ahuriri as having sufficient traffic and/or pedestrian activity, while one is in agreement. Three submitters requested roads or pathways that were identified to be excluded, two of which requested all areas to be excluded, while one submitted for Barry Street to be excluded.

No submission points were made to add any roads or pathways to the Ahuriri area.

**Officer's Response to Matters Raised – Ahuriri**

After considering the submission points received in relation to the identified roads and pathways in Ahuriri it is considered appropriate for the current proposal to remain to ensure due diligence is completed through the next stage of the process.

**Marewa**

From the submissions received two were in agreement with the identified area in Marewa as having sufficient traffic and/or pedestrian activity while one is in disagreement. Two submission points were made for the current identified area to be excluded.

No submission points were made to add any roads or pathways to the Marewa area.

**Officer's Response to Matters Raised – Marewa**

After considering the submission points received it is not considered reasonable to exclude the Marewa area due to buildings being far enough away from the road especially given the high pedestrian activity.

Officer's consider this area should continue to be included in the identifiable area to ensure due diligence is completed through the next stage of the process to identify buildings. At this point in time Officers cannot be certain there are no unreinforced masonry buildings within these streets.

**Onekawa**

Two of the submissions are in disagreement with the identified area in Onekawa as having sufficient traffic and/or pedestrian activity, while one is in agreement. Three of the submitters requested for the current identified area to be excluded.

No submission points were made to add any roads or pathways to the Onekawa area.

### Officer's Response to Matters Raised – Onekawa

After considering the submission points received it is not considered reasonable to exclude the Onekawa area due to buildings being far enough away from the road especially due to high pedestrian activity.

Officers consider this area should continue to be included in the identifiable area to ensure due diligence is completed through the next stage of the process to identify buildings. At this point in time Officers cannot be certain there are no unreinforced masonry buildings within these streets.

### ***Traffic routes of Strategic Importance***

Three submissions received agreed there are no transport routes of strategic importance with unreinforced masonry buildings that could cause obstructions, while 3 submitters did not answer this question. One additional comment was received which has not been considered as part of this process as it is not relevant.

## **1.4 Significance and Engagement**

The Special Consultative Procedure was undertaken on this matter as required by the Building Act 2004. A Statement of Proposal was prepared and housed on the Say it Napier website for public feedback. In addition, several stakeholders were identified as having a special interest in the matter, particularly building owners and/or operators, and were advised directly of the consultation and invited to make a submission. They were:

- Engineering New Zealand (Hawke's Bay)
- Art Deco Trust
- Historic Places Aotearoa (Hawke's Bay)
- Napier City Business Inc
- Taradale Marketing Association
- Ahuriri Business Association
- Hawke's Bay Tourism
- Business Hawke's Bay
- Contacts for Marewa and Onekawa Shopping Centres

In addition to the direct contact with these membership groups and stakeholders, the consultation was advertised to the wider community through print and digital promotion.

## **1.5 Options**

The options available to Council are as follows:

- a. Adopt the proposal put forward in the Statement of Proposal – Based on there being sufficient traffic and the potential for part of an unreinforced masonry building to fall, Council proposes the identified thoroughfares be prioritised.
- b. Amend the proposal put forward in the Statement of Proposal.
- c. Reject the proposal put forward in the Statement of Proposal.

## **1.6 Development of Preferred Option**

The option to adopt the proposal put forward in the Statement of Proposal will enable the Council to carry out its duty under the Building Act as follows:

Council will employ a retired Napier City Council Building Consents Officer to identify potentially earthquake-prone buildings and priority buildings using the Earthquake-prone Building Methodology.

Affected building owners will be notified that their buildings are potentially earthquake-prone. Owners of potentially earthquake-prone buildings, whether a priority building or not, have 12 months to provide an engineering assessment.

Once this assessment is received, Council will determine if the building is classified as earthquake-prone, and notify the building owner of its decision.

If a building on one of the proposed thoroughfares is constructed of unreinforced masonry and confirmed, earthquake-prone then it will be considered a priority building and the timeframe to remediate will be 7.5 years instead of 15 years.

