



AGENDA

Meeting of the **Regulatory and Hearings Committee**

**Commencing at 5:00pm
Wednesday 15 March 2023**

To be held at the
Clocktower Chambers
Palmerston Street
Westport

Regulatory, Hearings and Planning Committee

Reports To:	The Council
Chairperson:	Graeme Neylon
Membership:	The Mayor, all Councillors and Māori Representative
Meeting Frequency:	As required
Quorum:	The composition of any Regulatory Hearings Committee for quorum purposes to be determined by the Chairperson

Purpose

1. To conduct fair and effective hearings and make determinations on a range of the Council's quasi-judicial functions under legislation and other matters as referred to the Committee.
2. Ensuring Buller is performing to the highest standard in the area of civil defence and emergency management through:
 - a) Implementation of Government requirements.
 - b) Contractual service delivery arrangements with the West Coast Regional Group Emergency Management Office.

In addition to the common delegations on page 7, the Regulatory, Hearings and Planning Committee is delegated the following Terms of Reference and powers:

Terms of Reference:

1. Hear and determine any statutory or regulatory hearings under relevant legislation unless otherwise delegated by Council, including (but without limitation):
 - objections under the Dog Control Act 1996;
 - matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002;
 - proposals for temporary closure of any road;
 - Supply and Sale of Alcohol Act 2012.
2. Guide the review of Council's bylaws, and policies required by statute (other than those incorporated in the Long Term Plan).
3. Hear and determine matters arising under current bylaws, including applications for dispensation from compliance with the requirements of bylaws, unless such matters are otherwise delegated by Council.

4. Hear and determine other matters that require hearings or submissions, as referred by Council or other Committees.

The Committee is delegated the following powers to act:

- Approval of matters determined by the Committee within its Terms of Reference.

The Committee is delegated the following recommendatory powers:

- The Committee may make recommendation to the Council.
- The Committee may make recommendations to Committees.

Special Notes:

- The Committee may request expert advice through an independent advisor when necessary.
- The Committee may appoint additional members for hearings where the relevant terms of reference or statute specify the requirement for expert, external or additional representation.
- The Chief Executive Officer, Group Manager Regulatory Services are required to attend all meetings but are not members and have no voting rights. Other Council officers may attend the committee meetings, as required.
- Written updates may be requested to be provided to Council meeting from the Chair and Group Manager Regulatory Services from time to time.

Oversight of Policies:

- *Dangerous, Earthquake-prone and Insanitary Buildings*
- *Class 4 Gambling and Totalisator Agency Board Venue*
- *Dog Control*
- *Vegetation Overhanging Footpaths*
- *Election Signs*
- *Fencing of Swimming Pools*
- *Commercial Trading*
 - *Alcohol Consumption & Dining on Public Footpaths*
 - *Display of goods Furniture or Sandwich Board Signs*
 - *Mobile Shops*
 - *Street Stalls Raffles, Appeals & Busking*

Regulatory and Hearings Committee

15 March 2023 05:00 PM



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REGULATORY AND HEARINGS COMMITTEE

15 MARCH 2023

AGENDA ITEM 1

Prepared by Sean Judd
Group Manager Regulatory Services

APOLOGIES

1. REPORT SUMMARY

That the Regulatory & Hearings Committee receive any apologies or requests for leave of absence from elected members.

2. DRAFT RECOMMENDATION

That there are no apologies to be received and no requests for leave of absence.

OR

That the Regulatory and Hearings Committee receives apologies from (insert Councillor name) and accepts Councillor (insert name) request for leave of absence.

REGULATORY AND HEARINGS COMMITTEE

15 MARCH 2023

AGENDA ITEM 2

Prepared by Sean Judd
Group Manager Regulatory Services

MEMBERS INTEREST

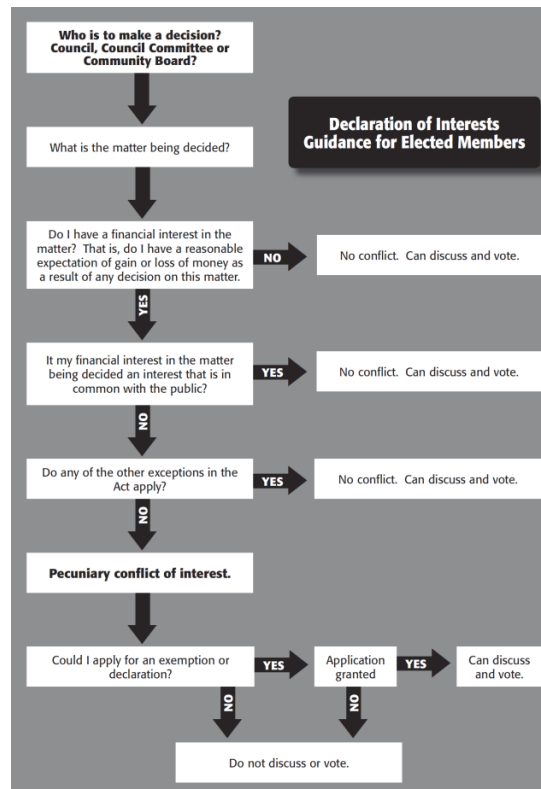
Members are encouraged to consider the items on the agenda and disclose whether they believe they have a financial or non-financial interest in any of the items in terms of Council's Code of Conduct.

Councillors are encouraged to advise the Governance Assistant, of any changes required to their declared Members Interest Register.

The attached flowchart may assist members in making that determination (Appendix A from Code of Conduct).

DRAFT RECOMMENDATION:

That Members disclose any financial or non-financial interest in any of the agenda items.



BULLER DISTRICT COUNCIL

15 MARCH 2023

AGENDA ITEM 3

- Prepared by** Sean Judd
Group Manager Regulatory Services
- Reviewed by** Bronwyn Little
Policy Advisor
- Attachments** 1: Updated Draft 'Keeping of Animals Bylaw' 2022
2: Updated Urban Area Maps
3: Version 1 Keeping of Animals Urban Mapping

KEEPING OF ANIMALS BYLAW REVIEW

1. REPORT PURPOSE

For Council to review the attached draft 'Keeping of Animals' bylaw and consider if the changes are sufficiently significant to require further public consultation.

The changes:

- Only define 'Urban Area' via map for the township of Westport, Carters Beach and Reefton.
- Remove the maps defining 'Urban Area' for Waimangaroa, Granity, Ngakawau & Hector, Karamea. Inangahua Junction & Ikamatua.
- Redefine the map for Westport, Carters Beach and Reefton to ensure the boundaries are more sensibly and clearly defined.
- Reduce the number of cats per household from 4 to 3 and the inclusion of micro chipping, registration and de-sexing requirements.

2. REPORT SUMMARY

- Updated Draft 'Keeping of Animals' bylaw including maps detailing updated 'Urban Area'

3. DRAFT RECOMMENDATION

That Council:

- 1. Direct staff to progress the draft updated 'Keeping of Animals' Bylaw for public consultation, OR**
- 2. Direct staff to progress the draft 'Keeping of Animals' Bylaw for public consultation with the following alterations:**

4. BACKGROUND

The Buller District Council is undertaking a review of its current bylaws.

The draft bylaw was presented to the Regulatory Hearing Committee on 9 March 2022, where several changes were suggested, and it was approved on that basis to progress to legal review.

Council engaged in public consultation in September 2022.

Submissions were heard on 14 December 2022 and deliberations commenced. Several changes to the bylaw were requested which are reflected in the attached updated draft 'Keeping of Animals' bylaw.

The draft bylaw incorporating these changes, along with a set of plans outlining 'Urban Areas' is now presented for approval to proceed to public consultation, as required under the Local Government Act 2002 (sec.156: Consultation requirements when making, amending or revoking bylaws made under this Act and sec.83: Special Consultative Procedure).

5. CONSIDERATIONS

5.1 Strategic Alignment

Council must ensure the bylaw is in keeping with its strategic direction for the district.

5.2 Significance Assessment

Bylaws require community consultation prior to adoption under the Local Government Act 2002. It is considered that the changes are significant to require Council to engage in further public consultation of the bylaw.