## **1.7 Attachments**

- A Submissions received [!\[\]\(750841ae7100dc832cb0a4b3af4492f3\_img.jpg\)](#)

**Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date**

Contact Information	Do you want to present your feedback in person to the Council on 11 June 2019?	Are you providing feedback on behalf of a group or organisation?
Full Name	Response	Response
Bruce McGregor	No	No
Karen Vanderpols	No	No
David Hokke	No	No
Ronald Stewart lane	No	No
Paula Neale	No	No



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

NAPIER CBD					
Contact Information	Do you agree these roads or pathways have sufficient traffic and/or pedestrian activity? Are there any roads or pathways identified that you think should be excluded?			Are there any roads or pathways that should be added to this area?	
Full Name	Response	Response	If yes, which ones and why?	Response	If yes, which ones and why?
Bruce McGregor					
Karen Vanderpols	No	Yes	All the above marked.	No	
David Hokke	No	Yes	All of them except Marine Parade, Sale Street, Munroe Street, Clive Square East and Tennyson. These form a 'Ring Road Pathway' for emergency services. Add Thackeray Street as your main access road and hope the South end Marine Parade stays open after an earthquake as well.	Yes	See above.
Ronald Stewart lane	No	Yes	cathedral lane Hershell st Browning st seaview Tce	Yes	Kennedy from Z service station through to Tennyson & Dickens st
Paula Neale	Yes	No		No	



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

Taradale						
Contact Information	Do you agree these roads or pathways have sufficient traffic and/or pedestrian activity?		Are there any roads or pathways identified that you think should be excluded?		Are there any roads or pathways that should be added to this area?	
Full Name	Response	If yes, which ones and why?	Response	If yes, which ones and why?	Response	If yes, which ones and why?
Bruce McGregor						
Karen Vanderpols	No			All marked.	No	
David Hokke	No		Yes	All of them except Lee Road	No	
Ronald Stewart lane	Yes		No		No	
Paula Neale						



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

	Ahuriri				
Contact Information	Do you agree these roads or pathways have sufficient traffic and/or pedestrian activity? Are there any roads or pathways identified that you think should be excluded?			Are there any roads or pathways that should be added to this area?	
Full Name	Response	Response	If yes, which ones and why?	Response	If yes, which ones and why?
Bruce McGregor					
Karen Vanderpols	No	Yes	All marked	No	
David Hokke	Yes	Yes	All of them. there are not any large structures that would block a road which a small bulldozer couldn't clear in an emergency situation.	No	
Ronald Stewart lane	No	Yes	Barry st	No	
Paula Neale					



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

	Marewa				
Contact Information	Do you agree these roads or pathways have sufficient traffic and/or pedestrian activity? Are there any roads or pathways identified that you think should be excluded?		Are there any roads or pathways that should be added to this area?		
Full Name	Response	Response	If yes, which ones and why?	Response	If yes, which ones and why?
Bruce McGregor					
Karen Vanderpols	No	Yes	All marked	No	
David Hokke	Yes	Yes	Kennedy Road. the buildings are far enough away from the road that there is no chance of them blocking it in an earthquake.	No	
Ronald Stewart lane	Yes	No		No	
Paula Neale					



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

		Onekawa			
Contact Information	Do you agree these roads or pathways have sufficient traffic and/or pedestrian activity? Are there any roads or pathways identified that you think should be excluded?			Are there any roads or pathways that should be added to this area?	
Full Name	Response	Response	If yes, which ones and why?	Response	If yes, which ones and why?
Bruce McGregor					
Karen Vanderpols	No	Yes	All marked	No	
David Hokke	Yes	Yes	Maadi Road. The buildings are far enough away from the road that they would not block them	No	
Ronald Stewart lane	No	Yes	Maadi - no requirement given spacing from Street to shopping centre	No	
Paula Neale					