5.3 Tangata Whenua Considerations

N/A

5.4 Risk Management Implications

Council needs an effective mechanism to mitigate the impacts of certain animals being kept on private property and an effective mechanism in order to address any legitimate complaints.

5.5 Policy Framework Implications

Nil identified.

5.6 Legal Implications

Council must take steps to ensure its compliance mechanisms are consistent with current best practice and law. It is noted that the draft bylaw presented has undergone a review by Council's legal team and amended as a result.

5.7 Financial / Budget Implications

Process including legal review and public consultation can be managed within existing budgets.

5.8 Consultation Considerations

Under the Local Government Act 2002 there is a statutory requirement for public consultation to be undertaken as follows:

sec. 83 Special Consultative Procedure

(1) Where this Act or any other enactment requires a local authority to use or adopt the special consultative procedure, that local authority must—

(a) prepare and adopt—

(i) a statement of proposal; and

(ii) if the local authority considers on reasonable grounds that it is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal (which summary must comply with [section 83AA](#)); and

(b) ensure that the following is publicly available:

(i) the statement of proposal; and

(ii) a description of how the local authority will provide persons interested in the proposal with an opportunity to present their views to the local authority in accordance with [section 82\(1\)\(d\)](#); and

(iii) a statement of the period within which views on the proposal may be provided to the local authority (the period being not less than 1 month from the date the statement is issued); and

(c) make the summary of the information contained in the statement of proposal prepared in accordance with paragraph (a)(ii) (or the statement of proposal, if a summary is not prepared) as widely available as is reasonably practicable as a basis for consultation; and

(d) provide an opportunity for persons to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority, or any representatives to whom an appropriate delegation has been made in accordance with Schedule 7; and

(e) ensure that any person who wishes to present his or her views to the local authority or its representatives as described in paragraph (d)—

(i) is given a reasonable opportunity to do so; and

(ii) is informed about how and when he or she may take up that opportunity.

(2) For the purpose of, but without limiting, subsection (1)(d), a local authority may allow any person to present his or her views to the local authority by way of audio link or audiovisual link.

(3) This section does not prevent a local authority from requesting or considering, before making a decision, comment or advice from an officer of the local authority or any other person in respect of the proposal or any views on the proposal, or both.

Council must decide if the changes to the draft 'Keeping of Animals' bylaw are significant enough to warrant further public consultation. It is recommended by the reporting officer that further public consultation is required.

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BULLER DISTRICT COUNCIL

ANIMALS BYLAW

2022

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Animals Bylaw 2022

Buller District Council

1 Title and Commencement

- 1.1 The title of this bylaw is the Buller District Council Animals Bylaw 2022.
- 1.2 This bylaw comes into force on [.....] 2022.

2 Authority

- 2.1 This bylaw is made under:
 - a) Sections 145(a) and (b) and 146(a)(v) of the Local Government Act 2002; and
 - b) Section 64(1)(a), (i), (j), and (m) of the Health Act 1956.

3 Purpose and application

- 3.1 The purpose of this bylaw is to:
 - a) Regulate the keeping of animals (including pigs, poultry, bees, livestock and cats) in the district to protect, maintain and promote public health and safety and to avoid causing a nuisance to any person; and
 - b) Regulate the slaughtering of animals in the district so as not to be offensive and to avoid causing a nuisance to any person.
- 3.2 This bylaw shall apply to Buller District.

4 Exclusions

- 4.1 This bylaw does not apply to:
 - a) Any animal kept in a zoo; or
 - b) Any dog.

5 Interpretation

- 5.1 In this bylaw unless the context otherwise requires:

Animal means any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and includes their young, their carcasses or constituent parts of that animal, but does not include a human being or a dog.

Approval means a written approval from the Council.

Bylaw means this Buller District Council Animals Bylaw 2022.

Council means Buller District Council or any person delegated to act on its behalf.

District means the district within the jurisdiction of Buller District Council.

Domestic animal means any cattle, sheep, poultry, horse, mule, ass, dog, cat, pig, rabbit, or goat; but does not include any such animal that is living in a wild state.

Dwelling means any separately occupied household unit used in whole or in part for human habitation, and includes any building, tent, vehicle or other structure, whether permanent or temporary and whether attached to the soil or not.

Livestock includes any cattle, sheep, deer, horse, donkey, hinny, mule, goat, thar, alpaca, llama, bison, ostrich, emu, pigs or any other herd animal, regardless of age or sex.

Nuisance means any unreasonable interference with the peace, comfort or convenience of another person and includes a nuisance as defined in section 29 of the Health Act 1956, and includes the following:

- a) where any accumulation or deposit of any waste or other similar material is in such a state or so situated as to be offensive;
- b) where any buildings used for the keeping of animals are so constructed, situated, used, or kept, or are in such a condition, as to be offensive; and
- c) where any noise emitted by an animal unreasonably interferes with the peace, comfort, and convenience of any person.

Occupier (of any property) means the person occupying the property.

Owner (of any property) means any person who would be entitled to receive the rent of the property, or would be so entitled if the property were let at a rent, and includes any person for the time being registered under the Land Transfer Act 2017 as the owner of the property.

Person includes an individual, a corporation sole, a body corporate, and an unincorporated body.

Poultry means any live, domesticated or farmed bird including, but not limited to, chicken, rooster, goose, duck, turkey, swan, pheasant, or peafowl.

Property means any parcel of land that is occupied or unoccupied.

Urban area means the land identified in the plans attached in Appendix 1 of this bylaw.

Waste has the same meaning as in section 5 of the Waste Minimisation Act 2008.

Zoo means a place where animals are kept for public exhibition, education, or entertainment, and includes a zoological garden.

- 5.2 A reference in this bylaw to any Act, Regulation or Rule, includes any amendment thereof, and any Act, Regulation or Rule in substitution therefor.
- 5.3 The Legislation Act 2019 applies to this bylaw.

6 Keeping of animals

- 6.1 No person shall keep, or allow to be kept, on any property any animal (including, but not limited to, livestock, poultry and bees):
- a) which causes a nuisance through noise, smell, dust or through the attraction of flies; or
 - b) in a manner that is or is likely to become:
 - i) a nuisance; or
 - ii) offensive to the occupier of any neighbouring property; or
 - iii) injurious to the health of any person.
- 6.2 Clause 6.1 will apply regardless of whether a person has complied with any other provisions of this bylaw.
- 6.3 Any person keeping an animal (other than cats or bees) must confine the animal within the boundaries of the property where the animal is usually kept.
- 6.4 Clause 6.3 of this bylaw does not prevent a person from driving, leading or riding any animal.
- 6.5 No person shall release or abandon a domestic animal.

7 Keeping of cats in an urban area

- 7.1 No person shall keep, or allow to be kept, more than **three** cats over the age of six months on any property in an urban area, except with the written approval of the Council.
- 7.2 Before granting any approval under clause 7.1 of this bylaw, the Council must be satisfied that:
- a) the cats will be adequately housed and that no nuisance will result; and
 - b) any other lawful requirements of the Council have been satisfied including any relevant provisions of the Operative Buller District Plan.
- 7.3 The approval of the Council under clause 7.1 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances, including requiring the cats to be desexed.
- 7.4 Any person to whom an approval has been given under clause 7.1 of this bylaw must comply with the terms and conditions of the approval.
- 7.5 Nothing in clause 7.1 of this bylaw applies to a lawfully established SPCA facility or other animal shelter, or a lawfully established veterinary clinic or cattery.
- 7.6 Any cat over six (6) months must be:**
- (a) Microchipped and the cat's microchip registered with the New Zealand Companion Animal Register and**
 - (b) Be de-sexed, unless**
 - i. The cat is kept for breeding purposes; and registered with a nationally recognized cat breeder's body OR**
 - ii. The owners provide a certificate from a veterinarian stating that the de-sexing of the cat will adversely affect its health and/or welfare.**

8 Keeping of poultry in an urban area

- 8.1 No person shall keep, or allow to be kept, any roosters, ganders or peacocks on any property in an urban area.
- 8.2 No person shall keep, or allow to be kept, more than 12 head of poultry on any property in an urban area.
- 8.3 A person who keeps poultry on any property in an urban area must ensure the poultry are confined to that property by providing either:

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- a) an enclosed poultry house with an attached poultry run; or
 - b) an enclosed poultry house and adequate fencing of the property;
- and the poultry house and poultry run (if any) must comply with clause 9 of this bylaw.
- 8.4 A person who keeps poultry on any property in an urban area must ensure that the poultry do not cause a nuisance to any person, including a noise nuisance or odour nuisance.
- 8.5 If poultry on any property in an urban area cause a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 8.6 Any owner or occupier who receives a notice under clause 8.5 of this bylaw must, without delay, act to abate the nuisance as required by the notice.