## Earthquake-Prone Buildings - Identification of Priority Buildings: Submissions Received to date

Contact Information	Do you agree that there are no transport routes of strategic importance with unreinforced masonry buildings that could cause obstructions?	
Full Name	Response	If no, what are the routes you think should be added and why?
Bruce McGregor		
Karen Vanderpols	Yes	
David Hokke	Yes	Does the Council have vehicles in their yard that are designed to clear Steel beams and lift them off a main arterial road link? A large bulldozer to shift debris? The greatest threat (as learned from the 1931 event) is fire. Does the council have a good water pool/basin and helicopter with monsoon bucket capabilities ready right now? There is too much focus on earthquakes. The next disaster could be Tsunami, Volcanic ash, Heavy rainfall causing flooding, or unusual event like a Tornado and or Hurricane. It is foolhardy to try and build to a 'possible' scenario of the 'next earthquake'. The governments advisory committee has it all wrong. Yes, build so in a quake it won't collapse, but that should apply to FUTURE construction, not PAST construction. Use insurance for the 'worst case scenario' situation of lots of people in a building that collapses and causes loss of life. Deemed 'at risk' buildings pay higher premiums for potential 'worst case scenario'. When the building is over a certain age, THEN pull it down, not in 7 years time. That's not logical. Most buildings are built well enough. The Incas did NOT use mortar or frames to hold their buildings together, they let them 'move' and they have lasted hundreds of years. This ridiculous 'forced to re-build' focus is all over-reaction to Christchurch's earthquake, which was a unique type of event. Hawkes Bay is going to more along the lines of the Kaikoura event.
Ronald Stewart lane	Yes	
Paula Neale		



## 2. RENEWAL OF LICENCE TO OCCUPY - SUNDAY MARKET

Type of Report:	Operational
Legal Reference:	Reserves Act 1977
Document ID:	736053
Reporting Officer/s & Unit:	Fleur Lincoln, Strategic Planning Lead

### 2.1 Purpose of Report

The purpose of this report is to obtain approval in principle the granting of a Licence to Occupy agreement with Margaret Habib of the Sunday Market for the carpark within the Marine Parade foreshore north of Ocean Spa for a term of three (3) years, subject to the s.54(1)(d) Reserves Act 1977 process being successfully completed.

#### Officer's Recommendation

That the Regulatory Committee:

- a. Approve in principle, the granting of a Licence to Occupy to Margaret Carolyn Habib for a term of three (3) years, subject to the s.54(1)(d) Reserves Act 1977 process being successfully completed.

#### Chairperson's Recommendation

That the Council resolve that the officer's recommendation be adopted.

### 2.2 Background Summary

On the 11<sup>th</sup> October 2016, Council entered into a Licence to Occupy (LTO) agreement with Margaret Carolyn Habib for the Marine Parade foreshore carpark located immediately north of the Ocean Spa complex. The LTO provided approximately 2,640m<sup>2</sup> of land within the car park that serves Marine Parade foreshore reserve north of the Ocean Spa complex to be occupied for use of the market, operating between 8am and 1pm each Sunday. The LTO required the market to relocate to an alternative venue as required by Council (typically when the venue was booked for large events). The LTO was for a term of 12 months.

During the term of the LTO, and for a period of time following it, The Licence holder worked together with Council to address a number of concerns relating to traffic and pedestrian safety and nuisance. The LTO was rolled over while these issues were resolved. A traffic safety assessment has been carried out on the operation and mitigation measures employed to an extent deemed satisfactory. As such, it is now appropriate to issue a new LTO to the licence holder for a period of three years, and to make changes to the hours of operation to reflect those that actually occur.

Legal advice has been sought on the renewal of this LTO. The LTO must be granted under section 54(1)(d) of the Reserves Act, which requires public notification, and approval of the Department of Conservation. The current LTO was issued as a temporary arrangement, as a means to trial this location before locking in a more permanent arrangement. The current LTO is attached as Appendix 1, with tracked changes providing an indication of the likely changes that will be made to the new LTO.

In addition, a new alternative venue, Anderson Park, has been trialled successfully, and will become the new alternative venue for those dates that the market is required to relocate. Use of the alternative venue is subject to the ground conditions being favourable, and no other event being booked for the space. An aerial showing the location and extent of the alternative venue is provided in Appendix 2.

### **2.3 Issues**

No issues.

### **2.4 Significance and Engagement**

Section 54(1)(d) of the Reserves Act requires this LTO request to be publicly notified, and for approval to be sought and obtained from the Department of Conservation. This will give an opportunity to the public to make submissions for or against, and for these to be heard in a public forum. The LTO holder Margaret Habib has been notified of this process.

### **2.5 Implications**

#### **Financial**

The LTO currently sets a rental for the site at \$200 per week plus GST. This will be continue to be the means for charging a fair fee for the use of this reserve.

#### **Social & Policy**

The Sunday Market provides the community with both an opportunity for small business and for social and cultural exchange. The Market adds vibrancy to the city fringe. The operation of the market is consistent with the City Vision's goal of a vibrant and thriving city centre.

The LTO is not inconsistent with the Reserve Management Plan and is consistent with the Napier Marine Parade Foreshore Reserve Business Concessions Policy.

The Draft Open Space Strategy is near completion. The reserve management plan for the Marine Parade Foreshore Reserve will be a high priority.

#### **Risk**

Risk to Council is low. The LTO specifies conditions that will ensure the operation and nature of the goods being sold do not cause a hazard or nuisance to any party; that the operation does not damage the reserve; that the operation must be related to an alternative venue if necessary, and that enables either party to terminate the LTO with notice. Council will continue to monitor the effects of the Market, and will work with the licence holder to address any issues.

### **2.6 Options**

The options available to Council are as follows:

- a. Approve in principle, the granting of a Licence to Occupy to Margaret Carolyn Habib for a term of 3 years, subject to the s.54(1)(d) Reserves Act 1977 process being successfully completed;
- b. Do not approve in principle, the granting of a Licence to Occupy to Margaret Carolyn Habib for a term of 3 years, subject to the s.54(1)(d) Reserves Act 1977 process being successfully completed.

### **2.7 Development of Preferred Option**

The Sunday Market is an asset to the city, and any safety or nuisance effects can be adequately managed by the conditions of the Licence, and through working in

partnership with the licence holder. Legal advice sought advises Council to notify the intention to issue a LTO under section 54(1)(d) of the Reserves Act.

## 2.8 Attachments

- A LTO with tracked Changes [!\[\]\(d6c4cc9a92381c8dd8bec5ce712ee2af\_img.jpg\)](#)
- B Alternative Venue Aerial [!\[\]\(2e0a361732049875be4e0ad156d4f239\_img.jpg\)](#)

Dated: 11 October 2016

NAPIER CITY COUNCIL  
Council

MARGARET CAROLYN HABIB  
Licensee

## LICENCE TO OCCUPY



MLRG-404660-365-7-V1

THIS DEED made the 11<sup>th</sup> day of October 2016

#### PARTIES

1. NAPIER CITY COUNCIL ("the Council")
2. MARGARET CAROLYN HABIB ("the Licensee")

#### OPERATIVE PART

The Council, pursuant to Section 54(1)(d) of the Act, **hereby licenses** the Land to the Lessee on the terms and conditions following and the Lessee **hereby accepts** this Licence.

#### TERMS AND CONDITIONS

1. **Description:** That part of Marine Parade, Napier, being off street car park and more particularly defined edged in orange and blue on the plan attached hereto as Plan A ("the Land").
2. **Term:** The term of this Licence shall be 3642-months commencing on 3-April-2016?? 2019 and expiring on 2-April?? 2019. This Licence shall only entitle the Licensee to access to the Land on Sundays from 68am to 24pm.
3. **Rental:** The rental for this Licence shall be \$200.00 per week, plus GST, payable monthly in advance without further demand by the Council at the Civic Building, Hastings Street, Napier, or such other location as the Council may from time to time require.
4. The Licensee will at all times pay punctually the rent as it may from time to time be due at the rate and place as described herein. Notwithstanding anything to the contrary contained herein, in the event of the late or non-payment of the rental, the Council reserves the right to suspend or terminate at its sole discretion the rights created by this Licence without payment of compensation to the Licensee or any third party.