9 Poultry houses and poultry runs

- 9.1 A person who keeps chickens on any property in the District must ensure:
- a) The chickens have access to shelter from adverse weather that is likely to cause heat or cold stress, and to reduce the risk of predation; and
 - b) Openings provided for the chickens to access an outside area are wide enough to enable the chickens to freely move to and from the outdoors at all times without risk of smothering or injury; and
 - c) Where access to an outside area is provided it must be managed to prevent the development around the poultry house of muddy, dusty or contaminated conditions to an extent that could be harmful to the chickens' health; and
 - d) Precautions are taken to protect the chickens from pests, including predators.
- 9.2 No person shall place, or allow to be placed, any poultry house or poultry run:
- a) Within ten metres of any dwelling on any neighbouring property; or
 - b) Within two metres of the boundary of any neighbouring property.
- 9.3 Every poultry house and poultry run must be adequately graded and drained and must be kept clean and in good repair.
- 9.4 No person shall discharge effluent from a poultry house or poultry run in such a manner as to cause a nuisance.
- 9.5 If a poultry house or poultry run on any property causes a nuisance, the Council may, by written notice to the owner or occupier, require the owner or occupier to abate the nuisance.
- 9.6 Any owner or occupier who receives a notice under clause 9.5 must, without delay, act to abate the nuisance as required by the notice.

10 Beekeeping

- 10.1 No person shall keep, or allow to be kept, any bees on any property in the District if the keeping of the bees is, or is likely to become, dangerous or injurious to the health of any person, or cause a nuisance to any person.
- 10.2 A person who keeps bees on any property in the District must ensure that hives are positioned

so as to not cause a nuisance to any person.

- 10.3 If bees cause a nuisance to any person, or may be dangerous or injurious to the health of any person, the Council may by written notice require the beekeeper, or the owner or occupier of the property on which the bees are kept, to undertake one or more of the following steps to mitigate or abate the nuisance or danger:
- i) ensure the bees are kept in accordance with the Apiculture NZ Code of Conduct and/or similar code of conduct;
 - ii) relocate the hives to another area on the property;
 - iii) develop a flight management plan and submit this to the Council for approval by the Council to ensure that the bees flightpath is diverted from or made to go a minimum of 1.8 metres high over an adjacent property, footpath, or road;
 - iv) reduce the maximum number of hives allowed on the property; and/or
 - v) remove some or all of the existing hives from the property.

- 10.4 Any beekeeper, owner, or occupier who receives a notice under clause 10.3 of this bylaw must, without delay, comply with the notice.

Keeping of bees in an urban area

- 10.5 No person shall place, or allow to be placed, more than two hives on any property in an urban area, except with the written approval of the Council.
- 10.6 Before granting any approval under clause 10.5 of this bylaw the Council must be satisfied that:
- a) increasing the number of hives will not cause a nuisance or be injurious to the health of any person; and
 - b) the property on which the hives are located is in excess of 1,500 m².
- 10.7 Any approval granted by the Council under clause 10.5 may provide for the placement of up to and including four hives.
- 10.8 Any approval granted by the Council under clause 10.5 of this bylaw may include such terms and conditions as the Council considers appropriate in the circumstances.
- 10.9 Any person to whom an approval has been given under clause 10.5 of this bylaw must comply with the terms and conditions of the approval.