5. This Licence is granted as a personal privilege and shall not take effect as a lease or any other legal estate. Nothing herein expressed or implied shall be deemed to confer on the Licensee the right to exclusive occupation of the Land or to acquire the freehold or any other interest or estate thereof.
6. The Licensee shall not assign, charge, or part with this Licence or with any of the rights, powers and privileges thereby conferred.
7. The Licensee shall not carry on or permit any trade or occupation or suffer any act or omission on the Land that will or is likely to cause annoyance, damage or disturbance to any owner or occupier or the public of any land or buildings adjoining or in the vicinity of the premises or Land. And furthermore, the Licensee shall ensure that unlicensed food sellers (with the exception of those selling only fruit and vegetables) are prohibited access to the site for the purposes of sale. The Licensee shall further ensure no illegal or dangerous goods (including, but not limited to, air rifles, firearms, machetes, swords, knives and illegal drugs) are sold on the Land.
8. The Licensee shall only use the Land for the purposes described herein and shall comply with all statutes, bylaws and regulations for the time being in force in the district in which the Land is situated as they relate to the Land and the Licensee's use thereof and shall obtain any relevant consents or approvals which may be required. Nothing in this Licence shall be construed as guaranteeing that the Council warrants that the Land is suitable for the purposes of the Licensee.
9. The Licensee shall maintain the Land in the same repair, order and conditions as the Land was at the commencement of this Licence (fair wear and tear and damage by fire, tempest, earthquake, flood, subsidence of soil or inevitable accident excepted).
10. The Licensee shall make adequate provision for the disposal of rubbish, refuse, waste material of any description and shall not allow such matter to accumulate on the Land.
11. The Licensee shall not erect any buildings on the Land.
12. The Licensee shall not allow spikes or pegs to be driven into the Land and shall not chop down or damage any trees or bushes on the Land or on any grass areas adjoining the Land. The Licensee shall ensure no vehicles are parked on the grass areas adjoining the Land at any time and shall ensure no vehicles use said grass

areas for ingress or egress to the Land. The Licensee shall also ensure no stalls or other structures are placed on the grass areas adjoining the Land at any time. If any damage is caused to the grass areas adjoining the Land, the Licensee shall rectify such damage at the Licensee's cost.

13. The Licensee shall indemnify and keep indemnified the Council from and against all claims, actions, suits or demands by any person or persons in respect of any injury, damage or loss caused or suffered as a result of or arising from the use of the Land by the Licensee or member of the Licensee's family, employee, agents, servants or invitees.
14. The Licensee must throughout the term of the Licence keep current a public risk liability insurance policy applicable to the Land and the activities carried out on the Land for an amount of at least one million dollars (\$1,000,000.00).
15. The Council shall not be liable to pay compensation to the Licensee for any damage to the Land or to any fixtures, fittings or chattels which it may contain or for any disturbance from any cause whatsoever, or for any business loss arising from any activity of the Council as a Local Authority.
16. The Licensee shall not carry on or suffer or permit to be carried on the Land anything or any act or omission which may render any insurance policy against fire void or voidable or which may render or cause to be rendered an increased or extra penalty premium to be payable.
17. The Licensee shall at all times comply with (and ensure that its employees, invitees, sub-licensee's, hirers, workmen and assigns comply with) all statutes, bylaws, regulations and standards for the time being in force in the district in which the Land is situated as they relate to the Land and the Licensee's use and occupancy thereof and shall obtain any relevant consents, approvals or permits which may be required. Nothing in this Licence shall be construed as guaranteeing that the Council warrants that the Land is suitable for the purposes of the Licensee.
18. The Council will not be liable for any accident, injury or damage suffered by or caused to any person or property arising out of or by reason of the use of the Land by the Licensee (including its employees, invitees, sub-licensee's, hirers, workmen, assigns) and any other persons using the Land with the Licensee's permission and/or knowledge and the Licensee will indemnify and keep the Council indemnified from any penalties imposed on the Council as a result of a prosecution under the Health

and Safety at Work Act 2015 arising out of the use of the Land by the Licensee (including its employees, invitees, sub-licensee's, workmen, assigns) and any other persons using the Land with the Licensee's permission and/or knowledge.

19. The Licensee will consult, co-operate and co-ordinate activities and facilitate engagement with the Council and any other persons (including but without limitation all other hirers, users, suppliers, service providers and contractors to the Land) to the extent that the parties have overlapping duties in relation to health and safety, including in relation to the public and other invitees to the Land. The Licensee will ensure that during the term of this Licence it acts in accordance with and at all times complies with:
  - (a) the Council's policies and procedures in respect of the Land regarding health and safety, including but not limited to evacuation procedures, maximum number of persons on the Land, electrical safety, no smoking policy etc; and
  - (b) all of the Council's directions.
20. The Licensee will immediately notify the Council of any risk or hazards which the Licensee observes or becomes aware of on the Land and/or any near miss, notifiable event, incident, injury, illness or accident it becomes aware of on the Land whether or not the same involved any equipment or any of the Council's employees. The Licensee will provide the Council with such assistance as may be necessary to conduct any health and safety review or investigation.
21. The Council shall have the full and unimpeded right to at all reasonable times by and through its officers, servants, employees, agents and workmen to enter the Land for any purpose and by any means whatsoever.
22. This Licence may be terminated by either party by giving to the other one month's notice in writing of their intention to do so.
23. Notwithstanding anything to the contrary in Clauses 4 and 22 herein, the Council may give to the Licensee twenty four (24) hours' notice (verbal or in writing) suspending for the time being the rights of the Licensee contained herein.
24. At the expiry of this Licence in the event that the Council wishes to enter into a like licence the Licensee shall have first option to take out a new licence on terms to be agreed between the parties at the time.

25. In none of the events contemplated by this Licence shall compensation be paid or payable to the Licensee for any improvements made to or put on the Land EXCEPT THAT provided all covenants on the Licensee's part have been duly observed and performed any rent paid in advance in respect of the Land or any portion thereof reoccupied beyond the date when this Licence is suspended or terminated shall be refunded to the Licensee.
26. In the event of the Land being destroyed or damaged by fire or other inevitable accident without fault of the Licensee the Licence may determine at the option of either party or continue on such conditions as are agreed PROVIDED HOWEVER the Council will at no time be under any obligation to repair or reinstate the Land.
27. The powers, rights and authorities in the Licensor by this Licence may be exercised on behalf of the Reserves Manager.
28. Any dispute or difference arising between the parties which cannot be resolved by agreement shall be referred to the Chief Executive, Napier City Council, Napier whose decision shall be final and binding on both parties.
29. Any costs incurred in the preparation of this Licence shall be met by the Licensee.
30. The expression "the Council" and "the Licensee" shall where not inconsistent with the context extend to and include the executors, administrators and successors to the Council and the singular shall include the plural and the masculine shall include the feminine.