11 Keeping of livestock in an urban area

- 11.1 No person shall keep, or allow to be kept, any livestock on any property in an urban area at a distance less than two metres from a boundary of any adjoining property if the presence of the livestock within that area causes a nuisance to any person.
- 11.2 A person who keeps livestock on any property in an urban area must ensure that the livestock do not cause a nuisance to any person, including a noise nuisance or an odour nuisance.
- 11.3 If livestock on any property in an urban area cause a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 11.4 Any owner or occupier who receives a notice under clause 11.3 must, without delay, act to abate the nuisance as required by the notice.

12 Keeping of pigs in an urban area

- 12.1 No person shall keep, or allow to be kept, more than [] pigs on any property in an urban area.
- 12.2 A person who keeps pigs on any property in an urban area must ensure that the pigs do not cause a nuisance to any person, including a noise nuisance or an odour nuisance.
- 12.3 No person shall:
- a) keep, or allow to be kept, pigs on any property in an urban area in such a manner as to cause a nuisance, or likely to be injurious to the health of any person, or be offensive; or
 - b) discharge effluent from a pigsty in such a manner as to cause a nuisance.
- 12.4 If pigs or a pigsty on any property in an urban area cause a nuisance, the Council may by written notice to the owner or occupier require the owner or occupier to abate the nuisance.
- 12.5 Any owner or occupier who receives a notice under clause 12.4 must, without delay, act to abate the nuisance as required by the notice.

Note: The Operative District Plan contains provisions on the keeping of pigs. All pig farmers must also comply with the provisions of the Biosecurity Act 1993, Animal Welfare Act 1999 and any other relevant regulations.

13 Slaughter of livestock

- 13.1 A person responsible for the slaughter of any livestock must ensure:
- a) the slaughter is carried out in such a way that it cannot be seen by any other person nearby;
 - b) the processing of the slaughtered livestock (including skinning, gutting, and cutting of a carcass is carried out in such a way that it cannot be seen by any other person nearby;
 - c) the waste associated with a slaughter is disposed of in such a way that it cannot be seen by any other person nearby; and
 - d) the slaughter and the processing of the slaughtered livestock does not cause a nuisance or be offensive to any other person nearby.
- 13.2 A person responsible for the slaughter of any livestock must ensure:
- a) any waste associated with the slaughter of livestock is immediately removed: and
 - b) the body or part of the body of any slaughtered livestock is disposed of in a manner that will not cause a nuisance (including producing odour), become a threat to the health of any person, or otherwise become offensive to any person nearby.

- 13.3 For the purposes of clause 13 of this bylaw:

A person responsible for the slaughter of any livestock includes:

- a) the owner of the livestock concerned;
- b) any person contracted or otherwise engaged to perform the slaughter; and
- c) any person carrying out the slaughter and associated processing and disposal.

Any person nearby:

- a) includes a person on a neighbouring property, whether in a dwelling on that property or not, 9

and a person in a dwelling on the property where the slaughter is carried out; but

b) excludes any person responsible for the slaughter of the livestock.

13.4 If clauses 13.1 and 13.2 are not complied with, the Council may by written notice to the person responsible for the slaughter of the livestock, as set out in 13.3, require the person responsible to abate the nuisance.

13.5 A person responsible for the slaughter of livestock who receives a notice under clause 13.4 must, without delay, act to abate the nuisance as required by the notice.

14 Fees

14.1 The Council may prescribe fees payable for any approval by the Council under this bylaw.

15 Offences and Penalties

15.1 Every person who fails to comply with this bylaw commits an offence and is liable to enforcement action by the Council and the penalties set out in the Local Government Act 2002 or the Health Act 1956, as the case may be.

15.2 Notwithstanding the above, nothing in this Bylaw prevents the Council from exercising its powers under the Health Act 1956 or Resource Management Act 1991.

16 Repair and Removal of Works in breach of bylaw

16.1 The Council may repair, remove, or alter, or cause to be repaired, removed, or altered, any work, material, or thing erected or done in breach of this Bylaw, and may recover from any person responsible for the work, action, or thing, all expenses incurred by the Council in connection with the repair, removal, or alteration (including the cost of debt collection and legal fees incurred by the Council).

17 Revocation

17.1 All bylaws previously made by the Council which relate to the keeping of animals are hereby revoked.

URBAN AREAS

Carter Beach



Westport



Reefton



URBAN AREA