DATED the 11 day of October, 2016

**SIGNED** by  
**MARGARET CAROLYN HABIB**  
as Licensee in the presence of:

(

*Signature of Witness:*

*Printed Name of Witness:*

*Occupation of Witness:*

*Address of Witness:*



**SIGNED** by the **RESERVES MANAGER**  
on behalf of the **NAPIER CITY COUNCIL** )  
in the presence of: \_\_\_\_\_ )

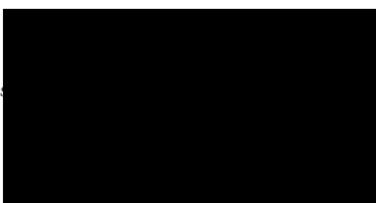
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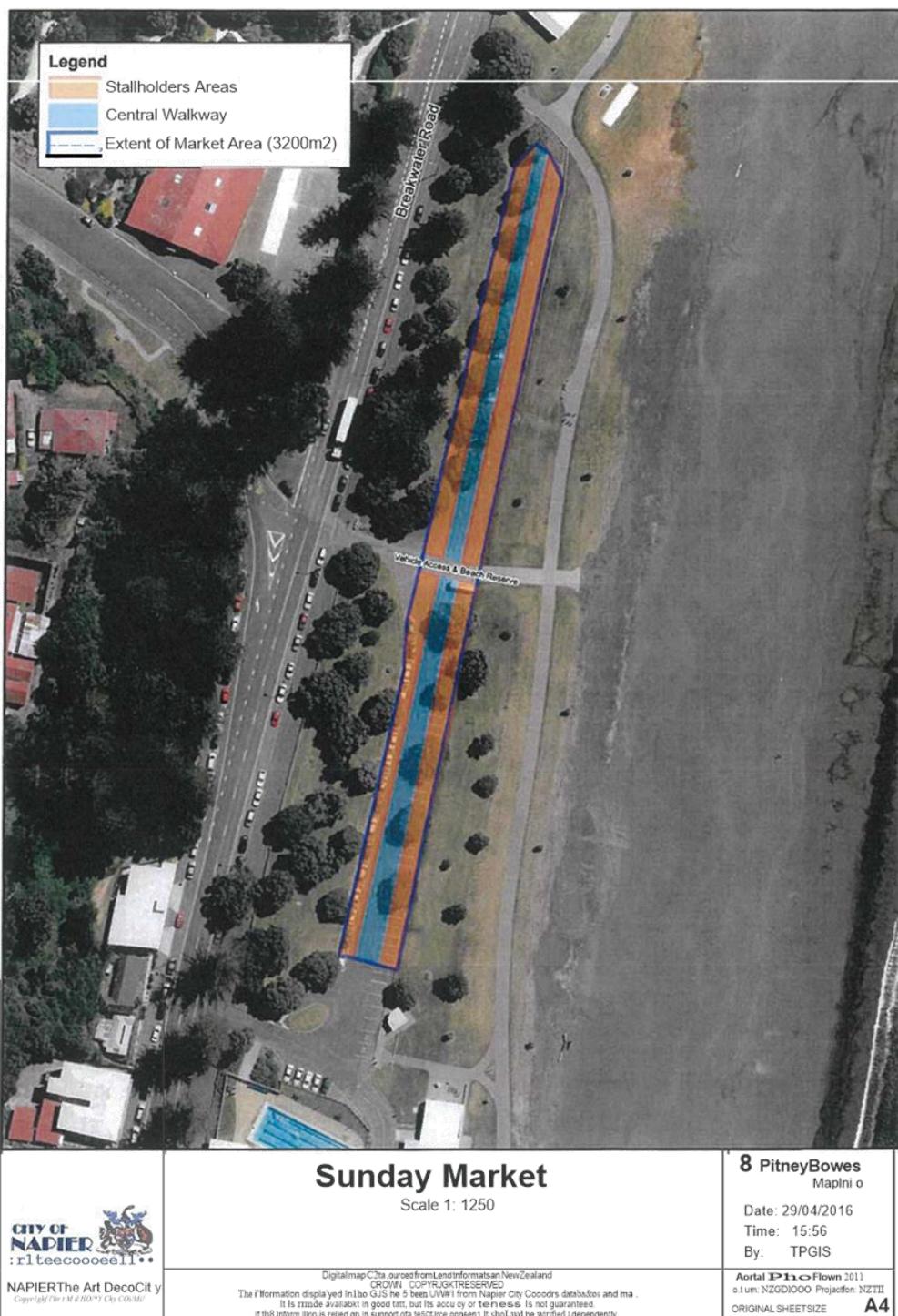
*Signature of Witness:*

*Printed Name of Witness:*

*Occupation of Witness:*

*Address of Witness:*





**Sunday Market Alternative Venue**  
**Anderson Park**

# REGULATORY COMMITTEE

## Open Minutes

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Meeting Date: Tuesday 30 April 2019

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Time: 3.00pm - 3.11pm

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Venue                          Council Chamber  
                                    Hawke's Bay Regional Council  
                                    159 Dalton Street  
                                    Napier

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Present                         Councillor Taylor (In the Chair), Acting Mayor White, Councillors Boag, Brosnan, Dallimore, Hague, Jeffery, McGrath, Price, Tapine and Wright

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In Attendance                 Chief Executive, Director Corporate Services, Director Community Services, Director Infrastructure Services, Director City Strategy, Manager Communications and Marketing, Manager Building Consents, Manager Regulatory Solutions/ Business Excellence & Transformation

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Administration                 Governance Team

## **Apologies**

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Acting Mayor White / Councillor Brosnan

That the apologies from Mayor Dalton and Councillor Wise be accepted.

Carried

## **Conflicts of interest**

Councillor Jeffery declared an interest in agenda item 1 and in order to manage this interest requested his Deputy to act as presiding member for the meeting and did not participate in the vote.

Councillor Wright declared an interest in agenda item 2 as the family in question are personal family friends. It was not considered that this interest required active management in this meeting.

## **Announcements by the Acting Mayor**

The Acting Mayor noted that she has spoken to the Headmaster of Puketapu School to offer Council's support to the local community following the tragic accident over the weekend, and advised that a "Give a little" page will be created shortly for the family by the school.

## **Announcements by the Chairperson**

Nil

## **Announcements by the management**

The Chief Executive advised that Rachael Horton has been appointed the new Manager Regulatory Solutions and will be transferring from her current role of Manager Business Excellence and Transformation.

## **Confirmation of minutes**

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Councillors Boag / Wright

That the Minutes of the meeting held on 19 February 2019 were taken as a true and accurate record of the meeting.

Carried

# AGENDA ITEMS

## 1. EARTHQUAKE-PRONE BUILDINGS - IDENTIFICATION OF PRIORITY BUILDINGS - CONSULTATION

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Type of Report:	Legal
Legal Reference:	Building Act 2004
Document ID:	726241
Reporting Officer/s & Unit:	Malcolm Smith, Manager Building Consents

### 1.1 Purpose of Report

To advise Council of the requirements under the Building Act 2004 in relation to the identification of priority buildings under the earthquake-prone building legislation, and to seek approval to release the draft Statement of Proposal for public submissions prior to adoption by Council.

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### At the Meeting

The Manager Building Consents gave a broad overview noting that Council is meeting legislative requirements to consult on this matter. Council officers have initially identified priority areas of risk, and the draft Statement of Proposal has been prepared for public consultation to ensure that all priority areas have been included.

In response to questions from Councillors the following points were clarified:

- Maraenui and Greenmeadows are not identified as priority areas as Council officers do not believe that any unreinforced masonry buildings are located in those areas. It is anticipated that any areas that the public believe have been incorrectly assessed or overlooked will be identified through the consultation process.
- No priority buildings have been identified at this stage. Once the priority areas have been confirmed, the priority buildings within these will be identified and building owners will be contacted at that time. Most building owners will already know whether they are likely to be affected or not.
- Due to the 1931 Earthquake, Napier's building stock is relatively modern and a number of buildings have already been assessed and upgraded.
- Council officers will liaise with the Business Associations located in the identified priority areas, the local branch of Engineering NZ will engage with Historic Places and Art Deco Trust (if necessary) once the priority buildings have been identified.
- Owners of heritage buildings may be able to apply for some dispensations under the Building Act.

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### **Committee's recommendation**

Councillors Brosnan / Hague

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That the Regulatory Committee:

- a. Approve the release of the draft Statement of Proposal for public submissions.

***Councillor Jeffery did not participate in the vote due to a declared interest***

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Carried

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## **2. STREET NAMING - 250 GUPPY ROAD TARADALE NAPIER**

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*Type of Report:* Procedural

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*Legal Reference:* N/A

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*Document ID:* 723801

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*Reporting Officer/s & Unit:* Paul O'Shaughnessy, Team Leader Resource Consents

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### **2.1 Purpose of Report**

The purpose of this report is to obtain Council's approval for one new street name to replace a previously approved street name within the recently approved residential subdivisions at 250 Guppy Road. The street in question has already been subject to a previous street name approval by Council (Chue Court), however a mistake by the developer has led to a request for a re-naming to Gee Place.

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### **At the Meeting**

Councillors agreed that Gee Place was an appropriate name for the street.

### **Committee's recommendation**

Acting Mayor White / Councillor Tapine

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That the Regulatory Committee:

- a. Approve one new street name at 250 Guppy Road as follows:
  - Gee Place-250 Guppy Road
- b. That a **DECISION OF COUNCIL** is required urgently as Council have recently issued Section 224 certification for the subdivision at 250 Guppy Road and the developers require certainty for the purposes of marketing, physical street naming and property addressing.

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Carried

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<b>Council Resolution</b>	<u>Councillors Brosnan / Hague</u>
	That Council:
a.	Approve one new street name at 250 Guppy Road as follows: <ul style="list-style-type: none"><li>• Gee Place-250 Guppy Road</li></ul>

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Carried

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The meeting closed at 3.11pm.

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Approved and adopted as a true and accurate record of the meeting.

Chairperson .....

Date of approval .....